PETITIONS, ETC.

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

124. By the SPEAKER: Petition of Richard H. Harrison, Woodridge, Ill., and others, relative to protection for law enforcement officers against nuisance suits; to the Committee on the Judiciary.

125. Also, petition of Hubert L. Myers, Mitchell, Ind., and others, relative to protection for law enforcement officers against nuisance suits; to the Committee on the Judicairy.

126. Also, petition of Donald P. Laurika, Plumsteadville, Pa., and others, relative to protection for law enforcement officers against nuisance suits; to the Committee on the Judiciary.

SENATE—*Tuesday, April 3, 1973*

The Senate met at 10:45 a.m., and was called to order by Hon. J. BENNETT JOHNSTON, a Senator from the State of Louisiana.

PRAYER

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

Almighty and everlasting God, by whose providence we have been brought to another day, prepare us in heart and mind and spirit that we may fitly serve Thee. Guide us in our deliberations, guard us in our conduct, nourish us with the truth, reward us with inner peace and uphold us in days to come. May we never be so hurried or harried as to crowd Thee out of our common life. Thus may we keep a serene and solemn sanctuary of the soul and at length be partakers of Thy kingdom which is above all earthly kingdoms and abides all time.

Through Him who is King of Kings and Lord of Lords. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., April 3, 1973.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. J. BENNETT JOHNSTON, a Senator from the State of Louisiana, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed a bill (H.R. 3153) to amend the Social Security Act to make certain technical and conforming changes, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 3153) to amend the Social Security Act to make certain technical and conforming changes, was read twice by its title and referred to the Committee on Finance.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, April 2, 1973, be dispensed with.

The ACTING 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 be authorized to meet during the session of the Senate today.

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

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination on the calendar.

There being no objection, the Senate proceeded to consider executive business.

The ACTING PRESIDENT pro tempore. The clerk will state the nomination.

DEPARTMENT OF LABOR

The second assistant legislative clerk read the nomination of John H. Stender, of Washington, to be an Assistant Secretary of Labor.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, I ask that the President be immediately notified of the confirmation of the nomination.

The ACTING PRESIDENT pro tempore. Without objection, the President will be so notified.

LEGISLATIVE BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

FOOD PRICES IN PERSPECTIVE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that some remarks made by Mr. Tony Dechant, president of the Farmers Union, be printed in the RECORD.

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

FOOD PRICES IN PERSPECTIVE

When farm prices are low, farmers go bankrupt by the thousands. But now that one sector of the farm economy (livestock) has finally reached 100% of parity, cries of anguish are heard across the land and President Nixon orders price ceilings that will inevitably put the livestock producer again face to face with bankruptcy. Hardly a word of concern is expressed for the wheat farmer who is receiving 62% of parity in the "open market" or the feed grain farmer who is receiving only 63% of parity in the marketplace.

The farmer and rancher, of course, are the most convenient targets in the discussion over higher food costs. The public pressure against fair farm income started more than a year ago. It was in March, 1972 that a large retail supermarket placed an ad in an Eastern metropolitan newspaper which blamed the farmer for rising prices and advised its customers to "eat less meat."

At that time, the average price per hundredweight the farmer received for beef was a dollar less than it had been 20 years ago. But retail meat prices in the chainstores had doubled. In 1952, swiss steak was 85¢ per lb. but in 1972 it was $1.69. In 1952, hamburger sold for 49¢ per lb. but in 1972 it cost 97¢ per lb. Somehow, the chainstore newspaper ad failed to mention the 100% increase in retail prices while the farmer's price had only inched back to the level of 20 years ago.

As long as retail food prices remained cheap and most income was going up, no one seemed to notice or care that the farmer's income was depressed and his cost of production was jumping by leaps and bounds. (A 2-row corn picker that sold for $1,500 in 1952 increased by 300% to $4,480 in 1972.) Only the farmer realized that the $38 he received for prime cattle in 1972 was 91% of parity.

A House Agriculture committee staff report, released last week, shows that overall farm prices for food have increased only 6% above what they were 20 years ago. But at the same time, wholesale food prices have jumped by 20% and retail food prices are up 43% over the past 20 years. The study goes on to show that agricultural productivity per man hour has increased by 330%. That compares with an increase of only 160% per man hour in manufacturing industries.

In other industries, prices have been managed upward at a rather steady pace. Consumers have had years to become accustomed to steadily increasing prices on everything from light bulbs from General Electric to automobiles from General Motors. But because agriculture prices may fluctuate widely in the short run, as they have since the Russian grain deal, consumers are suddenly faced with large increases in food prices which they did not expect and did not plan for in their monthly budgets.

Last year the Price Commission found that livestock production and farming are highly competitive enterprises and there is no opportunity for "administered price" inflation as occurs in such concentrated industries as steel, automobiles, and farm equipment manufacturing. Perhaps the only way that producers can maintain fair prices is to create the market structure and marketing system which other sectors of the economy

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have shown can achieve administered production and administered prices that move up with costs. This may be the only way to avoid the great contrast between the short-term leap in prices, which brings pressures to break prices, and the long-term creep in farm prices, which often leaves the producer with very inadequate returns.

Under the present system, the farmer has no control over the price even at the first point of sale. Therefore, it is impossible for him to be responsible for prices which lurch from depression to inflation. But there is no question that a farm program which balances supply with demand and assures parity of income for the farmer would stabilize farm prices. While this might not guarantee stable retail prices, it certainly would make it easier to identify the culprits in any future price spirals.

EFFECT OF UNEQUAL TELEVISION COVERAGE ON CHECKS AND BALANCES TO ASSURE COEQUAL BRANCHES OF THE GOVERNMENT

Mr. MANSFIELD. Mr. President, last Thursday evening President Nixon was granted 22 minutes by each of the networks for a simultaneous broadcast of an address covering matters that ranged from the war to the "battle of the budget" with the Congress. In that address, we will recall, he appealed to the American people to write to the spenders in Congress.

Last Friday, Speaker ALBERT and I addressed a telegram to each of the networks requesting coverage by them of a statement to be delivered at 9 p.m., Monday, April 2, on behalf of the majorities in the Congress. The statement was to be delivered by Senator MUSKIE at our request. We felt compelled to move quickly because of the impending vote today to override the veto by the President of the Vocational Rehabilitation Act.

The networks refused to cover this event live. One network even raised questions about what was to be said. This is a particularly interesting inquiry, especially in view of recent controversy on censorship of news broadcasts. No such questions are asked when a President seeks time to address the American people simultaneously on all networks. It has been estimated that almost 100 million people are watching television at 9 p.m. on winter, weekday evenings similar to when President Nixon addressed the Nation and questioned the validity of congressional judgment. I believe that the attitudes of the networks as reflected by their refusal to grant Congress the opportunity to communicate on the same scale as the Executive are preventing the Congress from becoming again a coequal branch. They appear to be responsive to threats by members of the executive branch, but show no appreciation for an attempt on behalf of Congress to be responsible in shaping the public perceptions and determining significant national decisions. The issues of water pollution, vocational rehabilitation are perfect examples that the great differences of judgment between the White House and the Congress are not partisan. The overwhelming majority of Republicans, as well as Democrats, voted for these programs in contradiction to the President's opinion. What we are dealing with is a prevailing view of Congress—a prevailing view of 535 elected officials.

I believe it is time for the Congress to stand still no longer. It is time for Congress to determine who really should decide what is a fair input by a coequal branch of government into the perceptions of the American electorate.

I believe that any sensible interpretation of a notion of fairness requires that the American people have the input of the Congress on an issue of great vital importance especially when that issue was drawn into question by the President in an attack upon the Congress.

With the revolution of communications in this country, the whole notion of the separation of powers has been significantly diminished by the inordinate input the executive branch, through the President and the Cabinet officers, has on television. It is so much easier for the networks to cover the executive branch—it speaks with one voice. But ease of coverage is not effective coverage and especially where Congress differs from the White House is it difficult for the networks easily to present a balance. The designation by the joint leadership of the Congress of a spokesman to present a prevailing viewpoint was intended to meet the need of providing a viewpoint that accurately portrayed its input into national decisions.

I believe the networks should be made aware of the effects their decisions have on the doctrine of checks and balances so wisely incorporated into the Constitution.

I think it would be appropriate to incorporate in the RECORD the viewpoint of Congress as expressed through the designated spokesman, Senator MUSKIE, and ask unanimous consent that his statement be printed at this point in the RECORD.

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

SENATOR MUSKIE'S RESPONSE TO NIXON ADDRESS

Last Thursday, President Nixon addressed the nation on matters of great importance to us all:

The status of the war in Vietnam;

The staggering rise in the price of food;

The size of the Federal budget and of your tax bill; and

The goals to which we should turn our attention in the post-Vietnam era.

I have been asked by the Democratic leadership of the Congress to respond to that address tonight.

My purpose is not to make a partisan, Democratic speech, attacking a Republican President, but to express our deep concern about his conduct of vital public business.

I speak as a Senator, a member of the law-making branch of government, which you have chosen to represent you in the Nation's capitol.

It is by no means a perfectly efficient and responsive branch; there are many ways in which it could, and should, be reformed. But it is, whatever its faults, your voice in government.

And when its counsel is not sought by the Administration in office; when its purposes, as expressed in law, are defied; when its right to question executive officials is rejected, then your voice is not heard in Washington.

We rejoice, with the President and with each of you, that our remaining military forces in Vietnam have been withdrawn and that our prisoners of war have been returned.

And we wholeheartedly agree with these words of the President: "Let us, therefore, put aside those honest differences about the war which have divided us and dedicate ourselves to meet the great challenges of peace which can unite us."

But in meeting those challenges, the President has asked for a free hand—a blank check—so that he can decide—and decide alone:

When the war will really end;

What our spending priorities are;

Who will shoulder the heaviest tax burdens;

How to halt inflation; and

When we will hear the truth about Watergate.

We in Congress fear, as all Americans fear, the threat of one-man rule. We in Congress distrust, as all Americans distrust, *any* President who would suggest that only *he* knows what is best for America.

That is why many members of Congress disagree not only with the policies the President has proposed, but also with his rejection of Congress' role in developing those policies.

We are concerned that the continued daily bombing by our B–52's in Cambodia prolongs division at home and the risk of our continuing military involvement abroad.

The bombing is no longer necessary for the safe withdrawal of our troops.

The bombing does not have the approval of the Congress, nor has the appproval been sought by the President.

We believe that Americans want a complete and final end to our military involvement in Southeast Asia, and that it is the responsibility of Congress to insist upon it.

Only then can we truly turn to the tasks of reconstruction and peace.

We agree with the President that one of the first of these tasks is to provide those Americans who have served in this tragic war "with veterans benefits and job opportunities they have earned."

We do not agree that the way to do this is to veto the Veterans Administration health care act passed by the last Congress—as the President did; or to reduce physical disability benefits to Vietnam veterans, including amputees—as the President did; or to reduce the number of positions open to Vietnam veterans in Federally supported employment and job-training programs—as the President did.

We do not agree that the way to do this is to veto aid to the deaf, the blind, the disabled, the mentally handicapped—as the President did just last week, because he thought it cost too much. And tomorrow, an effort will be made to override that veto.

The President said: "Let us honor them with the respect they deserve." We agree.

It becomes our challenge then to insure that our country—its policies and its promise—reflect the values and the hopes they sought to advance by their sacrifice.

Surely, that means a resumption of the war against poverty, ignorance, and disease, those ancient enemies of all mankind. Surely it means a commitment to end the discrimination and deprivation too many of them knew back here at home.

Surely, it means a commitment to provide the opportunities so many of them were seeking when they were called upon to fight for their country.

Surely, it means a commitment to provide educational opportunity for them and their children, and all children.

It means a commitment to make possible decent housing, fruitful job opportunities, a healthy environment.

It means a commitment to make possible retirement years of dignity and security.

To the President who has accused us of being irresponsible in fighting for those commitments, we in Congress say that they are our highest responsibility. We intend to

fight for them, and we insist on helping to decide how to fulfill them.

In order to meet these commitments, it is essential that we have a strong and growing economy. Inflation is the greatest danger to that strength and growth.

Last Thursday, President Nixon put a ceiling on meat prices. But a ceiling on meat prices at their highest level in history does not control inflation. We are all painfully aware that our whole economy seems out of control.

Since President Nixon ended Phase II price controls in January, food prices, rents and interest rates have all skyrocketed. Wholesale prices went up faster in February than in any month in the last twenty years. The price of the food you buy went up at an annual rate of 28%.

Meanwhile, the stockmarket has plummeted, and the dollar has been devalued again for the second time in 14 months.

Inflation consumes the standard of living of every American. It eats up savings, cuts into pensions, washes out wage gains and destroys every man's hope that tomorrow can be a little better than today.

The President's response does too little and comes too late. What good does it do for American families who cannot afford meat at today's prices? And what about the rest of the American market basket?

What is the President waiting for? Must all food prices reach intolerable levels before he will act to protect your pocketbook?

And not just groceries, but almost everything Americans want and need—clothing, lumber, medicine—has jumped in price since the President abandoned effective price controls three months ago.

In his speech last Thursday, the President attempted to shift the blame to Congress for the runaway inflation since he lifted price controls. The President's attempt to blame Congress for inflation is unfair and untrue.

Let's look at the record.

President Nixon has never submitted a balanced budget to Congress. The budget deficits he has proposed during the past five years exceed the deficits of the preceding twenty-five.

Congress, on the other hand, has cut every budget the President has submitted—for a total of $20 billion in savings in appropriations during the President's first term.

And, President Nixon waited for nearly three years—until the wage-price freeze in August 1971, to do anything effective about inflation.

Congress acted against inflation in 1970, when it enacted the wage-price control law. The President opposed that law.

That law was on the books for more than a year of rising prices before the President used it. And that law was on the books when the President abandoned Phase II wage and price controls this year and gave the green light to price increases.

No, Congress is not to blame for inflation. It was Congress which cut the budget and gave the President the wage-price law he has refused to use effectively. Congress will continue to use its power to set sensible economic policy.

The Congress will continue to use its power to limit Federal spending.

The Congress will continue to use its power to control inflation.

The Congress will continue to use its power to hold taxes down.

The President has told us that the Vietnam war is over . . . and that we are entering a new generation of peace with the Soviet Union and Mainland China.

And yet he has requested that we spend $7.5 billion more for non-Vietnam defense items this year than we did last year.

Congress asks: Why must we spend more on defense than we did during the last year of the Vietnam war?

Congress is committed to a strong national defense. But there is a difference between adequate defense and wasteful military spending.

At the same time that the President proposes increasing military spending, he boasts in his budget message that he is cutting $14 billion from programs for the elderly, the poor, the education of all children, our health and the environment.

Congress and the President do not disagree on how much we should spend at the Federal level . . . we disagree on what our spending priorities should be.

The issue is not whether we will spend more than $268 billion . . . but rather, for what purposes that $268 billion should be spent.

The President chooses to put the emphasis on military spending. Congress will shift that emphasis to domestic problems . . . giving adequate attention to our defense needs and primary attention to our human needs.

Congress and the President also disagree on who should pay for government programs.

The President, by cutting $14 billion of Federal support from needed programs, is shifting much of the burden to state and local governments . . . and to state and local taxpayers.

And the Congress does not believe it is right to create pressure to raise regressive property and sales taxes at the local level. They take the biggest bite from the smallest incomes, while the Federal tax laws continue to shelter the affluent and the powerful.

Implicit in all of this and in the President's unremitting attack on the Congress is the notion that only one man has the wisdom and the judgment to make decisions about the Federal budget.

This notion of one-man rule—over the budget, over inflation and over the Watergate case—constitutes an abuse of the President's power.

It is the same notion which prompts him to withhold from the Congress information about his war policies.

It is the same notion which prompts him to decide by himself to relax Phase Two controls when we needed them most.

It is the same notion which in the Watergate case prompts him to withhold testimony of members of his Administration from the Congress and the people.

In his speech, President Nixon quoted a famous statement by President Truman about his office—"The buck stops here." What the Congress says to the President on the Watergate incident is that the buck indeed stops there.

The people expect the President to make every effort to ensure that the whole story—whatever it may be—is made public.

It is in the nature of presidential power that it can be exercised more directly and more effectively than legislative power.

It is in the nature of legislative power that it is more cumbersome, and—because it is more representative—more fragmented and divided.

It is also in the nature of presidential power, however, that it can be more arrogant and more easily abused. The Founders of our nation understood that fact . . . and for that reason they created in the Congress powers necessary to check such abuse.

The most important of these powers is the power of the purse. The President has challenged this power directly. We in Congress have no right to surrender it to him. It is not ours to surrender because it belongs to you. We intend to protect it and preserve it by exercising it—as the Constitution requires that we do.

We Americans now have an opportunity to begin the work of reconstruction in peace—work we have been yearning to do for eight long, agonizing years.

To do it effectively requires unity of purpose . . . shared by the President, the Congress, and all Americans.

The Congress stands ready to accommodate itself to that objective—not by surrendering to Presidential power, but by acting as a responsible, independent, but cooperative branch of the government of the United States.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the acting minority leader care to be heard? If not, under the previous order, the Senator from Missouri (Mr. EAGLETON) is recognized for a period not to exceed 15 minutes.

THE CONTINUED BOMBING OF CAMBODIA AND THE WAR POWERS OF CONGRESS

Mr. EAGLETON. Mr. President, 1 week after the termination of our involvement in a tragically mistaken war, our Nation continues to suffer the consequences of the institutional breakdown that led us into Vietnam.

Our activity in Indochina and our apparent commitment to provide military support to the Government of Cambodia closely resemble our involvement in Vietnam a few years prior to the alleged crisis in the Gulf of Tonkin. During that earlier period Congress stood idly by while we became ever more deeply committed to a presidential war until finally, in August 1964, Gulf of Tonkin resolution, we unquestioningly gave away our most solemn responsibility by delegating to the President the decision to wage war anywhere in the SEATO area.

We may be standing on that dangerous threshold again today. But there is one major difference—this time we will not be asked to grant our authority. We will be told that our consent is not necessary. We will be told that the President has all the power he needs to wage war in Indochina.

I personally have great fears that our bombing in Cambodia and our threats to retaliate for violations of the cease-fire might lead to reinvolvement in Southeast Asia. I know there are reasonable Members of this body who disagree with that view. But the real issue is not whether the President's Indochina policy is good or bad. The issue is whether the President can legally continue his action without the authorization of Congress. I must answer that question with an emphatic "No."

I had hoped to comment today on a document prepared by the administration to present the legal justification for our continued military action in Cambodia.

That document has not yet been released, but I will venture to anticipate its claims—claims which, I am sure, have been made many times in the past, the legitimacy of which cannot be enhanced by repetition.

Reaction to the first Cambodian incursion brought one of the more enlightening debates our Nation has heard over the legal justification for a President's apparently unilateral military activities. After initially citing the SEATO Treaty—and then backing off quickly when it was pointed out that the incursion onto

Cambodian soil was not requested by the Cambodian Government, as is required by paragraph 3 of SEATO—the administration moved to justify the action as a means of protecting the withdrawal of U.S. forces from Vietnam. At a news conference on May 8, 1971, President Nixon said:

> As Commander in Chief, I alone am responsible for the lives of 425,000 or 430,000 Americans in Vietnam. That's what I've been thinking about and the decision that I made on Cambodia will save those lives.

The use of the Commander in Chief clause in the context of entering a sovereign third nation may contradict international law as set by the U.N. Charter. But, if the President could have shown that he was protecting our forces by attacking the sanctuaries in Cambodia, then he technically would have been within the bounds of the Commander in Chief clause. I believe then and I still believe the President's action had much greater policy implications—namely, to prop up the beleaguered Lon Nol government. Such action by the President, therefore, should have received the approval of Congress. However, using only the narrowly drawn administration statements of intent to clear out the sanctuaries, the President was, in that limited sense, probably acting constitutionally.

When the Cambodian incursion happened Congress had already forfeited its warmaking role. That role should have been exercised long before to control the deployment of forces to Indochina—an area where hostilities clearly existed in the early 1960's.

That same challenge faces us today, but the lines of our authority have eroded even further—despite our concerted efforts to regain our proper constitutional role over the past 3 years. The administration's objective is no longer the defense of American forces—it is, instead, what I have always perceived it to be, the defense of the Cambodian Government. Whatever the merits of this objective, it cannot be pursued on the basis of the Commander in Chief power alone.

There are indications that the SEATO Treaty will be resurrected to justify our action in Cambodia. It is difficult to imagine how this shopworn document could possibly be used again, especially since it was dismissed by the State Department as being inapplicable to the 1970 Cambodian incursion. In a letter from Acting Secretary of State Richardson to the Foreign Relations Committee on May 30, 1970, the Department's position was that "the SEATO Treaty has no application to the current situation in Cambodia."

If that was true for the 1970 Cambodian incursion, it must be equally true today.

Faced with this previous statement, I would expect that the State Department will withdraw the SEATO Treaty from the laundry list of alleged legal justifications. I will not, however, underestimate the administration's talent for legal gymnastics by failing to fully discuss SEATO in the chance that it may again be used.

The most important factor to stress in regard to SEATO is that none of our mutual defense treaties is self-executing. The President cannot engage in offensive war on the basis of a treaty alone, in the absence of the specific authorization of both Houses of Congress. Each of these treaties includes the phrase "in accordance with constitutional processes" to circumscribe the commitment to engage in hostilities in defense of another signatory nation.

Even if such a phrase were not included, the war powers of Congress could not be delegated by the Senate acting alone.

The SEATO Treaty is even more limited than other of our mutual defense treaties in terms of implementing its provisions. Paragraph 1 of the treaty requires the "unanimous agreement" of the signatory nations if action is to be taken in defense of one of the parties. The combination of this provision along with the "constitutional processes" language, the protocol status of Cambodia—the Cambodian Government never signed the treaty—and the announced rejection of SEATO by both the Sihanouk and Lon Nol governments, discredits the effort to use SEATO as legal justification for our current involvement.

Mr. President, I ask unanimous consent that the provisions of the SEATO Treaty and a Library of Congress study entitled "Cambodia's Relationship With SEATO" be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. EAGLETON. The Secretary of Defense has stated that our activity in Indochina—and our threats of future reprisals—are based on our commitment to carry out the Paris agreement. Specifically, he asserts that the President has the unilateral authority to assure that the North Vietnamese do not violate the agreement as it applies to South Vietnam, Laos, and Cambodia.

I have attempted to demonstrate that treaties, such as the SEATO Treaty, cannot be used to delegate power that rests with both Houses of Congress. Alexander Hamilton expressed that principle this way:

> A delegated authority (e.g. the President) cannot alter the constituting act, unless so expressly authorized by the constituting power. An agent cannot new-model his own commission. A treaty, for example, cannot transfer the legislative power to the executive department.

It, therefore, stands to reason that if the power of Congress to authorize war cannot be transferred by treaty, it most definitely cannot be transferred by an agreement which excludes the participation of both Houses of Congress.

Article 20 of the Paris agreement urges the parties participating in the Paris Conference to recognize the fundamental national rights of the people of Cambodia and Laos by putting an end to all military activities in those two countries. But beyond its high intent and noble objectives, article 20 levies no enforceable requirement on the parties of the agreement.

Whereas the sections of the Paris agreement that cover the termination of hostilities in Vietnam are replete with provisions calling for specific time requirements, control commissions, grievance procedures, and so forth, article 20 is a general, open-ended statement. And yet article 20 has been cited by the administration as a justification for our current military activity in Cambodia. If we accept this incredibly vague provision as justification we could well be committed to the defense of Cambodia indefinitely. If such an important commitment is to be made, it must be made by Congress.

Mr. President, I ask unanimous consent that article 20 of the Paris agreement be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 2.)

Mr. EAGLETON. Mr. President, whatever its merit—either as a legal or a political document—the Faris agreement has, by providing for the complete withdrawal of all American military personnel and the release of our POW's ended the American presence in Indochina. In his television address on March 30, President Nixon told the Nation that the war was "ended." The President has, perhaps coincidentally, fulfilled the "policy of the United States," as expressed by Congress, to withdraw all U.S. military forces from Indochina "at a date certain," subject to the release of American prisoners. This policy was established in the Mansfield amendment to the Selective Service Act of 1971 and the defense procurement authorization bill of 1971.

The Mansfield provision was held not legally binding by the President. But whether the fulfillment of its objectives in the Paris agreement was coincidental or not, the President cannot, in light of that provision, now assume that he has been delegated the authority of Congress to reinvolve the United States in Indochina.

The statutory position of Congress on military activity in Cambodia is even more explicit. A Javits amendment to the Supplemental Foreign Assistance Act of 1970 states that—

> 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.

It should be noted that none of the language in the Paris agreement would, in a literal sense, contradict the Javits amendment. Nor does it contradict the desire of Congress as expressed by the earlier Cooper-Church amendment, which specified in part that no funds could be expended to conduct combat activity in the air above Cambodia.

The Paris agreement does not contradict the law, but the actions the administration has taken in the name of that agreement do constitute such a contradiction. If the lawful position on Indochina as expressed by Congress requires changing, it will have to be changed by Congress acting with the President—not by the President acting alone.

The real sum of these alleged justifications is that the President has no constitutional authority to do what he is doing. And he will continue to act without regard for the powers of Congress until

we move to reassert our own constitutional prerogatives.

I remain convinced that the only valid and lasting solution to our current impasse over war powers is passage of the War Powers Act (S. 440). If we fail to delineate powers and responsibilities in the warmaking area, we can be sure that Presidents will continue to operate on their own definitions—definitions that become more and more distorted as incumbent President seek to increase the power base of their office.

Hearings on war powers legislation will be held soon by the Foreign Relations Committee and I am hopeful that we will be able to pass the bill again in the Senate in the near future. Beyond the Senate's anticipated approval, prospects for S. 440 are clouded.

But whether or not this important legislation is enacted, Congress cannot in the meantime sacrifice its responsibility to uphold its end of the Constitution. I am, therefore, announcing my support today for the legislation proposed by Senators CHURCH and CASE which would prohibit military activity in Indochina, if such activity does not have the authorization of Congress. In the absence of the War Powers Act there is no recourse but to positively compel the President to uphold the Constitution and to respect the responsibilities of Congress.

Now that the March 28 deadline has taken away the independent Presidential authority to engage in hostilities in Indochina, we are no longer dealing with the war powers issue as an academic question. The bombing runs by our planes are very real. And the absence of congressional authority for those actions is very obvious.

I therefore urge all Senators especially those who were concerned enough over the erosion of Congress' war powers, to join Senators JAVITS, STENNIS, and me in cosponsoring S. 440, to support legislation that will enable Congress to authorize or deny President Nixon's commitment to defend Indochina with American military personnel. Without our authority, that commitment cannot legitimately be called a commitment of the American people.

Mr. President, in 1871, another Senator from Missouri, Carl Schurz, stood on this floor and challenged the legality of President Grant's use of the U.S. Navy to protect the Dominican Republic. Senator Schurz' comments are applicable to the situation we have today:

> It is claimed that the President, by an act performed by himself at his own arbitrary pleasure, in conjunction with a foreign government, may obtain for himself alone the war-making power, which the Constitution expressly vests in Congress. I look upon this as perhaps the hugest absurdity, the most audacious preposterosity, the most mischievous, dangerous, and anti-republican doctrine that ever was broached. . . .

Congress can no longer sit idly by while the President usurps our responsibilities. If we are to win back our power to declare war, we must begin today by insisting that American military activities in Indochina be consistent with the Constitution.

Mr. President, I ask unanimous consent that a letter to the editor of the New York Times concerning the use of the case of Orlando against Laird as justification for the President's Cambodia activities be printed in the RECORD, as well as a letter discussing the President's authority to bomb in Cambodia from Prof. Raoul Berger.

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

CONCORD, MASS.,
March 31, 1973.

Hon. THOMAS EAGLETON,
U.S. Senate, Washington, D.C.

DEAR SENATOR EAGLETON: I am responding to your invitation to comment on hostilities in Cambodia by airmail-special delivery because several attempts to reach Western Union failed. Herewith my statement:

"Continued bombing Cambodia unconstitutional. War-making requires constitutional authorization. Former Attorney General, subsequenlty Under Secretary of State, Nicholas Katzenbach, testified 1970 "the constitutional authority to use our Armed Forces in Vietnam rests squarely on Tonkin and cannot otherwise be constitutionally justified." [quoted by Sen. Stennis, Fulbright War Powers Hearings, 1971, p. 707] Repeal of Tonkin Resolution withdrew any Congressional authorization. Withdrawal of troops Vietnam terminated alleged presidential power to protect troops which furnished foundation invasion Cambodia. President Nixon stated March 30 that war is "ended".

"Only Congress, said James Madison, has power to decide "whether a war ought to be commenced, continued or concluded." On dubious assumption that some vestige independent presidential power to conduct war remains, Congress may terminate war in Cambodia. Congress has ultimate power over deployment and regulation of Armed Forces [see my "War-Making article, 121 U.Pa. L.Rev. at 77–82].

"Strongly urge Congress to direct cessation of hostilities in Cambodia by enactment, concurrent resolution, curtailment appropriations, by all means in Congressional armory. Congress must vigorously protect its own constitutional prerogatives."

All good wishes.

Sincerely,

RAOUL BERGER.

[From the New York Times, Mar. 30, 1973]

TO PUNISH VIOLATORS OF THE PEACE

To the Editor:

Senator Goldwater's March 26 letter attacks James Reston's assertion that President Nixon lacks legal authority to punish violations of the Vietnam peace agreement. The Senator relies on *Orlando* v. *Laird* as justifying reprisals against North Vietnam if the President deems that the terms of the armistice are not being met. This is a misreading of *Orlando*.

In that case, Orlando, an enlisted man, had been ordered to duty in Vietnam. He brought an action to enjoin the Secretary of Defense and other officials from carrying out this order, on the ground that the Vietnam war had not been properly authorized by Congress.

In denying this claim, the court rejected the argument that the Vietnam war was illegal because undeclared. The court ruled, however, that the war-making power of the Constitution requires *some* collaborative action of the executive and legislative branches. The test, as put by Judge Anderson of the Circuit Court of Appeals, is "whether there is any action by the Congress sufficient to authorize or ratify the military activity in question."

In *Orlando*, the court found sufficient Congressional action in the Tonkin Gulf Resolution (which had not then been repealed), the appropriation of billions of dollars to carry out military operations in Southeast Asia and the extension of the Selective Service Act in circumstances where Congress knew that many men called up under the act would be sent to Vietnam. In his concurring opinion, Judge Kaufman relied on the Tonkin Gulf Resolution and on the "clear evidence of continuing and distinctly expressed participation by the legislative branch in the prosecution of the war."

None of the factors on which the Circuit Court of Appeals relied in *Orlando* would support a renewal of the war at this time by Mr. Nixon. The Tonkin Gulf Resolution has been repealed. No defense appropriations bills have been approved which under any reasonable interpretation could be deemed to authorize the renewal of the fighting after the prisoners have been released and our troops withdrawn. The Selective Service Act is being allowed to expire.

There is no longer the "abundance of continuing mutual participation in the prosecution of the war" which Judge Anderson found in *Orlando*. A dictum in *DaCosta* v. *Laird*, a later decision by the same court that decided *Orlando*, is directly applicable to the present situation:

"If the Executive were now escalating the prolonged struggle instead of decreasing it, additional supporting action by the Legislative Branch over what is presently afforded, might well be required."

Under the circumstances, any resumption of the bombing or other aggressive action by the President in Southeast Asia, without new Congressional authorization, would be a clear usurpation of power and should be dealt with as such.

JOHN FRENCH.

NEW YORK, *March 27, 1973.*

EXHIBIT 1

SOUTHEAST ASIA COLLECTIVE DEFENSE TREATY (SEATO)

PARTIES

Australia, France, New Zealand, Pakistan, Republic of the Philippines, Thailand, the United Kingdom, and the United States.

NOTE.—By a protocol signed on the same date as the treaty (see p. 99), the states of Cambodia and Laos and the free territory under the jurisdiction of the State of Vietnam were designated for the purposes of Article IV, quoted below. Subsequently, Cambodia has indicated disinterest in the protection of the Southeast Asia Treaty. The Royal Government of Laos, in the Geneva Declaration on the Neutrality of Laos, signed July 23, 1962, declared that it will not "recognize the protection of any alliance or military coalition including SEATO" and the United States and other nations agreed to "respect the wish of the Kingdom of Laos not to recognize the protection of any alliance or military coalition, including SEATO."

COLLECTIVE DEFENSE

"1. Each Party recognizes that aggression by means of armed attack in the treaty area against any of the Parties or against any State or territory which the Parties by unanimous agreement may hereafter designate, would endanger its own peace and safety, and agrees that it will in that event act to meet the common danger in accordance with its constitutional processes. Measures taken under this paragraph shall be immediately reported to the Security Council of the United Nations.

"2. If, in the opinion of any of the Parties, the inviolability or the integrity of the territory or the sovereignty or political independence of any Party in the treaty area or of any other State or territory to which the provisions of paragraph 1 of this Article from time to time apply is threatened in any way other than by armed attack or is affected or threatened by any fact or situation which might endanger the peace of the area, the Parties shall consult immediately in order to agree on the measures

which should be taken for the common defense.

"3. It is understood that no action on the territory of any State designated by unanimous agreement under paragraph 1 of this Article or on any territory so designated shall be taken except at the invitation or with the consent of the government concerned." (ARTICLE IV).

UNDERSTANDING OF THE UNITED STATES OF AMERICA—INCLUDED IN THE TREATY

"The United States of America in executing the present Treaty does so with the understanding that its recognition of the effect of aggression and armed attack and its agreement with reference thereto in Article IV, paragraph 1, apply only to communist aggression but affirms that in the event of other aggression or armed attack it will consult under the provisions of Article IV, paragraph 2."

CAMBODIA'S RELATIONSHIP WITH SEATO

(By Larry A. Niksch)

The international agreements provide the basic framework for Cambodia's relationship to the SEATO Treaty; the 1954 Geneva Agreement on Cambodia and the SEATO Pact itself. Article 7 of the Geneva Agreement contained a provision which discusses the limitations on Cambodia's right to join a military alliance or to accept the protection of one.[1] The Article, however, clearly did not bar membership in an alliance and reserved Cambodia's right to call for assistance if threatened. Article 7 read:

"The Royal Government of Cambodia will not join in any agreement with other States, if this agreement carries for Cambodia the obligation to enter into a military alliance not in conformity with the principles of the Charter of the United Nations, or, as long as its security is not threatened, the obligation to establish bases on Cambodian territory for the military forces of foreign powers."

Following Geneva, Cambodia actively sought a direct U.S. defense guarantee[2] but was ultimately persuaded to accept the status of a protocol state under the SEATO Pact. The protocol to the treaty read:

"The parties to the South-East Asia Collective Defense Treaty unanimously designate, for the purposes of Article 4 of the treaty, the States of Cambodia and Laos and the free territory under the jurisdiction of the State of Vietnam."

This protocol remains a part of the treaty; Prince Sihanouk, however, subsequently renounced SEATO protection.

Article 8 of the treaty provides that the signatories may amend the treaty area only by unanimous agreement. However, Article 4 declares that the signatories can take no action under the pact on any territory in the treaty area "except at the invitation or with the consent of the Government concerned." The United States has given explicit recognition to the right of the governments of the protocol states to define their relationship to SEATO. In discussing the Government of Laos' decision to reject SEATO's protection (under the 1962 Geneva Agreement on Laos), Secretary Rusk stated on July 12, 1962:

"Under the SEATO arrangements, the protocol would apply only on the request of the government of one of the protocol states, so that if the Laotian Government announces that it does not expect to call upon that protection, there is no particular problem from the point of view of the law of the matter or the arrangements concerned."[3]

In 1955, Prince Sihanouk began to move Cambodia's foreign policy toward a neutralist stance. In May 1955, he informed the British Government that:

"As regards SEATO, Cambodia is not a member of this organization and is not bound under [the agreement] to support any action by SEATO unless it decides to do so to safeguard the defense of its territory. Again, this commitment is subject to mutual agreement and it is open to Cambodia to refuse to give such aid."[4]

At this point, however, the Prince did not reject SEATO's protection but only stated that Cambodia did not feel obligated to support actions taken by the alliance. However, later in 1955 and during his trip to Peking in 1956, he did take this step. In September 1955 he rejected the protection offered by SEATO. The National Congress (Cambodia) of December 30–31, 1955 resolved that the government might accept aid "from any quarter, provided that it does not prejudice the sovereignty and the neutrality of the Kingdom."[5]

On February 18, 1956, while on a visit to China, Sihanouk said: "Cambodia is neutral. The people themselves request me to remain neutral whatever may happen. The SEATO has told us that we would be automatically protected. We reject such protection which can only bring us dishonor."[6]

Sihanouk had visited the Philippines prior to his trip to China because of an invitation to "participate in a reciprocal pact but I did not want it," but said after he returned home in late February [1956] that "I have refused the proposals of the Philippines to adhere to SEATO."[7]

In 1965, he informed the British Government in a communication:

"I am convinced that you will agree that the Cambodian people have the right to live in peace and also categorically to reject the protective umbrella of SEATO which has brought it only affliction and destruction."

EXHIBIT 2

CHAPTER VII: PARIS CEASE-FIRE AGREEMENT—REGARDING CAMBODIA AND LAOS

ARTICLE 20

(a) The parties participating in the Paris Conference on Vietnam shall strictly respect the 1954 Geneva Agreements on Cambodia and the 1962 Geneva Agreements on Laos, which recognized the Cambodian and the Lao peoples' fundamental national rights, i.e., the independence, sovereignty, unity, and territorial integrity of these countries. The parties shall respect the neutrality of Cambodia and Laos.

The parties participating in the Paris Conference on Vietnam undertake to refrain from using the territory of Cambodia and the territory of Laos to encroach on the sovereignty and security of one another and of other countries.

(b) Foreign countries shall put an end to all military activities in Cambodia and Laos, totally withdraw from and refrain from reintroducing into these two countries troops, military advisers and military personnel, armaments, munitions and war material.

(c) The internal affairs of Cambodia and Laos shall be settled by the people of each of these countries without foreign interference.

(d) The problems existing between the Indochinese countries shall be settled by the Indochinese parties on the basis of respect for each other's independence, sovereignty, and territorial integrity, and non-interference in each other's internal affairs.

Mr. CASE. Mr. President, will the distinguished Senator from Missouri yield?

Mr. EAGLETON. I am happy to yield to the Senator from New Jersey.

Mr. CASE. Mr. President, I want, first of all, to express my admiration for the distinguished Senator from Missouri. It takes another Senator from Missouri to be able to quote Carl Schurz.

The Senator has made a great speech. I thank him for it. I associate myself with its substance. I join with him in support of the war powers bill that he and Senators JAVITS and STENNIS have introduced. I am pleased to be a cosponsor of this important legislation. I want to thank him also for his thoughtful and generous reference to the bill which the Senator from Idaho (Mr. CHURCH) and I have introduced to prohibit further U.S. involvement in Indochina without specific congressional authorization. We hope that the Senate will soon be able to express its will on this measure.

As the Senator said, it is up to us to decide whether we are willing to exercise the power of Congress in this situation. If we do not, the American people are left without any recourse.

What is necessary, as the Senator has said, is that Congress must live up to its responsibilities under the Constitution; to decide whether or not the United States will reenter a war that the President has said has ended; and to make sure that we do not become involved in another war. I think it is as simple as that.

If the Congress does not take action at this point, we will continue from incident to incident and from crisis to crisis and be in a never-ending situation in which the executive branch alone runs the show. This is not the way the American system of government is supposed to work. Only Congress can decide what it will do, as the Senator has so rightly said.

Mr. President, with the indulgence of the Senator from Missouri, I should like to ask unanimous consent to have printed in the RECORD an editorial entitled "Finality in Vietnam," published in the New York Times of April 1, 1973.

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

FINALITY IN VIETNAM

The air of finality with which President Nixon heralded the American withdrawal from Vietnam Thursday night has been welcomed with gratitude and relief across the country. The nation and its elected representatives in Congress now have the right to insist that this finality be reflected in the Administration's actions.

Specifically, the continuing American bombardment of Cambodia sounds a roaring discord against Mr. Nixon's self-congratulatory utterances. None of the constitutional or strategic justifications previously offered for these acts of war exist any longer; Administration spokesmen seem to be struggling to find some new legal rationalization for the bombing raids, and it is not surprising that they are having a difficult time of it. The fact is that these raids, unless quickly halted, carry the germ of a new United States commitment to bestow open-ended authority on yet another shaky Southeast Asian leader.

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[1] Leifer, Michael. Cambodia: the Search for Security. New York, Washington, London, 1967: pp. 55–60. Smith, Roger M. Cambodia's foreign policy. Ithaca, Cornell University Press, 1965: p. 68.

[2] Leifer, p. 57. Smith, p. 68–73.

[3] Department of State Bulletin, July 30, 1962: p. 173.

[4] Smith, pp. 83–84.

[5] Smith, *op. cit.*, p. 85–86.

[6] NCNA, Peking, February 18, 1956 in Smith, *op. cit.* p. 95.

[7] Smith, *op. cit.*, pp. 97–9 .

The arrival in this country of South Vietnam's President Thieu could similarly create temptations for escalating new commitments. None should be necessary. Mr. Nixon stated that through his policy of Vietnamization, the South Vietnamese people now have the strength to defend their right of self-determination. On his words, therefore, there is no need for further American military effort, in the air or on the ground in Vietnam.

The President continues to imply in dark and guarded language that he is ready to use the power of the United States to force adherence to the cease-fire terms. Nowhere in the official records of the truce is there provision for any one nation to deal with violations by its own bilateral actions. The possibility of cheating on the truce was specifically envisaged in the Jan. 27 accords, and Mr. Nixon's negotiators devised an elaborate if utterly unrealistic mechanism for dealing with violations. Having accepted this control mechanism freely, the Administration can hardly claim unlimited license to act on its own if the system turns out to be as ineffectual as it was freely predicted it would be.

Congress now has the opportunity to insure that Mr. Nixon's rhetoric of finality is embodied in fact. Bipartisan legislation is before the Senate, introduced by Senators Church of Idaho and Case of New Jersey, providing that "no funds heretofore or hereafter appropriated may be expended to finance the reinvolvement of United States military forces in hostilities in or over or from off the shores of North and South Vietnam, Laos or Cambodia, without prior, specific authorization by Congress."

Passage of this measure would assure long life to the gratitude and relief now felt across the United States at the declared end of the Vietnam war.

Mr. EAGLETON. Mr. President, I thank the distinguished Senator from New Jersey for his excellent remarks. I would like to think that perhaps the war powers bill could be a solution to the instant dilemma; but I think, considering the urgency of time, that the only way we can curtail American activities in Cambodia now is by the medium of the Church-Case amendment. I feel certain that the Senator and his associate, the distinguished Senator from Idaho (Mr. CHURCH), will follow through with this matter at the earliest opportunity in bringing their bill before the Senate.

STAY OUT OF INDOCHINA

Mr. CHURCH. Mr. President, a recent series of New York Times editorials advise the United States to get out and to stay out of military hostilities in and over all of Indochina. On April 1, this influential paper editorialized—

Congress now has the opportunity to insure that Mr. Nixon's rhetoric of finality is embodied in fact. . . . Passage of (the Case-Church) measure would assure long life to the gratitude and relief now felt across the United States at the declared end of the Vietnam war.

I ask unanimous consent that editorials and commentary from the New York Times be printed here in the RECORD.

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

[From the New York Times, Mar. 17, 1973]

THREATENING THE TRUCE

President Nixon certainly has every justification for expressing concern over the continuing violations of the Vietnam cease-fire agreements, inasmuch as the "rather serious consequences" he mentioned this week involve not only the truce in Southeast Asia but the stability of the American homefront.

Intelligence reports of apparent massive flows of war materiel—tanks, artillery and anti-aircraft guns—toward South Vietnam from the North are indeed disturbing. The Administration's argument last January for ignoring the continued presence of North Vietnamese troops inside South Vietnam was that without being reinforced and re-equipped they would cease to be an effective military force. Now that assurance may be in jeopardy.

There is ample evidence, however, that the cease-fire violations are not all on the North Vietnamese side. We hope that Mr. Nixon is considerably stronger on this point in his private communications with the Saigon Government than he was in his news conference. In public he seemed to dismiss the violations of the truce on the ground, for which Saigon's forces have been as responsible as Hanoi's, as inevitable "because of the nature of the war." It is untenable to hold one set of violations more legally reprehensible than another; anyone who expects to benefit from the obligations of others has the obligation to honor his own undertakings.

The President left little doubt that he regarded resumption of bombing and harbor mining as a viable option against North Vietnam. Hanoi's leaders recently tried to test Mr. Nixon's resolve on the cease-fire terms by delaying the process of releasing American war prisoners, and when they saw the Administration's firmness they returned to the agreed-upon schedule. A similar response is looked for now.

Contained in the President's scarcely veiled threat, however, was an ominous time-bomb. The Congress has maintained relative silence on recent Vietnam developments only under the firm hand of its Democratic leadership, concerned that the sixty days of releasing the prisoners pass without reverses. Once that process is completed, by March 28, both the Congress and the President must be aware that resumption of combat by American military personnel could threaten a constitutional crisis of the first order.

Senators Church and Case have bipartisan legislation ready for floor action flatly forbidding the reintroduction of any American forces into hostilities in Southeast Asia. Even without passage of such a measure, there are strong arguments from Mr. Nixon's own statements that the President would have no constitutional authority to recommit American military forces. The Tonkin Gulf resolution, which the Johnson Administration considered a virtual declaration of war by Congress, was repealed in 1970. Shortly thereafter Mr. Nixon argued that his legal justification for carrying on the war in North Vietnam was "the right of the President of the United States under the Constitution to protect the lives of American men."

With American prisoners safety at home and American troops correspondingly withdrawn from South Vietnam, the President would be hard-pressed to invoke this justification again. Any move to resume hostilities against North Vietnam could provoke a restive Congress into its most bitter challenge yet of Presidential powers.

[From the New York Times, Mar. 18, 1973]

LATEST NIXON THREAT

(By James Reston)

WASHINGTON, March 17.—In his press conference the other day, President Nixon confirmed that the North Vietnamese had been sending heavy military equipment into South Vietnam in violation of the truce agreement, and he issued what could only be regarded as a threat of U.S. retaliation if these violations continued.

"We have informed the North Vietnamese of our concern about this infiltration . . ." he said. "Our concern has also been expressed to other interested parties [presumably the Soviet Union and China], and I would only suggest that, based on my actions over the last four years, the North Vietnamese should not lightly disregard such expressions of concern when they are made. . . ."

The meeting of this is fairly clear. Based on his record over the last four years, Mr. Nixon's reaction to North Vietnamese violations of agreements, or even North Vietnamese defiance of his warnings, has simply been to bomb the hell out of them. And here he is, back again, in that "don't-monkey-with-Nixon" mood.

Maybe several things ought to be said about this. First, Hanoi is obviously cheating on the truce agreement, and cheating big. Henry Kissinger has wanted to believe all along that he could count on the good faith of Hanoi's principal negotiator, Le Duc Tho, but he confirms that the North Vietnamese have not only sent substantial numbers of men down the Ho Chi Minh Trail into the South, but that they have also sent about 300 tanks and considerable quantities of artillery and anti-aircraft guns as well. In fact, Hanoi has made little effort to conceal these violations.

Second, Hanoi's excuse for doing so—and it's a pretty lame excuse—is that they had an agreement in principle with Mr. Kissinger back last October and would have been able to resupply their garrisons in the South if it hadn't been for President Nixon's Christmas bombing campaign, which they regard as a violation of the Kissinger-Le Duc Tho October draft truce. But anyway, they have acted on their own and the President has come back with his implied threat of renewing the bombing if they don't honor the terms of the truce.

For the moment, this is no big crisis. President Nixon is an unpredictable man when he thinks he's being challenged, and the North Vietnamese, no doubt fearful that Saigon would massacre their garrisons if they could, have challenged him.

But even with 300 new tanks and a considerable number of new recruits from the North, Hanoi is in no position to mount an effective offensive against Saigon's million-man army, which has complete control of the air, and President Nixon is not likely to carry out his threats before all the American prisoners of war and the few thousand remaining American troops have been safely evacuated.

Once this withdrawal of American prisoners and troops is complete—and it will be within a few weeks—there will be an interesting legal question: What legal authority would the President then have to order American men or bombers back into the battle?

The Gulf of Tonkin Resolution, which was regarded by the Johnson and Nixon Administrations as Congressional approval for carrying on the Vietnam conflict—virtually as a declaration of war—was nullified by the Congress in December of 1970 and signed by President Nixon himself on Jan. 12, 1971.

On July 1, 1970, Howard K. Smith of the American Broadcasting Company asked Mr. Nixon what legal authority he would have to carry on the war if the Gulf of Tonkin authorization was withdrawn on Capitol Hill.

Mr. Nixon replied that "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 that I became President, I have that power, and I am exercising that power."

But now clearly "the circumstances" are different. The legal shield for the war—the Gulf of Tonkin Resolution—has been repealed, and when the American prisoners and

the last remnants of the American expeditionary force are withdrawn, the President will not be able to "use his powers to protect American forces when they are engaged in military actions," because there will be no American troops there to protect.

Accordingly, one wonders why Hanoi and Washington keep on playing these games at this late date. Hanoi cannot gain any great advantage by sending a few thousand men and 300 tanks into the South, for President Nixon has the right and can easily get the votes and the money to help Saigon counter this violation of the truce agreement.

But what the President cannot legally do on his own after our prisoners and troops are gone is to carry out his implied threat to send the American bombers back into the battle. It is too late for that now. We have had too much war in Vietnam under vague constitutional authority to start it up again by Presidential fiat.

Maybe it's all right to threaten Hanoi, for the officials there have not been faithful to the truce or their personal promises to Mr. Kissinger and the President; but if they have to be punished in order to maintain the balance of power in Vietnam, this can be done practically and legally by aid to Saigon. It cannot be done legally now with personal instructions by the President to the Air Force. If this is necessary, and it is hard to imagine that it is, then the question has to go back to the Congress for approval.

[From the New York Times, Mar. 28, 1973]

NIXON'S WAR POWERS

(By James Reston)

Now that the last of the American prisoners and troops are on their way home from Vietnam, it would be useful if President Nixon would tell the country what authority he thinks he has to carry on in military action in Indochina rather than leaving the explanation to Senator Barry Goldwater.

The Senator from Arizona asserts in a letter to The New York Times that the President has the legal authority to punish violations of the Vietnam peace agreement on his own, and says questioning of this authority is "destructive of the peace we all seek."

"The President can, if he sees need," Senator Goldwater writes, "order reprisals in line with more than 24 acts of Congress which were judicially determined in *Orlando* v. *Laird* to provide Congressional collaboration in the Indochina war. . . ."

Well, this may be so, but that "Congressional collaboration" was authorized before the Congress specifically repealed the Tonkin Gulf Resolution, which had been regarded by President Johnson and Nixon as legal sanction for the war. Also, if the Congress has the power to sanction and finance a war, it also has the power to withdraw both sanction and funds.

"Acting as Commander in Chief, which confers on him supreme direction over the armed forces," Senator Goldwater adds, "the President possesses full constitutional authority to judge that the terms of the armistice which he negotiated have not been met by the enemy and that an actual state of war continues there that carries with it his power and duty to enforce that settlement. . . ."

If this is true, then President Nixon not only has the power but "the duty" without a word to Congress to order the bombers back into Vietnam to "enforce" one of the most ambiguous settlements ever negotiated at the end of a war.

The fact is that the armistice agreement is being violated constantly by both sides, but the main American objective of the agreement was to get the Americans out of Vietnam, not to impose on the President "the duty" to get them back in whenever he personally judged that the armistice was being violated.

"As Chief Executive of a sovereign nation and bearer of primary powers over the conduct of foreign affairs and the maintenance of our national defense," Senator Goldwater remarked further, "the President possesses a constitutional independence in these two fields which reinforces his authority in this situation. . . ."

This is undoubtedly true, but it is not a power "independent" of the Congress in the present situation where the President can no longer claim to be "protecting the lives" of American troops and prisoners. Besides, if Senator Goldwater is correct, Mr. Nixon also has the right and duty to take whatever military action he wants to enforce not only the Vietnam settlement, but the Korean settlement, and for that matter, the World War II settlement.

It is odd that one of the most sincere conservatives in the Senate, who has fought against excessive Presidential power for half a lifetime, should defend such extraordinary authority for the Chief Executive.

And odder still that the President who has taken such credit for getting out of the war, should not explain what the B–52 bombers are doing in Cambodia, and why, and on what authority. This is not a subject that should be left to a couple of non-legal amateurs, but is central to the larger issues of the President's war powers, his executive privilege, and his right to impound funds.

Is it really "destructive of the peace we all seek" to wonder whether the President has the personal right to send his bombers and troops back into the Vietnam struggle? Nobody honestly thinks he is considering such a move in Vietnam, but to assert his "right" and even "duty" to do so if he personally chooses indicates just how much things have changed since conservatives were worrying about "the supremacy of the Presidency."

Besides, it is hard to see the logic in Senator Goldwater's assertion that *Orlando v. Laird* support his case, for what the court said in *Orlando* was that Secretary Laird had the right to send Orlando to fight in Vietnam because the Congress had appropriated funds specifically for such a purpose. The Congress, however, has not appropriated funds to reintroduce troops into Vietnam after the armistice.

The President has asserted an absolute right to shield his staff from Congressional or legal questioning, not only about their personal dealings with him, but about their personal dealings with men convicted of burglarizing Democratic headquarters in the Watergate case. This has aroused a storm over whether or not he has such an "executive privilege," but at least in this case the President issued an official statement defining what he thinks his powers are.

No such statement, however, has been forthcoming from the White House on the President's intervention in Cambodia or his right of reintervention in Vietnam after the prisoners and troops are home. And oddly enough, the Congress has not yet requested an official explanation of what the President's policy actually is.

[From the New York Times, Mar. 29, 1973]

OUT, BUT NOT OUT

The expected return today of the last American combat troops and prisoners from Vietnam should be an occasion for universal relief and rejoicing, marking the end of the long and anguished United States intervention in Indochina. To most Americans it is inconceivable that this country would again become militarily involved in a regime so remote from any vital national strategic interest.

And yet intervention persists. United States military aircraft based in Thailand continue to devastate the countryside of Cambodia in support of a shaky military regime. The White House says this bombing will continue until Communist forces in Cambodia stop their military operations and agree to a cease-fire, which at the moment appears to be an extremely remote possibility.

Any further American military action in Cambodia after the completion of disengagement from Vietnam would raise the most serious constitutional questions. Following repeal of the Tonkin Gulf Resolution, President Nixon's sole justification for operations in Indochina has been his alleged powers as President and Commander in Chief "to protect American forces when they are engaged in military actions." Even this dubious claim evaporates with the departure of the last United States combat soldier from Vietnam.

So far neither the Defense nor the State Department has been able to come up with a substitute justification for what is going on in Cambodia although a State Department official reportedly told Congressional aides that his department had two lawyers working on the problem. White House Press Secretary Ronald Ziegler has lamely explained that the heavy daily bombings are being conducted because "the Cambodian Government has asked for our air support."

That is a doctrine for Presidential intervention in foreign conflicts that must not be allowed to stand unchallenged. It would mean, in effect, an assumption of Presidential authority to invoke the devastating power of American air forces wherever and whenever a government which enjoyed White House sympathy was in trouble.

Failure of Congress to assert its own constitutional prerogatives promptly and forcefully could result in continuing unauthorized bombing in Cambodia and would establish a perilous precedent for future Presidential intervention in trouble spots around the world, not excluding an already threatened resumption of American hostilities in Vietnam.

[From The New York Times, Apr. 1, 1973]

FINALITY IN VIETNAM

The air of finality with which President Nixon heralded the American withdrawal from Vietnam Thursday night has been welcomed with gratitude and relief across the country. The nation and its elected representatives in Congress now have the right to insist that this finality be reflected in the Administration's actions.

Specifically, the continuing American bombardment of Cambodia sounds a roaring discord against Mr. Nixon's self-congratulatory utterances. None of the constitutional or strategic justifications previously offered for these acts of war exist any longer; Administration spokesmen seem to be struggling to find some new legal rationalization for the bombing raids, and it is not surprising that they are having a difficult time of it. The fact is that these raids, unless quickly halted, carry the germ of a new United States commitment to bestow open-ended authority on yet another shaky Southeast Asian leader.

The arrival in this country of South Vietnam's President Thieu could similarly create temptations for escalating new commitments. None should be necessary. Mr. Nixon stated that through his policy of Vietnamization, the South Vietnamese people now have the strength to defend their right to self-determination. On his words, therefore, there is no need for further American military effort, in the air or on the ground in Vietnam.

The President continues to imply in dark and guarded language that he is ready to use the power of the United States to force adherence to the cease-fire terms. Nowhere in the official records of the truce is there provision for any one nation to deal with violations by its own bilateral actions. The possibility of cheating on the truce was specifically envisaged in the Jan. 27 accords, and Mr. Nixon's negotiators devised an elaborate if utterly unrealistic mechanism for dealing

with violations. Having accepted this control mechanism freely, the Administration can hardly claim unlimited license to act on its own if the system turns out to be as ineffectual as it was freely predicted it would be.

Congress now has the opportunity to insure that Mr. Nixon's rhetoric of finality is embodied in fact. Bipartisan legislation is before the Senate, introduced by Senators Church of Idaho and Case of New Jersey, providing that "no funds heretofore or hereafter appropriated may be expended to finance the reinvolvement of United States military forces in hostilities in or over or from off the shores of North and South Vietnam, Laos or Cambodia, without prior, specific authorization by Congress."

Passage of this measure would assure long life to the gratitude and relief now felt across the United States at the declared end of the Vietnam war.

[From the New York Times, Apr. 3, 1973]

"WINDUP" IN CAMBODIA

No one can dispute Secretary of Defense Elliot L. Richardson's assertion that "it would be very difficult" for the Cambodian Government of President Lon Nol to survive without the massive American air support it is currently receiving. The commander in chief of Cambodia's crumbling forces has said as much.

But that is not the issue. The question for Americans is whether the survival of the present regime in Phom Penh is sufficiently vital to United States interests to justify prolonging a war from which this country has presumably disengaged and for repudiating at this critical stage of disengagement the sensible self-help policy that was proclaimed in the Nixon Doctrine.

Under the Constitution, that is a question that cannot be decided by the President and his aides alone. The withdrawal of the last American ground combat soldier from Vietnam has removed the last possible justification—and a lame one, at that—for unilateral direct military intervention in Indochina by the President.

Secretary Richardson only sidestepped this vital issue when he said: "Basically, I believe that our Constitutional authority rests on the circumstances that we are coming out of a ten-year period of conflict. This is the windup."

That is just what is worrying thoughtful members of Congress. Instead of finally concluding the war in Indochina in accordance with its popular mandate and the expressed will of Congress, the Administration appears to be laying the basis for repetition of the Vietnam tragedy in Cambodia, if not for resumption of direct military intervention in Vietnam itself. Congress has a constitutional obligation to challenge such extension of Presidential war-making authority, which has implications far beyond Indochina.

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

FORMER SENATOR WILLIAM BENTON OF CONNECTICUT

Mr. RIBICOFF. Mr. President, it is with a deep sense of loss that we mourn the death of former U.S. Senator William Benton of Connecticut.

Bill Benton served in the Senate from 1949 to 1952. He was appointed to the Senate by Connecticut Governor Chester Bowles in 1949 and won election in 1950 to fill out the unexpired term of Senator Raymond E. Baldwin.

Senator Benton was a great and dedicated public servant. He devoted his life to the betterment of mankind. His life was many faceted, encompassing politics, business, the arts, and education. Bill's sudden death comes as a great shock to myself and his many friends. Mrs. Ribicoff joins me in extending our deepest sympathy to Bill's wife, Helen, and other members of his family.

A success in business at an early age, Bill Benton entered public service in 1939 when he became an adviser to Nelson A. Rockefeller, then the Coordinator of Inter-American Affairs. In 1945, President Truman appointed him Assistant Secretary of State for Public Affairs.

As Assistant Secretary for 2 years, Bill organized the Voice of America broadcasts and was active in the establishment of UNESCO, the United Nations Educational and Cultural Organization. During the Johnson administration, Bill Benton was the chief U.S. member of the UNESCO executive board with the rank of ambassador.

Bill was born April 1, 1900, in Minneapolis. His father, Charles William Benton, was a Congregationalist minister and a college professor. His mother, the former Elma Hixson, was a county school superintendent.

Graduating from Yale in 1921, Bill went into the advertising business. In 1929, he and Chester Bowles formed an advertising agency known as Benton and Bowles.

The young firm prospered. In 1935, Bill left advertising and became vice president of the University of Chicago.

He later became publisher and chairman of the board of the Encyclopaedia Britannica and made that organization into a great success.

I ask unanimous consent that an article published in the March 19, 1973, New York Times on Senator Benton be inserted at this point in the RECORD.

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

[From the New York Times, Mar. 19, 1973]

WILLIAM BENTON DIES HERE AT 72; LEADER IN POLITICS AND EDUCATION

(By Alden Whitman)

Former Senator William Benton of Connecticut, publisher of the Encyclopaedia Britannica and onetime Assistant Secretary of State, died early yesterday in his sleep in his apartment at the Waldorf Towers Hotel. He would have been 73 years old on April 1. His home was in Southport, Conn.

There will be a memorial service at 3:30 P.M. on Wednesday at Trinity Church (Episcopal) in Southport.

Mr. Benton had been released from Lenox Hill Hospital on Feb. 26 after recovering from pneumonia.

A man who never seemed to operate at less than full tilt, William Burnett Benton crammed at least five careers into his lifetime. He was, at various times, an advertising executive, a university vice president, a public servant and Senator and the head of a vast publishing empire. In all these careers, except politics, he wielded the Midas touch.

One example of Mr. Benton's business acumen was the Muzak Corporation, which he picked up in an idle moment in 1939–40, when he was still with the University of Chicago. After expanding the company's operations and taking several millions out of it in dividends, he sold it in 1957 for $4.35-million. But despite his undoubted feel for the marketplace, Mr. Benton preferred to regard himself (and to be regarded) as a serious and dedicated educator and statesman.

In this respect he was chairman of the company that published and sold the Encyclopaedia Britannica, from which he and his family made a great deal of money, much of it given to the William Benton Foundation. At the same time the company enriched the University of Chicago, a contractual beneficiary, by more than $25-million in 25 years.

A friend and business partner was astonished by the ease with which Mr. Benton made money, remarking that he "completely lacks the acquisitive instinct" and adding:

"You never saw a businessman spend less time thinking about money."

ANOTHER VIEWPOINT

Another associate of 20 years disagreed, saying:

"It's like a fellow playing 40 games of chess simultaneously. You could say you never saw a fellow spend so little time on a game of chess. But that wouldn't be the whole story."

In politics, which engaged Mr. Benton from 1945, he was a liberal Democrat, whose record as Senator from Connecticut was highlighted by opposition to Senator Joseph R. McCarthy, the Wisconsin Republican and anti-Communist crusader.

In 1951, when Mr. McCarthy was at the apogee of his influence, Mr. Benton introduced a resolution that, in effect, denounced his colleague as a liar and a thief and as unworthy to sit in the Senate. Hearings on this resolution led ultimately to Mr. McCarthy's censure in 1954, but by that time Mr. Benton was out of the Senate, having been defeated at the polls in 1952. Mr. McCarthy's enmity was generally credited with helping in the defeat.

He tried several times thereafter for office, but as one biographer put it, he was "never really one of the boys." Mr. Benton, it was said, "simply does not react" to a person and an ambulance, and could rarely bring himself to utter a flattery. Less kindly observers said that he was such a foundation of ideas that he did not listen to the notions of others and was inclined moreover to be vain-glorious.

SON OF A CLERGYMAN

Mr. Benton's background was religious and educational. Born April 1, 1900, in Minneapolis, he was the son of Charles William Benton, a Congregationalist clergyman and college professor, and the former Elma Hixson, a county school superintendent. His father died when he was 13, and his mother took the family to Montana to clear ground for a homestead.

Bill Benton entered Yale on his second attempt and graduated in 1921. He worked his way through as a high-stake auction bridge player. While denying reports that he cleared $25,000 a year, he told a friend that "it's a demonstrable fact that for 10 years I was one of the 10 or 20 best card players in the world."

On graduation he turned down a Rhodes Scholarship for a job as an advertising copywriter. This horrified his mother, who wrote her son, "If you won't go into a respectable profession, can't you at least be a lawyer?"

In advertising, he rose to become assistant general manager of Albert Lasker's Lord & Thomas agency in Chicago. He was earning $25,000 a year when he left in 1929 to join Chester Bowles in forming Benton & Bowles with a capital of $18,000. This agency, New York-based, attained annual gross billings of $18-million by 1935, of which Mr. Benton's share was $250,000—a huge sum in the Depression.

Pioneering in market research and the use of radio as an advertising medium, Mr. Benton was in part responsible for the Maxwell House "Showboat," the Palmolive "Beauty Box," "Gang Busters" and Fred Allen's "Town Hall Tonight." He has been credited with in-

troducing the studio audience and signs to direct it to applaud, as well as commercials with sound effects.

"Up to then, you'd always had a commercial announcement, somebody stopping the show and talking, as though he were reading from a magazine," Mr. Benton recalled. "I staged commercials, you could hear the spoons, people clinking cups of coffee, everything acted out. It was revolutionary; it was like the first girl standing on her head on the back of a horse."

It was Mr. Benton, impressed with the local "Amos 'n' Andy" comic show in Chicago in 1929, who initiated its sponsorship on a national network by Pepsodent that made the show's characters, played by Freeman Gosden and the late Charles Correll, household words.

Mr. Benton had determined to quit advertising when he was 35, and in 1935 he did, having by that time made $1-million. Almost immediately, however, Robert M. Hutchins, his Yale classmate and president of the University of Chicago, persuaded him to become a vice president of the school. He held that post from 1937 to 1945 and helped the university pioneer in educational radio and educational movies. His radio program, "The University of Chicago Round Table," won several awards as an adult education show.

With characteristic self-regard, Mr. Benton appeared on the show, talking about the common man, censorship, cartels, foreign relations and other topics on which he was able to brief himself with remarkable thoroughness.

"COOKING UP THINGS"

At Chicago, Mr. Benton was, in effect, advertising a university. "Bill was what an engineering concern would call research and development," Mr. Hutchins said. "We worked on cooking up things, all kinds of measures, some of them successful, some of them abortions."

One of his greatest successes turned out to be the Encyclopaedia Britannica, which had been bought from its British owners after World War I by Sears, Roebuck & Co. In 1943 the mail-order house wanted to get rid of the publication and offered it to the university. Mr. Benton put up $100,000 in working capital for the acquisition and gave the school a beneficiary interest in the profits.

The salesmanship methods that Mr. Benton employed over the years to push the encyclopedia and its associated enterprises—chiefly classroom films, a yearbook, a junior encyclopedia, an atlas and a dictionary—have been much criticized as "hard sell." But there has been little question that they produced results. Nevertheless, in the judgment of a number of experts, the informational quality of the Britannica was greatly diluted under Mr. Benton's management. And at least one editor resigned in a huff over the volumes' contents.

Mr. Benton not only defended the Britannica, but also expanded its related business by publishing the 54-volume "Great Books of the Western World" series and a companion 10-volume set called "Gateway to the Great Books." In 1964 the Britannica company acquired the G. & C. Merriam Company, which publishes Webster's Dictionary.

Administering his publishing realm, Mr. Benton was accustomed to flying 75,000 miles a year to ginger up his underlings and to dictating up to 8,000 words a day of ideas and suggestions for his aides to execute. Recipients of these memos were amazed (and sometimes numbed) by their author's fecundity and circumlocutions.

In 1971, in a joint venture with the Tokyo Broadcasting System, Mr. Benton began publishing an international encyclopedia in Japanese.

He edged into public service in 1939 as an adviser to Nelson A. Rockefeller, then coordinator of Inter-American Affairs. Out of this, and an interest in economics as a founder of the Committee for Economic Development, came his appointment in 1945 as Assistant Secretary of State for Public Affairs.

As Assistant Secretary, his post for two years, he organized the Voice of America broadcasts and was active in the establishment of UNESCO, the United Nations Educational, Scientific and Cultural Organization. During the Johnson Administration he was chief United States member of the UNESCO executive board with the rank of Ambassador.

He served last year on the educational platform committee at the Democratic convention in Miami.

APPOINTED BY BOWLES

Mr. Benton became a Senator by courtesy of his old business partner, Chester Bowles, who was Governor of Connecticut in 1949. Mr. Bowles appointed him to fill a vacancy, and then he won an election in 1950 for the rest of the term. His Senate record included a plea for a Fair Employment Practices Commission and a fight against the McCarran Immigration Act as restrictive of the people of eastern and southern Europe. He voted for the legislation, however, when his appeals against it proved futile.

Out of office after 1952, he was identified with the Adlai E. Stevenson wing of the Democratic party and campaigned for Mr. Stevenson in 1956 and supported him again in 1960. The two were warm friends, and Mr. Stevenson was a frequent guest of Mr. Benton's home in Southport.

From his student days, when he was editor of The Yale Record, Mr. Benton was interested in art and in his friend Reginald Marsh in particular. By 1954, when Mr. Marsh died, Mr. Benton had collected hundreds of his paintings, which centered on the vulgarities and vagaries of American life. Marsh, who has come to be recognized as a major artist, forms the richest part of Mr. Bentons' collection, which also includes works by Ivan Albright, Jack Levine, Bellows, Hassam and Kuniyoshi.

In 1972 the University of Connecticut named the William Benton Museum of Art in Mr. Benton's honor. Later that year he gave his collection of Albright's medical sketches to the University of Chicago Medical School. In the same year he was named Chubb Fellow at Yale.

Mr. Benton married Helen Hemingway, a Connecticut schoolteacher, in 1928. Also surviving are two sons, Charles and John; two daughters, Mrs. Helen Bolgey and Louise, and eight grandchildren.

Mr. RIBICOFF. The Bridgeport Post on March 20, 1973, published an editorial on Bill Benton. I ask unanimous consent that the editorial be printed in the RECORD at this point.

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

WILLIAM BENTON

The prolific talent and sincere interests of Senator William Benton knew no bounds. To say he was a man of many successful careers is to state the truth.

Beyond the obvious personal achievements of the individual, there was much more. An intellectual, Mr. Benton made generous contributions to education in this country. As a statesman carrying out special governmental assignments, Mr. Benton did a great deal to bring about better understanding of the United States by other nations.

During his four years in the U.S. Senate, this resident of the Southport section of Fairfield found that his independent thinking was not always appreciated. He was a man who spoke his mind and rarely, if ever, bowed to pressure to remain silent.

It was Senator Benton, displaying the courage of his convictions, who first stood tall against the menace of McCarthyism. On October 6, 1951, on the floor of the Senate, he called on Senator Joseph R. McCarthy to resign. Three years later, after Mr. Benton had left the Senate, Senator McCarthy was censured. Some of Mr. Benton's colleagues made a point at that time of stating it was the Senator from Connecticut who first detected the potential for disaster in the McCarthy philosphy and had the resoluteness to warn the country.

The many and varied philanthropic activities of Mr. Benton have been detailed in the news columns. These facts can only suggest the true measure of the man. William Benton served his country, his state, and his fellow man in a manner to be admired and copied.

Mr. RIBICOFF. The Waterbury Republican on March 20, 1973, published an editorial on Bill Benton. I ask unanimous consent that the editorial be printed in the RECORD at this point.

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

WILLIAM BENTON

William Benton was truly one of Connecticut's distinguished citizens. He was an advertising and business executive; an educator, serving as vice-president of the University of Chicago and as a trustee of the University of Connecticut, a publisher, a statesman and politician.

He was a liberal in politics and was a most unlikely candidate when he first entered the political scene. He was appointed to fill a vacancy in the U.S. Senate by his former advertising agency partner, then Gov. Chester Bowles.

Benton was then elected to fill a partial term and moved into the Washington arena with no difficulty. He became noted in the Senate for the resolution he introduced calling for the resignation or expulsion of the late Sen. Joseph McCarthy. Hearings on the resolution eventually ended with a censure of McCarthy.

Although he was not reelected, Benton remained an influential but behind-the-scenes figure in Connecticut politics.

At one time he served as an assistant Secretary of State. Te traveled extensively and wrote books on both Latin America and the Soviet Union. As publisher of Encyclopedia Brittanica, he helped make it almost a household word as the ultimate reference source.

He was a philanthropist. One of his most recent gifts was of an art collection to the University of Connecticut where the art museum is named in his honor.

Mr. Benton's guidance will be missed in many areas.

Mr. RIBICOFF. The Hartford Times on March 20, 1973, published an editorial on Bill Benton. I ask unanimous consent that the editorial be printed in the RECORD at this point.

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

WILLIAM BENTON

It was a happy coincidence that Chester Bowles and Bill Benton were students at Yale University at the same time. Their friendship produced two statesmen 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 Encyclopaedia 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.

Mr. RIBICOFF. The Hartford Courant on March 21, 1973, published an editorial on Bill Benton. I ask unanimous consent that the editorial be printed in the RECORD at this point.

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

WILLIAM BENTON

William Benton, former United States Senator from Connecticut, died quietly in his sleep March 18 at his New York City apartment. It may come as a surprise to some that the educator, statesman, politician, advertising pioneer, art collector, traveler, lecturer and philanthropist ever slept. For Mr. Benton crammed five diverse careers into his almost 73 years whetted by an insatiable thirst for activity abetted by seemingly unlimited energy.

Thanks to his perfect sense of business timing, whatever he touched seemed to turn to money. Yet, though his genius for innovation made him a millionaire by the age of 35, it was as a statesman and educator that Mr. Benton wanted to be recalled. Once the foundation of his fortune was laid, he spent his life using much of it for a number of good causes, particularly related to education.

Under his guidance, financial losers such as Encyclopedia Britannica and Muzak Corporation became winners. His advertising agency, Benton and Bowles, in partnership with former Connecticut Governor Chester Bowles, became the world's sixth largest. Always daring to try something new, he developed the first sound commercials for radio. During his tenure as Senator from 1949 to 1953 he initiated the investigation of Senator Joseph McCarthy leading to the Wisconsin legislator's censure.

While active in international affairs, he was a member of the Committee for Economic Development which helped rebuild Europe after World War II and led to the formation of the U.S. Information Agency. Later he supervised the infant Voice of America radio operation.

Besides his countless private interests, Mr. Benton was most proud of his work with colleges and universities, including those at Chicago and Bridgeport, Brandeis University and the University of Connecticut. In the latter capacity he worked for higher salaries for faculty and scholarships for deserving needy students.

Up to $45 million in encyclopedia royalties have benefited the University of Chicago since Mr. Benton turned them over to the school in 1943. All his stock in the firm went to establish the Benton Foundation in 1968. His extensive art collection now is housed in the UConn art museum bearing his name.

For his humanitarian efforts at home and abroad, Mr. Benton has been honored many times. But perhaps his greatest gift was his flair for living—"at full tilt" as a biographer put it. It is not surprising that so large an enthusiasm overflowed to encompass so many of his fellow men, the beneficiaries of his generosity for years to come.

Mr. RIBICOFF. Joseph A. Owens, editorial page editor of the Bridgeport Post, wrote in his column, "In the Open" on March 20, 1973, of the life of William Benton. I ask unanimous consent that the column be printed in the RECORD at this point.

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

FRIEND TO MANY

(By Joseph A. Owens)

Though born in Minnesota, William Benton looked every bit a native of New England. His facial features certainly would not have been out of place in a Norman Rockwell painting depicting life in this part of the country.

Benton was a gentle person, a lover of the arts.

In politics, he seemed to be out of place. Maybe that is why he did the unspeakable back in 1951. The U.S. Senate is viewed by most of its members as a club. Rare is the occasion when one member speaks ill of another.

That was one rule Benton could not apply to himself as far as Senator Joseph R. McCarthy of Wisconsin was concerned. McCarthy was a fierce, a frightening force in those days. He was the most publicized hunter of Communists in the land.

PROPHET

Whether McCarthy had his facts straight or not made small difference to him. He claimed Communists were everywhere in government. No one was anxious to stand up to Joe McCarthy. In the Senate the unwritten rule was being strictly observed.

Then Bill Benton went to the floor of the Senate on August 6. He described McCarthy in unflattering terms and warned against the man and his tactics. Not until more damage had been done did people begin to realize that Senator Benton had been a prophet crying out in the wilderness.

Three years passed before McCarthy was censured.

John F. Kennedy later observed that if a new edition of his book, "Profiles in Courage" were to be written, Bill Benton would have his rightful place in it.

Benton first went to the Senate in 1949, on an appointment from Governor Chester Bowles when Raymond E. Baldwin resigned to take a seat on the Connecticut Supreme Court. Benton faced the voters in 1950 and won the right to complete the term. In 1952 he was buried in the Eisenhower landslide.

Six years later he sought the Democratic senatorial nomination which went to Tom Dodd.

Benton remained active, making financial contributions to Democrats and sharing his wisdom with party leaders.

DENIED FINALE

Benton's dreams of returning to the Senate had long since vanished when one of his friends and admirers was hoping he could honor him by making him a member of the Senate once again.

The story unfolded last summer during the Democratic Convention in Miami Beach. One of Benton's sons, John, approached former Governor John N. Dempsey and thanked him profusely "for what you wanted to do for my father."

The man was in tears.

So was the elder Benton.

Dempsey had reason to believe in the late 1960s that Senator Dodd would resign. The moment this act took place, he planned to appoint Benton to complete Dodd's term. But Dodd stayed on.

It would have been a grand finale for Benton. After being highly successful in the competitive world of private business, he developed a love affair with government. He took on special assignments, seeing each as a chance to contribute to the betterment of his country and the world. The time he had spent in the Senate was looked back upon with particular fondness.

GIFT TO UB

On a pleasant evening last summer he sat outside his home overlooking Long Island Sound and talked about politics, his service as a member of the Board of Trustees at the University of Connecticut, and his desire to help education. The Benton home and the beautiful grounds surrounding it, he said will some day belong to the University of Bridgeport. That was his desire.

NOT RENAMED

The decision of Governor Thomas J. Meskill not to rename him to the UConn board was painful and in a polite way, Benton said so. He supported lecture series which brought some of the leading figures in the formulation of American foreign policy to the campus in Storrs. This was in addition to the donation of numerous valuable pieces of art. More important than the gifts was the acumen he brought to the meetings.

His fellow trustees thought so highly of Benton they named a museum after him.

Benton liked and respected Dr. Homer Babbidge and was upset when he left the UConn presidency for a position at Benton's alma mater, Yale.

ONE DEMPSEY

Of all the people in Connecticut with whom he had come in contact, Benton placed one man at the head of the parade. To William Benton there was only one John N. Dempsey.

He spoke not about Dempsey's record in office, but rather of the rich humane qualities of the individual. To him Dempsey was the personification of a man truly dedicated to helping others.

The 1972 Democratic Convention was the last time Benton performed on the political stage. He wanted Hubert H. Humphrey, an old friend, to be the Democratic presidential candidate. When Humphrey failed in his quest for the prize, Benton was dejected.

Benton was a liberal Democrat in the mold of Humphrey and the late Adlai Stevenson. There was nothing radical about the philosophy he espoused, only an earnest desire to assist people and to motivate causes shaped for the betterment of all.

Bill Benton is gone and education, the arts, politics, and his many friends have suffered a considerable loss.

Mr. RIBICOFF. The New York Times published an article by Sidney Hyman on March 25, 1973, about Bill Benton. I ask unanimous consent that the article be printed in the RECORD at this point.

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

WILLIAM BENTON—AN APPRAISAL

(By Sidney Hyman)

William Burnett Benton, Yale '21, worked a year for the National Cash Register Commany and was then told by his strongwilled mother—a school teacher—to enroll in the Harvard Law School. But for the first time in his young life, he defied her by entering instead the world of advertising.

When news of his waywardness in New York reached his mother in St. Louis, she compressed her outrage in a one-sentence letter: "I am appalled to learn that you are going to waste yourself in a business which does nothing except say that Palmolive soap is a good soap."

Only 14 years of Mr. Benton's life, which ended last week on the eve of his 73d birthday, were tied to advertising. And of these, only six were spent with Benton & Bowles, which he and Chester Bowles founded in July, 1929 and from which he voluntarily resigned, as planned, in 1935.

He was 35 at the time, and his break with the business was irrevocable.

Yet no matter what he did afterward, and did with distinction in different fields—in education, publishing, national politics and diplomacy—sniffish people declassed his worth, saying that he was "just another flim-flam Madison Avenue type."

Mr. Benton, on his part, never apologized for his time in advertising. Many of his best achievements were rooted in the million dollars paid him in installments for the stock he sold back to Benton & Bowles when he resigned from the firm.

The money financed his high-risk ventures involving the purchase or start of a cluster of companies that were to make him a worldwide force in mass education, and only incidentally one of the richest men in the United States.

When Mr. Benton embarked in 1922 on his short but lucrative career in advertising, New York had more agencies than Chicago, but Chicago was where the most creative minds in the field were to be found.

Most of the valedictorians of the "Chicago school" were trained at Lord & Thomas, whose head and sole owner was Albert D. Lasker. Mr. Lasker, all imperious, exciting, excitable and wacky genius, was to the advertising world of the day the same protean force that John H. Patterson of the National Cash Register Company was to the world of "scientific sales management."

To expose himself to what Mr. Lasker had to teach, Mr. Benton moved from New York to Chicago in the mid-nineteen-twenties and into a job at Lord & Thomas. Mr. Benton gave Mr. Lasker what the agency head wanted and he absorbed from Mr. Lasker what he needed to know before he brought his own firm of Benton & Bowles to birth.

There were particular reasons why that firm became after six years of life one of the largest single-office advertising agencies in the United States.

First, the Great Depression of the nineteen-thirties forced corporations to examine their advertising policies and to welcome new ideas. The need for new ideas brought creative men to the forefront in place of the old-line account executives who had previously dominated the advertising business.

It was a time when other young men like Mr. Benton and Mr. Bowles, originally trained as copywriters, founded their own advertising agencies or took over the direction of existing firms.

A second element in the success of Benton & Bowles was Mr. Benton's introduction into New York of the consumer research surveys that he had accidentally devised at Lord & Thomas in Chicago. These gave client prospects the hope of being more scientific in deciding how to sell and advertise their products in a market where effective consumer purchasing power was drastically curtailed.

The rough-hewn surveys Mr. Benton introduced into New York were later eclipsed in polish and significance when Raymond Rubican, the creative head of one of the most admired newer advertising agencies of the day, turned to the academic world for help. At Northwestern University on the edge of Chicago, he found a young sociologist named George Gallup, who was perfecting techniques for polling public opinion.

Another element in the success of Benton & Bowles involved innovations in the use of radio.

The innovations included the first use of live audiences and the first cueing of audiences with placards reading "laugh" or "applaud."

The commercials were also something new. Previously, during a "pause for a commercial announcement," a "voice from the sponsor" would read a few paragraphs of advertising. This was changed after Benton & Bowles launched the "Maxwell House Show Boat."

The actors drank coffee, smacked their lips and tinkled their cups to give listening audiences around the country an acoustical substitution for what their eyes could not see. These innovations were followed by a Benton invention of the singing commercial—something for which he later did penance.

Above all, Mr. Benton's success in winning business away from old and large advertising agencies lent credence to a theory he advanced and proved by his later success with other enterprises at which big companies had faltered or failed.

"Every great corporation," he said, "is struggling with many failures buried down in its soft underbelly, failures awaiting development by enterprising men with original ideas. If I were a young man in pursuit of wealth I would look for and compete with the big corporations at their weak point.

"I am not talking about a corporation such as the Commonwealth Edison Company. You don't compete with monopolies when you are a young man, though you try to create and own them when you get older. But as a young man, I would look for the soft spots in the business structure of the great nonmonopolistic corporations and start my own business in one or another of these areas."

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the RECORD remain open for the inclusion of additional statements regarding Senator Benton for 14 legislative days.

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

Mr. RIBICOFF. I ask unanimous consent that the statements made in the Senate and the House of Representatives be printed as a Senate document

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

Mr. RIBICOFF. Mr. President, I yield to the distinguished Senator from Illinois.

(At this point, Mr. RIBICOFF assumed the chair.)

Mr. STEVENSON. Mr. President, William Benton was both student and teacher. Young in heart, full of curiosity, he spent his life absorbing the world about him. His curiosity was insatiable. His enthusiasm for all the possibilities for reason and progress was boundless. I never knew a man of such energy and imagination, enthusiasm and vitality. His life spent in learning was also spent in teaching at the University of Chicago, through the Encyclopaedia Britannica and its affiliated companies, through the Benton Foundation, and in his daily contacts with people in good causes.

He served the Nation well. He served it in the State Department. He served it with distinction and bravery in this body. He was a constant source of inspiration and a constant source of support for his many friends, including two generations of Stevensons.

It will be a long time before we see the likes of Bill Benton. His death is a sad loss not only for his family but also his friends, among whom I count myself one. It is a sad loss for the Nation.

Five years and two months ago, the University of Chicago marked the 25th anniversary of William Benton as publisher and chairman of the Encyclopaedia Britannica. Addressing a banquet on that occasion, the university's former president, Robert M. Hutchins, spoke of William Benton's benefactions and concluded:

We must hope that he will live for a thousand years.

To our sorrow, he did not. The degree to which his death is humanity's loss is reflected well, I think, in the comments by Robert M. Hutchins, and I ask unanimous consent that they be printed at this point in the RECORD.

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

STATEMENT OF ROBERT M. HUTCHINS

William Benton was descended from a long line of teachers. When he got out of business, it was natural for him to think of continuing the labors of his forebears. The University of Chicago was fortunate to be able to induce him to become one of its principal officers.

As vice president of the university, he exploited every means of using its intellectual resources for the widest possible educational purposes. He revitalized the University of Chicago Roundtable, the oldest educational program on the air, and developed an interest in educational films that was later to flower in the establishment of a company called Encyclopaedia Britannica Films.

He persuaded the trustees of the University of Chicago, against their will, to accept the gift of Encyclopaedia Britannica from Sears, Roebuck & Company. He had to put up the working capital himself. Nobody thought at that time that this gift would enrich either the university or the Benton family. The best that was hoped for was that the company would not drain resources from the university and that it would not bankrupt the Benton family.

For thirty years after Bill Benton took over Britannica, he poured out thousands of memoranda demanding, in good times and bad, further expenditures to improve Britannica products as instruments of education.

He believed, as the founding fathers did, that the enlightenment of people was indispensable to a just society. The Britannica companies were dedicated to this task.

His interest in education led him into trusteeship of many institutions, notably the University of Chicago, University of Connecticut, University of Bridgeport, and Brandeis University. He was a good trustee: he did not try to run the university; he asked the right questions.

He went to the State Department because he saw a chance to work for enlightenment on a world scale. He organized the first delegation to UNESCO, and remained in close relationship to that organization all his life, returning to it as ambassador toward the end of his career. He collaborated with Senator Fulbright in setting up the program in international education associated with that Senator's name. He was interested in all the media of communication, not for propaganda, but for the education of the peoples of the world.

He was committed to the principles for which this republic was founded, the chief of which is free, independent, inquiry and debate. When he was in the Senate, he was among the first to oppose publicly the threat to these principles presented by those who were exploiting the cold war to repress the basic freedoms of Americans. If these repressive efforts had succeeded, it would have put an end to the program of enlightenment to which he was committed.

William Benton was an educational statesman.

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

Mr. STEVENSON. I yield to the Senator from Montana.

Mr. MANSFIELD. Mr. President, I join my distinguished colleagues from Connecticut and Illinois in expressing my deep personal regret at the passing of Bill Benton.

Mr. Benton served with distinction in the Senate. He served with courage and integrity, and I think that because of that courage and integrity he was defeated after serving one term. But he knew what he was doing. He was willing to take his chances and was willing to take his lot.

Bill Benton and his family had a close connection with the State of Montana, because his folks homesteaded along the highline, as we call it, in the northern part of the State, in the period prior to the First World War. He was also the recipient of an honorary degree from Montana State University, at Bozeman. He was a man who had an abiding interest in the welfare and the development of the State of Montana, even though he lived in the East.

He was a man whom we all respected and admired. He was a man who, on the basis of sheer ability, was able to lift himself up and to achieve a position of prominence in the advertising world, in the academic world, and in the political world.

We will miss Bill Benton. All I want to say in conclusion is that Mrs. Mansfield, my daughter, Ann, and I wish to extend to the family of Bill Benton our deepest sympathy in their hour of sorrow.

Mr. PASTORE. Mr. President, today we eulogize a former colleague, the late William Benton, former Senator from Connecticut, whose impress on this Senate did not end with his departure from this Chamber 20 years ago.

Each year the CONGRESSIONAL RECORD would bring contributions to a better America, contributions that would bear the impress of Bill Benton, his thoughts, and activities. And the years brought constantly word of tributes to his high citizenship and public service.

In addition there was constant communication with us, his old colleagues, as individuals, for communication seemed second nature to Bill Benton who, characteristically, did so much to organize "The Voice of America," our spokesman in times and places when America needed a voice.

This was part of his service to his country which earned for him the State Department the highest recognition possible—the Distinguished Honor Award.

As one opens the volume of the Biography of the American Congress and turns to the chapter of William Benton, it is to marvel at the range of public service that he rendered in the past quarter of a century. Not the least was his participation in platform proceedings of his Democratic Party in convention after convention.

He compressed five careers into his crowded life—education, advertising, industry, philanthropy, statesmanship. His entire life story is one of superlatives—in scholarship, in industrial pioneering, in attaining great wealth and international service.

Bill Benton was a great humanitarian. As such he earned, among other honors, the Human Relations Award of the American Jewish Committee.

In accepting that award—5 years ago—Bill Benton made some observations that are very much of this moment. They have been preserved in the CONGRESSIONAL RECORD.

He spoke of the "rising expectations" of the underprivileged inspired by television visions of plenty, of the comfort of the opulent society—and he spoke of the "rising impatience" of the underprivileged to attain those gains.

That thought seems timely, too, when our national ills of hunger, unemployment and inflation need attention. It is the duty of the Government, he said, to "give justice" and it is the duty of the citizen to "contribute to order."

And Bill Benton quoted a philosopher who, thousands of years ago, spoke the formula for good citizenship—"to do justly, to love mercy and to walk humbly with God."

It is a formula that bears repeating—a formula that deserves a hearing—a formula that deserves a following.

Mr. FULBRIGHT. Mr. President, William Benton was a man who contributed to the Nation in a number of different ways, in business, education, and public affairs. Although he had a relatively brief tenure in the Senate, he certainly made an important contribution during his service here.

Prior to coming to the Senate, he had served as Assistant Secretary of State and he was in this position at the time I introduced legislation to establish the educational exchange program. He was one of those who testified in favor of my bill on February 25, 1946, before the Surplus Property Subcommittee of the Senate Committee on Military Affairs.

William Benton's wide range of interests and his enormous energy and enthusiasm have left many monuments, but perhaps his most significant and daring contribution was his early and steadfast stand against McCarthy and McCarthyism.

Benton was outraged and disgusted by McCarthy's attacks on the State Department, his false charges, character assassinations, and wild distortions. As the culminations wore on, Benton was shocked and frustrated by the acquiescence to McCarthy's depredations. Given the certainty that the Senate would not expel McCarthy, he hoped that the Senate might at least be induced to censure him. This was his real aim—but to attain it Benton felt he must dramatize the issue of McCarthyism by means of a motion to expel, with the hope that this would lead the way to a lower-pitched motion for censure. With this in mind Benton took the floor on August 6, 1951, to set in motion a train of events which were to move over a long, tortuous road until the McCarthy censure was ultimately attained 4 years later. Benton told the Senate:

I suggest today, that the Senator from Wisconsin should at once submit his resignation from this body. That would be an honorable and decisive gesture on his part. Only so could he take the only step now open to him to make amends to the people of Wisconsin, to his great predecessors (the LaFollettes) in the seat he now occupies in the Senate, and to his colleagues in the Senate. If the Senator from Wisconsin refuses to resign—and there is nothing in his record to indicate that he will do other than refuse—then I suggest at least he refrain from taking any further part in the activities and procedures of the United States Senate until my resolution has been received and reviewed by the Committee on Rules and Administration, and until action has been taken upon it by the Committee and by the United States Senate itself.

It was war. A dozen or more Senators came up to Benton afterward to repeat their own admiration of Benton's "courage"—perhaps some thought him a little crazy. Herbert Lehman openly came to Benton's support after he introduced the resolution, and he would do so repeatedly in the long months of battle that lay ahead.

Benton had accumulated from various sources mounds of material about Senator McCarthy's activities. But this by itself did not make an indictment. An indictment must have an organization so that each count points to a clear-cut pattern of censurable behavior. In framing such an indictment, John Howe, Benton's assistant, thought the best way to proceed would be to take a series of cases where McCarthy had deliberately lied to the Senate, and to present them all as part of a single whole. The mass of material in hand was sifted until Benton himself settled on 10 specific cases supported by hard facts showing where and how McCarthy had deceived the Senate. The 10-count bill of particulars made a 25,000-word indictment. While it was being prepared over a 2-month period, McCarthy and Benton repeatedly tangled on the floor of the Senate—as they would continue to do for the rest of the 82d Congress.

McCarthy himself at once assailed Benton as being "a mental midget," but it was obvious that he was having trouble in getting his hands on any episodes in Benton's private and public life

that could be forged into a weapon for attacking him. Driven to inventing evidence in support of his accusations, he charged, for example, that Benton as an Assistant Secretary of State for Public Affairs had induced the State Department to buy Encyclopaedia Britannica films for use in the information program. The charge boomeranged when Benton produced proof showing that he had explicitly prohibited the employees of the information program from purchasing Britannica films for use in the program and that no such films were subsequently purchased. McCarthy went on to charge that the Britannica Film Co. employed Communists who left their mark on the character of the classroom talking pictures the company produced. That charge also backfired when Benton showed that the films McCarthy attacked were scientific films produced by A.T. & T. before Benton had bought the film company. Even so, Benton demanded that his accuser both identify the alleged Communists by name and specify even a single film which showed traces of Communist influence. McCarthy could produce no names and no evidence.

In mid-September, Benton, working with John Howe and with Kenneth M. Birkhead, completed the 10-count indictment of McCarthy, and Benton then read it in an appearance before the Gillette subcommittee. Many of the counts documented instances where McCarthy had perjured himself and had practiced fraud and deceit. None of this, however, immediately brought the Senate to take decisive action.

Fortunately, the listed instances of McCarthy's lying included items about his financial irregularities, beginning with the fact that he had accepted $10,000 from the Lustron Corp., makers of prefabricated housing, to influence housing legislation. Financial irregularity was something the public could grasp, and it was hard for a U.S. Senator accused of it to wriggle his way free if hard evidence supported the charge. The mounds of evidence on this point did not look good for McCarthy. His financial speculation—much of it with funds drawn from financial contribtuions to his anti-Communist campaign—began to be spread on the public record.

It is worth noting that when McCarthy was eventually censured by the Senate in 1955, it was for his two offenses against the Senate itself, for his contemptuous treatment of the Gillette subcommittee investigating Benton's charges, and for his contemptuous treatment of the Watkins committee that investigated the question of whether or not he was to be censured for his treatment of the Gillette subcommittee.

There remains one classic example of Benton's unwavering courage in this confrontation. In April 1952, McCarthy appeared on Edward R. Murrow's television show to charge that Benton, in his accusations, was protecting himself, using the Senate's constitutional immunity against libel. All of Benton's charges had been stated on the floor of the Senate. Benton was a wealthy man, indeed a multimillionaire, and so the implication was that he had launched his charges recklessly from a shielded sanctuary where he could not be held accountable in any way if proven wrong. The next day Benton rose in the Senate to waive his immunity, thus challenging McCarthy to sue him for libel. Benton went on the Murrow program and repeated anew his waiver of immunity and challenged McCarthy to sue. Thus, with his bluff called, McCarthy retained Edward Bennett Williams to file suit for $2 million. Exactly as Benton had hoped, this brought the matter into the law court where evidence would be governed by strict procedure, and the Wisconsin Senator could not hide or resort to the diversionary tactics which he practiced in Congress.

Obviously Senator McCarthy had no desire to pursue the matter in a proceeding which would further discredit him, and he wanted the last word. After Benton's defeat for the Senate, McCarthy withdrew his suit, saying to the press:

> I cannot find a single person in the United States who believes Benton's charges, so I withdraw the lawsuit.

Benton then worked with the National Committee for an Effective Congress to invite citizens who did indeed believe him. The "I Believe" Committee was formed which placed advertisements in the New York Times and Herald Tribune, calling on citizens to come forward if they believed in William Benton. There was a coupon for those responding to indicate their confidence and subscribe to pay for the advertisement. The first two ads raised $20,000, enough to repeat the message in 20 newspapers across the country. Thousands of citizens responded, and their names were forwarded to Washington, but McCarthy and his attorney did not rise to the bait.

Benton was willing to challenge, he was willing to risk, he was willing to stand. There are many morals and lessons to be learned from this remarkable man, who was my personal friend. He was full of contradictions; he proved that a man could be honest and become wealthy; he proved that a man could move out in front and not be alone; and he proved that a man could wear his principles on his sleeve and become successful and influential. Somehow Bill Benton actually lived by all those maxims and parables that most people remember only in church on Sunday, if at all. He worked to make this country a better, saner, and more enlightened place. And his contribution to the Senate, during his brief tenure, was a lesson in fearless honesty, and devotion to duty. William Benton supplied that ingredient without which we can have no democracy—enlightened courage.

Mr. McCLELLAN. Mr. President, this Nation has lost an outstanding citizen and the Senate a distinguished former member as a result of the death of former Senator William B. Benton of Connecticut.

Bill Benton served but a comparatively brief time in this Chamber—from 1949 to 1952—but left his mark fixed indelibly upon the memories of those of us who were fortunate enough to serve with him, as I was, on the Committee on Government Operations.

Few men have come to the Senate of the United States with his wide range of experience in business and public service. He had at least five careers—advertising executive, university official, diplomat, director of a vast publishing empire and Senator. Through his own efforts, he became wealthy as a young man but chose to regard himself as an educator and statesman.

Bill Benton's greatest asset was courage. Just as he was unwilling to accept the conventional wisdom of his time in business and thereby revolutionized advertising, he was unwilling to remain silent when the forces of fear and vituperation stalked the land.

Although men with weaker consciences found it politic to remain silent, Bill Benton had the courage to speak up, and in so doing, helped restore sanity to a distracted country. His decision was an unpopular one at the time. It was to cost him the seat in the Senate that he revered and loved so deeply.

Yet, with Edmund Burke, he could say:

> Your representative owes you, not his industry only, but his judgment; and he betrays instead of serving you if he sacrifices it to your opinion.

So, Mr. President, I take great pride in saluting William B. Benton, a dedicated public servant whose goal was the betterment of mankind and mourn his passing.

Mr. WEICKER. Mr. President, I am most grateful for this opportunity to pay tribute to a former Senator, and old friend, William Benton of Connecticut. The memory of Bill Benton will be sustained by the broad legacy he leaves behind him, but some words in recognition of his many contributions are in order.

I had the personal pleasure of knowing this distinguished former Senator. The value of his acquaintance and counsel, born of vast experience stretching far beyond our mutual profession of politics, reflected his own great wisdom, his judgment, and unparalleled devotion to public service.

Bill Benton was a remarkable man, and a remarkable character. Born in 1900 to parents active in the ministry and local school systems of Minneapolis, he eventually worked his way through Yale University as a high-stake auction bridge player. Upon graduation, Bill turned down a Rhodes scholarship for a career in advertising, forming in 1929 the pioneering Benton and Bowles agency which prospered in the midst of the Great Depression. In 1935, then a millionaire, Bill Benton became vice president of the University of Chicago and developed new projects in educational radio and movies. His record of successful business ventures in these years was marked by the purchase and sale of the Muzak Corp., and the management of a publishing empire based on the Encyclopaedia Britannica enterprises.

His career as a dedicated public servant and statesman began in 1939 as adviser to Nelson Rockefeller, then Coordinator of Inter-American Affairs. Appointed by President Truman in 1945 as Assistant Secretary of State for Public Affairs, a post he held for 2 years, Bill organized the Voice of America

broadcasts, and worked to establish UNESCO, the United National Educational, Scientific, and Cultural Organization. During the Johnson administration, he served as chief U.S. member of the UNESCO executive board, with the rank of Ambassador.

In 1949, Bill Benton was appointed by Governor Chester Bowles of Connecticut to a seat in the Senate, and later won election in his own right to the remainder of former Senator Raymond E. Baldwin's unexpired term. His 3-year record in the Senate was marked by compassionate and competent representation of Connecticut and the Nation, and was highlighted by opposition to the anti-Communist crusades of the former Senator from Wisconsin, Joseph McCarthy.

Much of the fortune and success amassed by Bill Benton accrued to the benefit of his fellow man. His interest in American art enriched collections at the University of Connecticut, and his business acumen helped sustain the University of Chicago, a contractual beneficiary of the Encyclopaedia Britannica empire. The William Benton Foundation continues today its philanthropic purpose.

The life of this notable American deserves more than mere mention in these pages. I miss my good friend and former Senator, Bill Benton, and commend his accomplishments and ideals to the attention of all Americans.

Mr. WILLIAMS. Mr. President, I want to join my colleagues today in paying tribute to former Senator William B. Benton, who died on March 18 at the age of 72.

It is no exaggeration to say that Senator Benton's life was an embodiment of the American dream. He spent most of his teenage years helping his mother homestead on a claim in Montana, and then came east where he compiled a distinguished academic record at Yale University. During the boom years of the 1920's, he established himself as a leader in the advertising industry, finally starting his own firm in 1929. Despite the stock market crash and the depression, the new firm of Benton and Bowles prospered and won a reputation for innovation in advertising.

In 1936, William Benton left the advertising business and joined the University of Chicago, where he served as vice president until 1945. Also during that time, he bought the Encyclopaedia Britannica of which he was publisher. He was appointed Assistant Secretary of State in 1945, and in 1949 was appointed to the Senate to fill a vacancy. During his Senate tenure, which lasted until 1953, Senator Benton became one of the first Members of this body to challenge the allegations being made by the late Senator Joseph R. McCarthy, as well as the tactics he used.

Although he was defeated when he sought election to a full Senate term in 1952, Senator Benton reentered public service in 1963, when he was appointed U.S. Ambassador to UNESCO. He held that post for 5 years.

Mr. President, I know that William Benton will be long remembered for his accomplishments in both the public and the private sector, and that his talent and energy will certainly be missed. I want to join my colleagues today in expressing my condolences to his widow, children, and grandchildren.

Mr. PERCY. I am grateful for the opportunity to honor the memory of William Benton. Although Bill Benton was from Connecticut, having served that State as its Senator from 1949 until 1952, his geographical homes were as varied as his intellectual and business bases.

I knew Bill Benton best as a fellow trustee of the University of Chicago and through his work with the Encyclopaedia Britannica. Bill joined the University of Chicago's administration as a vice president in 1937, and became what one person described as a "research and development" team on his own, pioneering educational radio and educational television at the university.

Perhaps his biggest coup came in 1943, when he bought the Encyclopaedia Britannica for the university for $100,000. He expanded Britannica by publishing "Great Books of the Western World" and a companion set called "Gateway to the Great Books." By 1968, the board of trustees of the University of Chicago rightly felt that they owed him such a debt of gratitude that they created the William Benton Medal as the university's highest service award, not to be given more than once in a 5-year period. The first recipient was William Benton himself.

Mr. President, I know of few men who served so ably in so many varied careers. In 73 years, he was an advertising executive, a vice president of a great university, a U.S. Senator, and the head of a publishing empire.

Although his tenure in the Senate was short, he distinguished himself by publicly denouncing the positions of Senator Joe McCarthy. Bill Benton was one of the first to recognize and call attention to the tactics used by McCarthy in destroying the lives and reputations of many patriotic Americans.

People are ordinarily inclined to make only the most reverent statements about the deceased. However, I knew Bill Benton well enough to know that he would be both embarrassed and irate if in death his true personality were diminished one iota by inane pleasantries. He was a formidable personality. He had drive, on occasion he had a temper, and he had style. His business colleagues were constantly harassed but stimulated by the voluminous memorandums he dictated daily; friends and business associates were dazzled by the sheer energy he applied to his work.

In accepting the William Benton Medal from the University of Chicago, Bill described himself as "a square—a total, complete, unchangeable square." What he neglected to include in that description was his extraordinary capacity for friendship and loyalty. I entered the University of Chicago as a freshman the same year he started there as a vice president, but we grew to be fast friends as our paths crossed when I finished school and entered the business world. Bill and Helen Benton, their son Charles and daughter-in-law Marge were faithful friends to my family and me, and we benefited constantly from their kindness and their enthusiasm for life.

We join with their many other friends in extending our deepest sympathy to Mrs. Benton and their entire family at this time.

Mr. President, I ask unanimous consent that William Benton's acceptance remarks at the time of the presentation of the William Benton Medal be inserted in the RECORD at this point.

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

THE BENTON MEDAL

It must have occurred to you, as it did to me, during these extravagant speeches, that if this fellow Benton is such a sterling character, why can't he stop dictating all those memoranda? They drive people nuts. . . .

My friends, I have sat here patiently, in unaccustomed silence for what seemed like hours, listening to men wiser and better than I can ever hope to be—for in truth Bob Hutchins, Paul Hoffman, Paul Douglas, and Hubert Humphrey are giants who have inspired and profoundly influenced my life. I acknowledge these men my masters—but their pitfall tonight is simply that they do not know the real Bill Benton as well as I do. . . .

I now intend to set you straight. I'm going to tell you about the *real* Bill Benton:

He was born of extremely good and virtuous parents—and for the rest of his life remained a square—a total, complete, unchangeable square. . . .

Mr. Benton is, at bottom, an extremely *shy* fellow. I doubt if some of you believe *that*—I sometimes find it hard to believe myself. But after the closest possible examination of his habits I return to the conviction that he is a shy man—who conceals his shyness with a display of fervent purpose and alarming salesmanship.

Mr. Benton is also a man with a serious case of educationophilia. [He is] a maniac about trying to help get other people educated—not himself, mind you. For himself there has never been enough time to be both Saint Paul *and* Mortimer Adler.

Bad luck has made his life a series of triumphs. He was persuaded by Chet Bowles to go into business with him and the Great Depression struck. . . .

[At the University of Chicago, he] persuaded Bob Hutchins to bring the president of Czechoslovakia to the university faculty, and World War II promptly broke out.

Benton went to the State Department and the Russians blockaded Berlin, the British withdrew from Greece, and the Communists took over China.

He became a Democratic politician, and Paul Hoffman negotiated the Eisenhower landslide.

He . . . supported Adlai Stevenson or Hubert Humphrey for president in 1960, and you know what happened to them.

Not long after that, the University of Chicago, impressed with his track record, made him a life trustee—to get him out of the ranks of those who made the decisions.

His strength of character is best reflected in the fact that as a young man he turned down an invitation to become a professional gambler. Yet all his life he has been addicted to the needle—of the dictating machine. . . .

He has only been able to hold onto his suffering associates because his wife, Helen, goes around after him binding up their wounds.

It has been suggested here tonight that he has a magic hand for making money, that only a genius would have purchased the then ailing and depressed *Encyclopaedia Britannica*. As Bob Hutchins has informed you, rarely has such a legend been founded on such an infirm foundation. The reason that Bill Benton financed the *Encyclopaedia* was

simple: he was trying to help out, and he could not say no to a couple of friends. . . .

That's the real story of Bill Benton, a tactless, not too likable fellow, who all his life has worked much harder than necessary trying to make ends meet.

My friends, when a man has heard what I have heard tonight, he has heard the obituary he hopes his wife and children will hear—and he should be ready for the grave. But I have, I trust, a surprise in store for so orderly a fate. . . .

It has been my high privilege to serve this great university for thirty-two years. . . . It is my determination to serve it as best I can for yet thirty-two more, or at least until that career, the facts of which have been so stretched tonight, can be stretched no further down the years. In thirty-two years I shall only be one hundred. When he retired at seventy, Coach Stagg fixed his eyes on Bob Hutchins and said, "Young man, I'll be coaching football when I'm one hundred." And so he was. . . .

I give thanks to the university and to the preceding speakers for the great honor done me tonight. Henceforward I shall try to deserve it.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. STEVENSON). Under the previous order, the Senator from New Mexico (Mr. DOMENICI) is recognized for not to exceed 15 minutes.

INDIAN SELF-DETERMINATION

Mr. DOMENICI. Mr. President, I rise today to speak about a problem which is around us and which is extremely important to me, as a Senator from New Mexico, and that is the problem of the U.S. Government versus its responsibilities of trust to the Indian people of America.

A staff writer for the Washington Post, Mr. Leroy Aarons, recently visited my home State and wrote a lengthy and perceptive article about changes taking place at Zuni, an Indian pueblo there.

His article includes two strong assertions, which he applies not only to this one pueblo but also to our relations with all Indians and to all Indian affairs:

> No real change will take place without a continuing intensive government commitment. Half-hearted efforts in the past have accounted for the consistent betrayal of Indian hopes.

That judgment by Mr. Aarons is quite clear: our efforts have been halfhearted, and our Indian citizens' hopes have been betrayed.

I personally feel that "betrayed" is too strong a word—too active, too suggestive of deliberate intent—to describe what has happened. But halfhearted efforts—too little done too late—are almost certainly true of our relations with Indians over many years.

Let me cite, in an uncritical and thoroughly factual way, just one program which has become an example of halfhearted efforts—the Navajo Indian irrigation project.

In 1868, we signed a treaty with the Navajos which promised heads of families specified land holdings on which they could live and support a family. The land is so arid that, without irrigation, it will not support such groups.

Surely the treaty, therefore, implies an obligation to provide such water. It took us 88 years—till 1956—to recognize that underlying obligation, which we did, in positive language in the Colorado River Storage Act. But it was another 6 years before we began to do anything about it by authorizing the beginning of this project.

To know why the project matters, one has to know we are talking about 16.5 million acres in New Mexico, Arizona and Utah, with a population of 134,000 people. One has to know that, up until 10 years ago, this area had no sizeable development of roads or the kind of communications which make economic development possible. To put it simply, there are virtually no job opportunities for more than 64 percent of those Navajos ready, willing and able to work.

Today there are 56,000 Navajos at every level of education. Tomorrow, their entrance into the labor market, at a rate of 2,000 young Navajos every year, will create a tremendous impact on the Navajos economy. Where will they go if they do not have jobs?

That is why the Navajos give the irrigation project the tribe's No. 1 priority—because it has great potential for curing their critical unemployed situation, which underlies almost every problem on the reservation.

Because they know this, they have begun to prepare their people for completion of the project—training them for the variety of jobs it will create, agricultural and nonagricultural, and even educating their young people for a new life in an agrarian economy.

How have we treated the Navajos' No. 1 priority in Congress?

The original plan, as adopted by Congress, called for a series of eight annual appropriations, which would have put the first irrigation water onto the land in 1970.

For the first 2 years, the funds were appropriated as scheduled. Then, halfheartedness took over, and the schedule has never been met again.

It is now 1973, and there is still no water on the land.

There will be no water by 1975, the second target date, adopted when it became clear we did not intend to meet the 1970 deadline—not unless we appropriate $19 million for the project this year and $25 million next year.

Yet the administration is asking for only $10.5 million this year. Even if we appropriate that, it is unlikely we would increase the appropriation by two and a half for next fiscal year.

So, in short, what we have is another story of the kind of which there are all too many—halfhearted efforts, which may almost merit Mr. Aaron's more dramatic phrase, "a betrayal of Indian hopes."

At Zuni, the pueblo covered in the Post story, the Governor is an extraordinary man, Robert Lewis.

He was the first to suggest to me a step I believe must be taken if Indian self-determination is to succeed. He said—

> We must be able to take those people, Indian and non-Indian alike, who have governmental experience and put them to work for the tribes. Yet how can we ask them to come if they lose all the employee benefits they have earned, which we can never match for them? To help us do our job, the government must allow them to keep those benefits while they help us on our way.

I am pleased to see that the program this outstanding leader of his people calls for has been presented to this body in S. 1340, the Federal Employees Indian Tribal Organizational Transfer Act. I shall support this act, and I call upon other Senators to do so.

I also ask this body some serious questions:

Is it not time to look at the whole body of our laws which govern our relations with Indian citizens?

Is it not our obligation now to begin to reevaluate all these relationships?

Can the workings of Government—in the Interior Department and the Justice Department particularly—which apply to non-Indians be made to fit the diversity of tribes, nations and pueblos, or do they not need special application to these special people?

I ask these questions because I believe the time has come to end our lack of commitment to the tribes. I do so because I believe self-management—not "termination," the disastrous policy of the 1950's—is the only way to keep faith with our Indian citizens. I do so because I believe the swirl of events makes it urgent that we finally break the chain of half-hearted commitment and reencourage the thrust toward Indian self-determination by dramatic action.

Indians must finally have the freedom so many of us find it hard to grant, "the right to fail."

Mr. President, I ask unanimous consent to have printed in the RECORD the article entitled "The Zuni Story: A Beginning for Self-Reliance on the Reservation" by Leroy F. Aarons, published in the Washington Post on April 1, 1973.

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

THE ZUNI STORY: A BEGINNING FOR SELF-RELIANCE ON THE RESERVATION

(By Leroy F. Aarons)

ZUNI, N. MEX.—Zuni is a "downtown" with adobe pueblos separated by gullies of mud. It is drums beating in mid-afternoon. It is Indians in full ceremonial regalia dancing religious rituals in the village square.

But Zuni is also single-family homes of wood and cinder block growing up alongside the ancient adobe dwellings. And it is TV antennas and pickup trucks and a new airport and a huge Catholic church that dominates the "downtown" area.

Such is the setting, an overlay of the traditional and the inherited, the adapted and the new, in which a little-noted test is taking place, an experiment in self-reliance that holds important implications for American reservation Indians in general. The experience, which has assumed greater urgency with the violent swirl of events at Wounded Knee and elsewhere, seeks to answer the question of whether reservation Indians can lift themselves up within the bureaucratic system—or whether they must, as radical Indians say, return to the warpath to reclaim their legacy.

The Nixon administration concept being tried on the 640-square-mile Zuni reservation, 40 miles south of Gallup, is termed "self-determination," the notion being to give Indians greater control over their own affairs. The Zunis and the Miccosukees of

Florida are the only two tribes involved in full-fledged trials of the policy.

Some Indians are nervous about self-determination, seeing it as potential camouflage for "termination," the disastrous policy of the 1950s which sought to cast Indians adrift from all federal guardianship. But it differs, at least in concept. Self-determination is designed to free tribes from the administrative and policy control of the Bureau of Indian Affairs (BIA), while preserving federal financial aid and the unique trusteeship of Indian lands. By its grant of local control, it offers, as many Indians have demanded, "the right to fail."

A GENTLE, FRIENDLY PEOPLE

The Zuni reservation was chosen two years ago as one laboratory of the policy. If it worked here, the plan was to encourage its adoption by other tribes.

The Zunis were ripe for experimentation. A gentle, friendly people, they have lived on this land for hundreds of years. They are the largest of the 18 Pueblo tribes, with a population of some 5,000 (nearly tripled in the last 50 years). Zuni was one of the so-called Seven Cities of Gold sought by Coronado in 1540. The Spanish influence is still felt, in the surnames, in the religion (90 per cent are Catholic, although the ancient tribal rituals and dances are still widely observed) and the architecture of churches and missions.

The Pueblo Indians are among the few tribes which have not been forced to move from their original home lands, which may account for the integrity the Zuni culture has managed to maintain. Many Zunis speak only their original language.

In addition, the Zunis have an economic base in the widespread practice of part-time silversmithing and jewelry making. Nearly every home in this tiny capital village of the reservation has one or more craftsmen who supplement their incomes by making and selling jewelry to white traders. A few have become wealthy by crafting magnificent adornments of inlaid turquoise, coral, mother of pearl and shell.

By and large, the Zunis suffer from many of the same handicaps found among most other reservation Indians: absence of natural resources (there is some timber, and grazing land for sheep and cattle), a low level of education, poor health conditions, a high rate of alcoholism. At the same time, their population is increasing at twice the national rate.

JOBS AND ROOT BEER

But there are assets, as well. One of them is Robert Lewis, a former plumber and jack-of-all-trades who became governor of the tribe in 1966. A short, peppery man, half Cherokee, half Zuni, who goes to work in dungarees, bolo tie and cowboy hat, Lewis is a take-charge individual who would advance in even the most hostile non-Indian environment. Among the Zunis, generally unagressive and timid, he is a dynamo who commands grudging admiration even from his detractors, who feel he is going too far too fast.

Shortly after taking office in 1966. Lewis ordered an extensive survey of most of the Zuni population, designed to learn what it is they wanted for a better life. The answers that flooded back covered a remarkable range, from jobs—the thing most mentioned—to a go-kart track, a drive-in theater, tennis courts, babysitting service, a dude ranch and a root beer stand.

Drawing on the survey, Lewis initiated studies for a comprehensive plan for the Zuni people, aimed at increasing individual income, enhancing educational opportunity and improving living conditions. With heavy technical input from BIA advisers, Lewis and a team of committees produced the Zuni Plan in 1969—a five-year, $50-million blueprint for lifting the Zunis into economic self-sufficiency.

Lewis took the plan to Washington and lobbied vigorously with the BIA, government bureaucrats and probably half the members of Congress.

Meanwhile, the Nixon administration was casting about for a tribe with which to test its self-determination concept. The two concepts—Zuni planning and self-determination—happened to converge at the same place at the same time.

In July, 1970, the Zunis and the BIA signed a contract transferring most Bureau functions on the Zuni reservation to the Zunis. Lewis, in addition to being governor would also be superintendent (the traditional BIA agency head on reservations).

All Bureau jobs held by federal employees would be phased out and filled by Zunis. All money earmarked for tribal use would be filtered through the tribal government rather than the local BIA arm. Only one BIA employee, with the title of "federal officer in charge," (a man named John Gray) would stay on as a technical adviser and custodian of certain nontransferable federal trust responsibilities, such as land management.

The tribal takeover, coupled with the projected Zuni Plan, added up to a revolutionary concept for reservation Indians. At the same time, the Zunis voted, with a characteristically small turnout of 412, to adopt a constitution delineating three branches of government.

THE REPORT CARD

That was July, 1970. In March, 1973, this is the report card, as supplied by tribal officials:

BIA has been phasing out; of 38 jobs held by federal employees two years ago, 21 are now held by Zunis.

There has been a tremendous input of federal money—about $19 million—from a variety of agencies, like the Economic Development Administration, probably more per capita than any other reservation received in the period. Some examples: $280,000 to develop an industrial park; $250,000 for a new tribal building and community center; $4 million from the BIA for a soon-to-begin public health hospital; and several million for construction of 280 new homes.

Beyond construction, the tribe has made progress on paving roads, has relocated a sewer lagoon from sacred tribal grounds, and has formed or absorbed four business enterprises—an airline, a cement business, a construction company and a soil conservation-machinery firm.

The tribe has increased its employee payroll from a handful of seven or eight to 182. Per capita annual income, according to these tribal sources, has gone from $582 in 1968 to $1,200 today. Unemployment has dipped from 54 per cent to 33 per cent.

If even this partial list reads like a Chamber of Commerce brochure, it doesn't take much probing to learn that all is not harmony on the Zuni reservation.

In its haste to transform the Zuni economy the administration may have moved too quickly, especially in replacing experienced white technicians with untrained Zunis. The result has been a series of blunders.

Example: The tribe purchased a cement company, named Redi-Mix, and turned it over to five Zuni Vietnam veterans, including the governor's stepson. A white manager was hired, but the young veterans insisted they could do it without him. Subsequently, the young operators burned out two trucks by overloading, and lost $16,000 the first year from mismanagement.

Example: With the tribe's encouragement, a co-op trading post corporation was formed to try to draw the Zunis' jewelry-making business away from the white dealers. But the inexperienced Zuni directors did not know how to take advantage of an array of money-saving loopholes involving business corporations. The co-op began losing money and Zuni silversmiths generally boycotted it in favor of higher-paying white traders. An effort to get the tribe to take over the co-op failed when the tribe could not absorb the payments on a $25,000 Federal Housing Administration loan.

Example: The tribe contracted with the Department of Housing and Urban Development's special self-help housing program for 280 wood and cinderblock houses at a cost of $14,000 apiece. The deal required the individual occupant to contribute $1,500 in equivalent "sweat equity," including interior wiring, plumbing and painting. But many Zunis, used to generations of living in pueblos, didn't know the first thing about wiring or plumbing, with the result that the project fell way behind schedule, endangering federal funds.

A BAND OF DISSENTERS

These snafus could be attributed to growing pains, and tribal officials say they are being corrected. Most Zunis, unaware of the problems, will tell you that their life has improved. Lewis 58, is quite popular.

But the snags, and the consequent slowing down of the Zuni Plan timetable, have crystallized dissent among a small band of politically active Zunis. These individuals, including a former tribal governor, a candidate for governor who ran against Lewis, a tribal interpreter and a couple of tribal councilmen, project a pessimistic view of the Zuni experiment.

They accuse Lewis of teaming with federal officer John Gray to bulldoze decisions past a paper tribal council in their zeal to realize their personal vision of the Zuni future. They claim that the takeover agreement, the Zuni Plan and the new constitution were all drafted by white federal technicians and that tribal participation was minimal.

"The changeover was too sudden," complains former governor Calvin Eustace. "If we are to take over, let's think about it. Are we capable of carrying this on? We should take it step by step, train our young people. If we want to succeed in some programs we have to have people with know-how."

Adds tribal councilman Virgil Wyaco, a postal worker: "We do have the (eight-man) council, but we have three people that don't understand English. They're just there. My judgment is they don't have enough intelligence to make decisions on their own, to resist the arguments of the BIA and the governor. When somebody comes in for approval of a contract or an industry that wants to come in, they don't ask enough questions . . .

"I do not object at all to the comprehensive plan or the takeover. I know the BIA used to be very lax. They had to go through channels. It was very time-consuming. The takeover speeded up the pace of some of the things needed for the people. But when the fundings and the grants cease it is bound to collapse."

THE REALITY IN BETWEEN

John Gray, who is white and a 10-year BIA employee, shares with Lewis an impatience to get the job done, to see and feel tangible change after years of inertia.

"We are responding to tribal needs faster now, and the reason is the governor cracks the whip. He issues the order and we figure out how to untangle things to make it work. The council has more input than they need to have, actually. This is one of the slowing-down factors. Under the new constitution, they are the legislative arm, not the executive. It's a departure from their old way. They feel they should be making day-to-day executive-type decisions."

Lewis, himself a former BIA employee and president of the local American Legion chapter, is gruffly unsympathetic with critics. "Many people say this is a Bureau program. Baloney. It's Zunis', because we asked the people. The Bureau doesn't tell us what to do. They may suggest something once in a while, or recommend. We say this is what we want

and this is why we want it. The people are the boss. The Zuni people."

The reality probably lies somewhere between these conflicting arguments. And the landscape is complicated by many factors. Here are some tentative conclusions:

Clearly, the Zuni tribe has moved off dead center. In purely economic terms, the average Zuni is better off today than he was four years ago. Looking around him, he sees signs of progress—new housing, paved streets, an airport. Generally, his paycheck has fattened.

Just as clearly, little of this would have happened without the fortunate timing of Robert Lewis' accession to the governorship. Unschooled and with little administrative experience, Lewis somehow had absorbed the qualities of leadership and aggressiveness of an activist big-city mayor.

At the same time, he has the big-city mayor's impatience with the crawl-pace of governmental bureaucracy. The result is that Lewis has almost certainly done his share of bulldozing while chasing his vision of a Zuni utopia.

One is reminded of the bright, aggressive leaders of the mid-'50s who decided that urban renewal was the salvation of the cities. Projects were hustled past city councils and businesses and residents dislocated in pursuit of that goal. It was only later that the real price of that enthusiasm became obvious.

THE RIGHT VISION

The question here, then, is first, whether Lewis' vision is the right one, and second, how far out front of one's constituency can a leader afford to get?

This is complicated by social and psychological factors unique to the Indian culture. In terms of education, experience and sophistication, most Zunis are at a low rung on the ladder. The Zuni Plan, the Zuni constitution, the advisers to Lewis are all white-based. The Plan is full of cost projections, "program matrixes," land uses plans and "enrichment activities."

How well this concept will mesh with the Zunis' traditional pueblo-based life style, their essential lack of aggressiveness and penchant for self-criticism and pessimism still remains to be seen. Zunis are already torn between their traditional culture and white-influenced aspirations (the go-kart syndrome).

Councilman Wyaco expresses it thus: "Knowing my own people, it's going to be fatal. I know Zunis—what's the use and I don't care. And that's what's going to happen. I don't regret saying it because it just makes me mad."

It seems apparent, then, that in addition to the physical and economic aspects of the program, an intensive community education and motivation effort is vital to the success of the Zuni experiment. There is no real evidence of this at present.

Finally, no real change will take place without a continuing intensive government commitment. Halfhearted efforts in the past have accounted for the consistent betrayal of Indian hopes.

There are already ominous signs that the Nixon administration—and Congress—are wavering in their commitment to the "self-determination" concept. Alvin M. Josephy Jr., an eminent student of Indian affairs, wrote recently of the political struggle within the Interior Department leading to the ouster of Indian Commissioner Louis Bruce:

"The Bureau's new policies, including the granting of self-management to the tribes, were halted; the whole thrust toward self-determination was shunted aside, and even the White House aides . . . felt politically helpless . . . A partial reversal followed, but the damage was done."

A BEGINNING

With the present turmoil at Wounded Knee, a thorough reevaluation of Indian policy is in the offing. The self-determination concept is still alive—but barely.

The Zuni experiment is still in its nascent stage—as symbolically promising or as doubtful as the Zuni industrial park site, which has one industry sitting on a vast empty plain waiting for others to start building.

It is a beginning, and, in the context of hopelessness that characterizes most reservations, it is a good beginning. Zunis look to the future with the mixture of fatalism and hope expressed by one of their sages:

"With the ways of the white man entering our lives, perhaps it will not be long before our people become a wandering tribe, aimlessly roving the path of self-deterioration and destruction. But it is for our children to decide and work for. We must just hope they, too, can survive what lies before them."

ORDER OF BUSINESS

Mr. DOMENICI. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 7 minutes remaining.

ELECTION CAMPAIGN ACTIVITIES

Mr. DOMENICI. Mr. President, I am moved to comment on two matters, both having to do with national elections.

The first comment will be brief, but I hope it will be extremely clear. I make it first because it refers to an election which is past.

An election which is past, yes—but one which brought with it and leaves behind it some perplexities and mysteries which must be resolved.

Put plainly, Mr. President, the matter I refer to is the socalled Watergate affair.

As a younger Member of this body, as a life-long Republican, as an American, I urge everyone, man, woman or child, no matter what his or her rank, who has factual knowledge of this ill-conceived and misbegotten event, to come forward in candor, in honesty and in affection for his or her country, to add such hard knowledge as may be available to the corpus of truth which alone will bring this matter to an end.

How can I speak more plainly than this? I say: Every point of fact about this matter must be aired and recorded; every rock must be turned over and every name must be named, so the American people will know and will know that they know the truth about this matter.

Now, let me move on to discuss national elections of the future, without implying by the juncture that what I have just said forms the base for what I am going to say.

This body will soon be called upon to consider S. 1094, a bill I am cosponsoring to improve our Federal election campaign activities by establishing a Federal Elections Commission, to be named by the President, by and with the advice and consent of the Senate.

I strongly support the adoption of such a system and I am a cosponsor of S. 1094 as an initial step in the creation of such a system.

I do not suggest, because I do not believe, that there has been wrong-doing during any national election of such an extent as to make us doubt the validity of anyone's election. But I do believe that it would be helpful at this point in our Nation's history if every doubt on such a point be henceforth removed by the establishment of a bipartisan group, serving staggered terms so that they are not named by a single President—who must inevitably be partisan, in the sense that he is the official candidate of a single party.

The present system may be said to place an unfair burden on the Attorney General, who is appointed by the President and so inevitably identified with the party controlling the White House.

The problem has not been so much to avoid impropriety; I believe we had done this well. But we need to avoid even the possibility of impropriety—and to make it clear to our people and the world that we have done so.

Mr. President, it is essential, if our form of government is to continue as an example to the world, that all suggestion of the possibility of wrong-doing in connection with its essential machinery of elections be removed.

It is for this reason that I speak to these two issues today and urge the actions I suggest.

It is not the total answer, but it is certainly an attempt to get an answer. I do it because I love and revere this Nation and its democratic processes.

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

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, will the Senator reserve the balance of his time?

Mr. DOMENICI. Does the Senator desire that I reserve it?

Mr. ROBERT C. BYRD. Yes, I do.

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

How much time remains?

The PRESIDING OFFICER. The Senator has 2 minutes remaining, which will be reserved.

Mr. ROBERT C. BYRD. Mr. President, has the Senator yielded the floor?

Mr. DOMENICI. Yes.

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

Mr. President, I ask unanimous consent that the order for the recognition of Mr. Thurmond at this time be vacated.

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

Under the previous order, the Senator from West Virginia (Mr. ROBERT C. BYRD) is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, how much time remains from previous orders having been reserved?

The PRESIDING OFFICER. A total of 7 minutes remain.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may allot that time to myself if I need the time.

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

HEARINGS SHOULD BE HELD ON THE FUTURE ROLE OF THE FBI

Mr. ROBERT C. BYRD. Mr. President, the Judiciary Committee hearings on the nomination of L. Patrick Gray

III, to be the Director of the Federal Bureau of Investigation, will, I believe, lead to a failure to confirm. I do not think that the committee will vote to report the confirmation, with 14 members of that committee having been denied the opportunity to examine FBI files which have been made available only to the chairman and ranking minority member of the committee—both of whom favor the nomination, and I do not cast any reflection on either of those two members in saying this—and which FBI files have also been made available to the majority and minority counsel of the committee.

It is inconceivable to me that committee staff members are allowed to see files which are denied to Senators who have the responsibility, under the Constitution, to make a judgment on the nomination. In the unlikely event that the committee were to report the confirmation, the Senate would then be confronted wtih a floor fight on the nomination—with all of the sordid aspects of the campaign of political espionage and sabotage which culminated in the Watergate break-in being also discussed—the upshot of which would likely be a rejection of the nomination.

For the Senate to approve the nomination, in the face of White House refusal to allow Presidential aide John Dean to appear before the committee at the request of all 16 Judiciary Committee members—including the unanimous vote of the seven Republican Senators thereon—is unimaginable and unthinkable and, in my judgment, would be a mockery of the claim of the legislative branch to equal status with the executive branch in our constitutional system of checks and balances.

I realize that there is some sentiment on the committee for delaying further action in the Gray nomination until the Watergate investigation has been completed by the Ervin special committee, and I formerly shared that viewpoint. However, I no longer support that approach, because the FBI has been without a Director now for going on 11 months, during which time the morale and the image of the FBI have undoubtedly suffered. The FBI needs a Director, and further delay can only further damage this great law enforcement and intelligence gathering agency.

I have stated, therefore, and I now state again, that, in justice to the FBI—and in justice to the Senate which, under the Constitution, has the duty to advise and consent, or to withhold such advice and consent to the nomination—this nomination should be rejected. On previous occasions I have cited the reasons why the nomination should be rejected. I say this with all due respect to Mr. Gray, whom I like personally. In the main, I think that Mr. Gray, for the most part, tried to be forthright with the committee, but one must keep in mind that much of the information he supplied to the committee was not exactly volunteered. He was testifying under oath, and any answer to a question carried with it the necessity of being candid or of being confronted with the possible charge of perjury.

The record would seem to show conclusively that Mr. Gray was given the nomination because of his political connections with the White House and not through law enforcement experience or other attributes that would specially qualify him for the office of FBI Director. His dedication to his party and the President apparently was such that he could not demonstrate the independence required of the Director of the FBI during the Watergate investigation, the result being that, when forced to testify under oath, he simply could not extricate himself from a tangled web of political subservience.

All this, however, is not the main purpose of my remarks today. My purpose in taking the floor today is to call attention to a distinct problem that the Congress ought to focus upon. The attention of the Nation and the Congress has often been drawn away from a key question raised by these hearings and by the unfortunate tenure of the present Acting Director. We have all been diverted by the glittering spectacle of the Watergate scandal and the FBI's apparently bungled investigation of that affair.

We ought not lose sight of the key issue raised by the hearings that will remain, even after the committee and the Senate have rendered a decision regarding Mr. Gray. That issue is, in fact, the central issue for resolution; namely, control of the Bureau.

The hearings have shown ambiguity on the part of the Acting Director as to whom the Bureau is to be responsible. While the Director of the FBI is, by statute, responsible to the Attorney General, Gray said that he delivered investigative raw files of the FBI on the Watergate case to the Legal Counsel to the President, Mr. John Dean, without the knowledge of anyone in the Justice Department. Mr. Gray further clouded the issue of FBI accountability by stating in the hearings that he would continue to supply Mr. Dean with FBI raw files, defending this action by what Mr. Gray termed his "presumption of regularity" toward requests made by White House staff.

The point here is that the Congress must reach a decision as to who is to control the FBI's activities. The FBI in the Watergate case responded at different times to the Attorney General, and at other times to White House aides without the Attorney General knowing about the actions.

This raises a critical question: Should the FBI Director be directly responsible to the Attorney General since history has taught us that the Attorney General is, in fact, merely another politically responsive cabinet official?

Such a relationship with no congressional control, could lend itself to the eventual use of the FBI as a political police force, serving the wishes of whatever administration is in power.

J. Edgar Hoover took the FBI out of politics. When Hoover took control of the poorly trained Bureau of Investigation in 1924, it was a small division of the Justice Department that had been discredited by its political activities during the scandals of the Harding administration. In his 48 years as the head of the agency, Hoover built the FBI into a powerful and independent law enforcement agency consisting of more than 8,500 agents respected throughout the world for their professionalism. In building this mighty agency, Hoover developed its most important, but potentially dangerous, weapon against crime—files on millions of Americans and a computerized collection of 90 million persons' fingerprints. During the Hoover years, Congress never seriously questioned the role or authority of the FBI.

As the Gray hearings have shown, the FBI has lost its independence since Hoover's death. I was a strong supporter of J. Edgar Hoover, and continue to be a strong supporter of the FBI, but we could have foreseen that the death of any man, who built and led an agency for a longer period than any of us has served in the Senate, would create a vacuum that would be hard to fill. But approval or disapproval of nominations for the Director's post, while a difficult and extremely important task, is far easier than facing and answering the more serious questions facing us today: What kind of an FBI do we want? How can a national law enforcement agency successfully function in a free society without threatening the foundations of political freedom? How can Congress and the President retain a check on the authority of the Bureau without turning it into a political police force?

Time magazine, in its recent cover story on the FBI, summarized the issues now before us when it stated that the confirmation or rejection of L. Patrick Gray:

> Would not resolve the basic questions about the kind of leadership that the FBI needs, the role that it should play or how it can be supervised by higher authority without becoming politicized.
>
> To deplore a politically subservient Gray is not to exalt an autocratic Hoover. There is too much potentially dangerous power in such a large force of skilled agents, such a vast collection of incriminating or harassing information about so many people, to allow the FBI to become either the vehicle of one man's whims or the tool of any Administration's political ambitions.

It has been said that one reason the confirmation hearings have continued over such a long period of time is that this is "the only crack that the Senate has had or is likely to have in the near future" at the FBI. This does not and should not have to be the case. With the end of the Hoover reign, the FBI is at a crossroad. The Senate must take a leading role in determining the future course and the future role for this vital and powerful agency. If we shirk our responsibility and merely consider the immediate question of "who" and not "what," we may surrender the right to any role in determining the future of the FBI or preventing it from becoming a political force.

These questions are far too serious to be lightly considered in the course of a confirmation debate. In order not to miss this challenge and once again abdicate our rightful role as a forum for consideration and debate of such questions of national policy, the Senate Judiciary

Committee or one of its subcommittees should hold hearings as soon as possible on the question of the future role of the FBI. The committee then should make legislative recommendations regarding the future structure, role, and control of our national law enforcement agency.

I believe that the Congress should develop an approach whereby meaningful direction of the FBI and meaningful checks on its power can be exercised, perhaps through a permanent oversight subcommittee of the Judiciary Committee, to help prevent politicization of this vital agency. Such direction and such power should not be left to the decision of a bureau chief responsible to a politically oriented attorney general in any administration, whether it be Democratic or whether it be Republican.

The responsiveness of the FBI and the nature of the Bureau's work are matters of vital concern to every citizen of the United States, for no agency could more threaten the individual liberties of our citizens if it is misused. And no agency can be of more benefit to our citizens, if properly functioning, than the FBI in eliminating the fear of organized crime in our society.

These issues concerning the direction and future of the FBI are even more crucial to our society than are the qualifications of one man to head the Bureau.

Our ultimate objective, of course, should be to insure, once and for all, that the FBI would be the most effective investigative and law enforcement agency in the world and that its actions or directions would never enter into the political arena and that individual law-abiding citizens need never fear for their constitutional liberties from the very agency that must be their protector.

Mr. President, we waited until 1968 to require that appointments for the office of Director of the FBI receive confirmation from the Senate. The wisdom of this action is apparent to everyone, as evidenced by the current confirmation hearings. We did not go far enough, however. Earlier this year, I introduced legislation requiring reconfirmation of the FBI Director every 4 years. The confirmation hearings in connection with the nomination of Mr. Gray have convinced me, however, that it would be unwise to reconfirm the Director every 4 years, inasmuch as this would encourage the very thing we are trying to prevent, the very thing that we are concerned about with respect to the confirmation of Mr. Gray, namely, politicization of the Bureau. I have now concluded that the term should be for a much longer period than that of 4 years. Perhaps it should be a 9-year term, a 12-year term, or even a 15-year term. Consideration should be given to making the Director ineligible for a second term. Perhaps the Director should be given a life term, depending upon periodic review by the Senate, say even 7 years. In any event, now is the time for Congress to make this decision. I hope that out of its collective judgment will come legislation that will insure that the FBI will never become a White House national police force under any administration of either political party.

Meanwhile, I hope that the President will, in the best interests of the FBI, submit a nomination for the directorship which will be above question. Such an individual ought to be a person of national stature—one, preferably, with law enforcement experience, but in any event, someone who has recognized ability, recognized integrity, and recognized independence, and who has had no association whatsoever with the Watergate investigation. Such a nomination would reflect credit upon the President and his administration. It would be welcomed by the Senate, and it would be a service to the FBI and to law enforcement throughout the Nation.

SENATOR HUDDLESTON: MAN FROM THE BLUE GRASS STATE

Mr. ROBERT C. BYRD. Mr. President, I wish to call attention to an excellent article which recently appeared in the Louisville, Ky., Times. The author of the article, Mr. Ward Sinclair, calls attention to the solid attributes and legislative experience and effectiveness of the able junior Senator from Kentucky, WALTER "DEE" HUDDLESTON. Senator HUDDLESTON is already receiving high marks from his colleagues in the Senate, and he is a man to keep an eye on. His pleasing personality and his attentiveness to his work have already made a very favorable impression on all of us, and I have no doubt that he will continue to reflect credit on his State as he advances in seniority in the U.S. Senate.

I ask unanimous consent to have the Louisville Times article printed in the RECORD.

I also ask unanimous consent to have printed in the RECORD a speech by Senator HUDDLESTON at a meeting of the Democratic Party of Kentucky at Frankfort, Ky., titled "The National Democratic Party and Kentucky's Role in It."

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

[From the Louisville (Ky.) Times, Jan. 26, 1973]

SENATOR HUDDLESTON—MAN FROM THE BLUE GRASS STATE

(By Ward Sinclair)

WASHINGTON.—Even before Walter (Dee) Huddleston was sworn in as a U.S. senator, he was being identified publicly as one of "three key guys" who could determine the tone of the Senate this year.

The author of that remark was William Timmons, President Nixon's chief congressional liaison man, who was assessing in an interview how the administration might fare on Capitol Hill in 1973.

The point of it was that if Huddleston and two other freshmen senators—Sam Nunn, D-Ga., and J. Bennett Johnston Jr., D-La.—line up with anti-administration forces, then Mr. Nixon's programs may have "some bad troubles" in the Senate.

A power-conscious and image-bent newcomer might be inclined to grab that sort of rhetorical ball and run with it for all he's worth. But if Dee Huddleston, the first-year Democrat from Kentucky, has any such inclination, he's keeping it artfully disguised.

Huddleston has only been in office three weeks and it is, of course, much too early to get a fix on his political azimuth. But his early thoughts and actions easily might suggest "bad troubles" for Mr. Nixon.

He has been highly critical of the administration's spending cutbacks on various farm programs. He was upset with Mr. Nixon's resumption of the bombing of North Vietnam from last Dec. 18–30. He thinks the Watergate bugging case and allegations of GOP-inspired political campaign sabotage require a full Senate airing, and he would like to be a part of it.

But as a longer-range concern, Huddleston is visibly possessed by the nation that Congress as a whole must act forcefully to reassert its constitutional powers and take back from the executive branch some of the prerogatives it has abandoned.

Again, it's too early to speculate very much, but Huddleston is showing and talking an air of independence, nurtured by the thought that Congress has dropped to a lamentably low point in public esteem.

In an interview this week, the new man from Kentucky talked about those and other points, including some of his first impressions of life as a U.S. senator and some of his hopes.

He said, for example, that he assumed Timmons based his views on the fact that Huddleston didn't make his campaign against Louie B. Nunn a campaign against President Nixon.

"Well, he said, "I'm not hostile toward the President, but neither do I intend to be a rubber stamp. I'm very much concerned about the whole question of the use of executive powers.

"In my judgment, the erosion of congressional power has been an abdication of responsibility. Nobody can restore Congress to its rightful place and nobody can restore respect for Congress except the Congress itself. I'm going to do all I can to restore that," Huddleston said.

By now the words were coming easily and his feet were up on the desk, a comfortable position that he assumes in a manner that bespeaks his apparent lack of pretense and feigned formality that is often the way of self-important senators.

"I am not in any category and I am somewhat unpredictable," he said. "I will take each issue as it comes up . . . I don't feel any great compulsion to vote on an issue if I can't intelligently vote on it."

Beyond that, however, Huddleston views his job in another light. He is given to repeating the "public service" chestnut, but even that he seems to view in a different context.

He said he sees his victory last November as a "mandate" from Kentuckians to do his utmost to help preserve the tide of public cynicism toward politicians and political institutions.

"I think you have to be the best member you can and react to all things in the interest of the public and not for any other reason—and not to do things as a public-relations gesture," Huddleston said.

In that vein, one thing he intends to do is make a periodic financial disclosure, so his constituents will know about his personal holdings. Few senators and congressmen make such voluntary disclosures. (Only two Kentuckians—Rep. Romano L. Mazzoli, D-Louisville, and Gene Snyder, R-Jeffersontown—have done so voluntarily in recent years.)

Huddleston said that the public views with suspicion any politician who bends over in the "melon patch" even though it is only to tie his shoe. Being a U.S. senator has put him in "the public melon patch," he said, and therefore he intends to disclose his finances.

"I worked for financial disclosure in the state legislature and I took a lead in pushing it. I made a disclosure, even though it was painful, when I filed for this office. I felt it was an obligation I had and I'll continue to do that here," Huddleston said.

With his previous experience as a state senator, Huddleston has not been stricken with the parliamentary frustration so many other newcomers with no legislative back-

ground express. That is, he is familiar with the workings of the machinery.

But even so, life in Washington is turning out to be somewhat different from what Huddleston had imagined. He thought, for instance, that the Senate operated more as a "team" than it actually does.

"It just doesn't seem to be as much of a team effort as the state legislature. Each senator is an entity. He has his own staff and office. One thing that impresses me is that every senator is an individual who takes his responsibility as an individual responsibility . . . Everybody accepts everyone else as an individual. Up to this point, I've not seen a lot of personal lobbying."

He said he has been "very pleased" with the reception he has received from other senators and he went out of his way to mention two of them by name—Majority Leader Mike Mansfield, D-Mont., and Robert Byrd, D-W. Va., the majority whip.

Both men have called Huddleston personally and stopped by his office to chat and make him feel at ease. Byrd, in fact, always known for being solicitous with his colleagues, paid a purely social call Monday that impressed the Kentuckian.

Being a full-time U.S. senator rather than a part-time state senator means a completely new way of life for him, a fact that he recognizes with some pleasure and with some regret.

"I can see a tremendous work load here. We'll be under more pressure; we'll have to make more decisions on what our social life will be," he said. "We have a greater work load here than I anticipated . . . Office space in general is woefully inadequate."

The work load has meant that he takes home official reading matter at night, which cuts into the pleasure reading he likes to do (the last novel he read was "The Godfather"). But between official reading he is sneaking time for the Washington reminiscences of cartoonist Herbert Block and has the David Halberstam's best seller on Vietnam Policy, "The Best and the Brightest," awaiting him on a shelf.

Like most outsiders, Huddleston was puzzled about the habit of most senators stay-off the floor when a colleague makes a speech. "I now have a different viewpoint on the day-to-day operation of the Senate," he said. "I understand why the chamber is empty—business doesn't require them to be there. Nobody seems concerned when you miss a speech . . . most of them are given for some kind of effect."

Another of his early impressions is that the storied bureaucracy really is as large and unmanageable as everyone thinks it is. That, by the way, dovetails with his concern over congressional abdication of powers.

"I might suggest that the senators ought to visit the bureaucracy and see what we've created. It is a manifestation of the Congress reluctance to assume its responsibility. It is much easier to create an agency and give it authority to make regulations and then just forget it," Huddleston said:

"We need more congressional oversight and review of programs that have been established," he continued. "Legislative bodies decrease their own standing by letting the bureaucracy and the executive move into areas that Congress should assume for itself."

Through four Democratic caucuses, Huddleston said, he has caught a genuine mood of urgency on the part of the Senate to restore itself to an equal role with the presidency. "The old-timers tell me there is a marked difference now . . . a wish to build pride in the Senate," he said.

If that's so Huddleston counts himself a part of it. And it could spell the "bad troubles" that Timmons at the White House was anticipating. And maybe it won't work.

"I'm not adverse to using power . . . but I'm not going to oppose just for the sake of opposing," he said.

The National Democratic Party and Kentucky's Role in It

(Speech by Sen. Walter Dee Huddleston)

Will Rogers used to say that the first thing he did every morning was read the obituary page of the newspaper. If he did not see his name there, Will Rogers said, he would get up and go about his business for the day.

Well, if you have been reading the newspapers since November 7, you have doubtless seen some obituaries for the Democratic Party. Critics, political pundits, and even some of our faint-hearted fellow Democrats have either pronounced the party dead, or at least diagnosed it as suffering from a fatal disease called the Emerging Republican Majority.

However, to paraphrase Mark Twain, rumors of the death of the Democratic Party have been greatly exaggerated. Our party is neither dead nor dying. In fact, I believe the party to be in good shape nationally and gaining in strength all the time. And we are in an excellent position to make some significant gains in the next few years.

Much of this continuing success of the Democratic Party has been obscured by President Nixon's landslide in November. But despite the President's big win, Democrats more than held their own in races for the United States Senate, the governorships, the House of Representatives, and the various state legislatures and general assemblies.

Let's look at a few facts:

First, as a result of the November elections, Democrats registered a net gain of two seats in the United States Senate. That gives our party a 57–43 majority, which is truly remarkable considering the Nixon landslide and the widespread predictions of Democratic defeats.

Secondly, while Republicans did gain 12 seats in the House of Representatives, they fell far short of their target of 39 needed to gain control of the House. And the Democrats retain a 244–191 majority in that body.

Third, Democrats gained one more governorship in November, giving our party a commanding 31–19 majority of the nation's governors. It is important to note that Republicans held an identical 31–19 majority when the Nixon Administration assumed office in 1968. We have completely reversed the situation while Republicans have occupied the White House. And we won 11 of the 18 governor's races in November.

And in the state legislatures, Republicans today control both houses of the legislatures in only 18 states—the same number as before November. Democrats, however, registered a gain of two states in which they control both houses of their state assemblies, making a total of 25.

So in spite of the Nixon landslide, the Democratic Party more than held its own and even made some important gains. We continue our strong majorities in the Senate, the House, the governorships, the State legislatures, and in local and State offices.

The strength of the party is even more evident—perhaps you might say amazing—when you consider some of the individual races last year.

Here in Kentucky, Democrats (and some good Republicans too) elected me to the United States Senate in the face of a 300,000 vote Republican majority at the top of the ticket. If you had told me before the campaign that I could win against those odds, I frankly would not have believed it.

Over in Arkansas, President Nixon got 69 percent of the vote. But Democratic Governor Dale Bumpers got 75 percent, and Democratic Senator John McClellan got 60 percent.

The President carried Delaware, Colorado, and Maine each by 60 percent or more—and yet Democrats scored major upset victories over incumbent Republican Senators in each of the States.

So while the President did win by a landslide, his coattails were of little or no use to other Republicans. Put another way, a majority of Americans stayed with the other Democratic candidates—and they split their tickets in record numbers to do so.

The Democratic Party is alive and strong; it remains the majority party in this country; it remains the party to which most Americans look for a strong economy and high employment, for fair and equitable tax treatment, for worthwhile domestic programs, for leadership in world affairs, and for consumer protection and environmental protection.

In saying this, however, I would hasten to add that much remains to be done. We must maintain and increase our majorities in the Congress, the statehouses, and on the city and county level. We must elect a Democratic Senator in Kentucky in 1974, and another Democratic Governor in 1975. And we must regain control of the White House in 1976.

How can we accomplish these goals?

I believe it will take four ingredients: Unity, a broad-based party appeal, organization and hard work, and—to put it bluntly—money.

Speaking from my still limited experience in Washington, I can report increasing signs of unity and cooperation among Democrats in the Congress. Our caucus of Democratic senators has met regularly under the able leadership of Senators Mike Mansfield and Robert Byrd, and we have shown great unity of purpose in several vital areas—especially in the reassertion of Congress' power as a co-equal branch of the government. Senator Mansfield has moved to bring about closer cooperation between Congressional Democrats and the Democratic governors, which is extremely important. And I think the Democratic National Committee is moving to heal the wounds of 1972 and expand the party's base of support.

We have a great deal of unity and cooperation within the Democratic Party here in Kentucky. I certainly could not have won my race without it. We will need this same kind of united effort in the future because we have a couple of big races coming up in 1974 and 1975.

The Democratic Party should constantly strive to broaden its base. This has been our tradition. Our supporters cover the ideological spectrum. Workers, businessmen, farmers, working mothers and housewives, minorities, students and the disadvantaged relate more to the philosophy of the Democratic Party.

This is the true role of a political party—to accumulate enough mass appeal to win elections in order to govern and carry out shared goals. You cannot win elections with a narrow ideological base. And you cannot govern without winning elections.

We must avoid excluding anyone or any group from our party. We will have our internal disagreements; that is to be expected. But we must never let those things that would divide us take precedence over those things which unite us.

I think this is an area in which Kentucky Democrats can play a vital role. We can demonstrate to the state and the nation over the next three years that ours is a party that can attract a mass following, that can win elections, and that can govern effectively and wisely. Certainly, the administration of Governor Wendell Ford already has shown great leadership which the voters of Kentucky cannot fail to contrast with the previous Republican administration.

Kentucky's role in national Democratic politics is definitely on the increase. Two years ago the state had no Democratic senators, a Republican governor, and limited impact in national party affairs. Now we have a governor who commands wide respect in national political circles, as evidenced by the

role he played in helping elect the new national democratic chairman. We now have a Democratic U.S. Senator, and I am confident that we will soon have another. And we continue to receive truly outstanding leadership and representation from our Democratic House members.

These facts are not lost on national Democratic leaders. Almost daily during my first few weeks in Washington, I had prominent leaders of our party express their pleasure and satisfaction that after 16 years Kentucky again has a Democratic Senator. They appreciate the influence of Governor Ford and J. R. Miller in national party affairs.

The continued success of the Democratic Party here in Kentucky as well as nationwide requires continued organization, hard work, and loyalty. And it also requires financial support—that is why we are here today.

It takes money to run campaigns; it takes money to organize; and it takes money to keep the party machinery in operation. We Democrats do not have access to the big money which seems so much a part of the Republican Party. We do not have enough money to hire political spies to break in the opposition's campaign headquarters. In fact, in recent years we have not had enough money to pay off all our campaign debts.

It is no secret that there is still a debt left over from my campaign. I think we ran a tight-fisted campaign—certainly not extravagant—and we spent $300,000 less than our opponent. I want to express my appreciation to the party and the individuals who signed the note to make it possible to finance our campaign.

Being realistic about politics in the 1970s, we have to acknowledge that it requires lots of money—too much, in my opinion. And I am very much interested in reforming the way we finance our campaigns. But until that day comes, we must raise sufficient resources so that our party can compete with the Republicans on an equitable basis.

With the tremendous costs of television and other advertising media, plus the expenses of campaigns generally, the Democratic Party does face the possibility of entering elections at a decided disadvantage unless we can raise the financial resources necessary to compete.

I want to commend Governor Ford and Chairman Miller for their initiative and imagination in developing the projects we are launching here today. The achievement of a permanent state headquarters and a viable properly financed state organization will strengthen our party in the state and further enhance our standing and influence at the national level.

ORDER THAT THE UNFINISHED BUSINESS (S. 929) NOT BE CONSIDERED BY SENATE TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the unfinished business, S. 929, to amend the Par Value Modification Act, not be laid before the Senate during the session of the Senate today.

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

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask that there now be a period for the transaction of routine morning business with statements limited therein to 3 minutes, the period not to extend beyond 12 o'clock meridian today.

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

PROPOSED LEGISLATION BY THE DEPARTMENT OF DEFENSE

A letter from the Assistant Secretary of Defense, transmitting a draft of proposed legislation to amend title 37, United States Code, to refine the procedures for adjustments in military compensation and for other purposes (with accompanying papers). Referred to the Committee on Armed Services.

DONATION OF SURPLUS PROPERTY BY THE NAVY

A letter from the Chief of Legislative Affairs, Office of Legislative Affairs, Department of the Navy, transmitting, pursuant to law the intention of the Department of the Navy to donate certain surplus property to the Warren County Chapter of the National Railway Historical Society, Warrenton, N.C. Referred to the Committee on Armed Services.

REPORT OF FEDERAL DEPOSIT INSURANCE CORPORATION

A letter from the Chairman, Federal Deposit Insurance Corporation, reporting, pursuant to law, on its operations for calendar year 1972. Referred to the Committee on Banking, Housing and Urban Affairs.

REPORT OF COUNCIL OF ECONOMIC ADVISERS

A letter from the Chairman, Council of Economic Advisers, transmitting, pursuant to law, a report on the repeal of the excise tax on motor vehicles (with an accompanying report). Referring to the Committee on Finance.

PROPOSED LEGISLATION BY DEPARTMENT OF STATE

A letter from the Acting Assistant Secretary for Congressional Relations, transmitting a draft of proposed legislation to remove certain limitations on annual operation and maintenance expenditures applicable to the U.S. section of the International Boundary and Water Commission, United States and Mexico, and for other purposes (with an accompanying paper). Referred to the Committee on Foreign Relations.

REPORT ON DELIVERIES OF EXCESS DEFENSE ARTICLES

A letter from the Acting Assistant Secretary for Congressional Relations, Department of State, transmitting, pursuant to law, a report on the deliveries of excess defense articles during the second quarter of fiscal year 1973 (with an accompanying paper). Referred to the Committee in Foreign Relations.

REPORT ON EXTRAORDINARY CONTRACTUAL ACTIONS TO FACILITATE NATIONAL DEFENSE

A letter from the Acting Assistant Secretary of Defense (Installations and Logistics), transmitting, pursuant to law, a report on Extraordinary Contractual Actions to Facilitate the National Defense for calendar year 1972 (with an accompanying report). Referred to the Committee on the Judiciary.

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

A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to extend the authorization of appropriations for educational broadcasting facilities grants (with an accompanying paper). Referred to the Committee on Labor and Public Welfare.

PROPOSED LEGISLATION BY THE VETERANS' ADMINISTRATION

A letter from the Administrator, Veterans' Administration, transmitting a draft of proposed legislation to amend title 38 of the United States Code, in order to establish a National Cemetery System within the Veterans' Administration; assist States in the establishment and operation of veterans' cemeteries; to revise eligibility for burial allowances; to eliminate certain duplications in Federal burial benefits; and for other purposes (with accompanying papers). Referred to the Committee on Veterans' Affairs.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

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

A joint resolution of the General Assembly of the State of Connecticut. Referred to the Committee on Foreign Relations:

"HOUSE JOINT RESOLUTION No. 116

"Resolution urging the President and Congress to investigate the release of prisoners of war and the fate of those missing in action in Vietnam

"*Resolved by this House*:

"Whereas, the citizens of Connecticut join with the rest of our nation in rejoicing at the cease-fire in Vietnam and at the return of so many of our valiant servicemen who have suffered imprisonment at the hands of the North Vietnamese and the Viet Cong; and

"Whereas, even while so rejoicing, we are disturbed to see that only one private first class has been returned to the states to date and that no men of lesser rank have been returned; and

"Whereas, we are concerned equally with the fate of our captured ground troops as we were with those officers who have been reunited with their families; and

"Whereas, we share also the burden of our fellow citizens whose husbands, sons, brothers and fathers are among those missing in action, whose fate is still unknown.

"Now therefore, be it resolved, that this General Assembly urge the President and the Congress of the United States to take such measures as will reveal the fate of all these loyal servicemen and expedite their return; and

"Be it further resolved, that the clerks of the House and Senate cause a copy of this resolution to be sent to the President of the United States, the President Pro Tempore of the United States Senate, the Speaker of the United States House of Representatives and the Senators and Congressmen from Connecticut."

A joint memorial of the Legislature of the State of Idaho. Referred to the Committee on Agriculture and Forestry:

"SENATE JOINT MEMORIAL No. 110

"A joint memorial to the Honorable Earl L. Butz, Secretary of the United States Department of Agriculture, and to the Senators and Representatives representing the State of Idaho in the Congress of the United States; expressing appreciation to the Farmers Home Administration for credit programs provided to Idaho residents

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

"Whereas, the rural people of Idaho, particularly those engaged in productive agriculture to supply high quality food and fiber for the Nation's people, constitute the backbone of the state's economy; and

"Whereas, there is a continuing need for adequate sources to provide needed capital to develop and expand rural communities and productive farm and range lands; and

"Whereas, many rural residents of Idaho deserve and desire better and more adequate housing; and

"Whereas, the Farmers Home Administration, under the administration of James V. Smith and the Idaho Directorship of Donald L. Winder, has greatly increased its services and assistance to rural Idaho communities and residents during the past four and one-half years; and

"Whereas, during this period of time the Farmers Home Administration has approved and obligated $170 million to 2,200 Idaho farm families to purchase and improve farm lands and nearly $35 million to more than 6,800 farm families for operating capital; and

"Whereas, the desirability of living in rural Idaho communities has been enhanced through the Farmers Home Administration's participation in 224 separate projects to provide adequate sewage and waste disposal systems, domestic water systems, irrigation improvements and recreational facilities through loans and grants totaling more than $24 million; and

"Whereas, nearly 6,200 individual families have secured modern, sanitary and adequate housing through Farmers Home Administration financial assistance, and in addition, more than 420 rental housing units and more than 480 farm labor housing units have been constructed by financing secured through Farmers Home Administration, all of which reflect the investment of $100 million in rural housing in Idaho since July of 1969; and

"Whereas, the impact of Farmers Home Administration credit, covering more than 15,500 loans and grants in the amount of $329 million, is felt directly by one of every six farm families in Idaho, by thousands of non-farm but rural families, and indirectly by every citizen of the State of Idaho.

"Now, therefore, be it resolved by the First Regular Session of the Forty-second Legislature, the Senate and the House of Representatives concurring therein, that the Honorable Earl L. Butz and the Senators and Representatives representing the State of Idaho in the Congress of the United States be notified that this body, speaking for the people of our State, express deepest appreciation and gratitude for the extremely beneficial services and assistance the Farmers Home Administration has rendered to the citizens of Idaho; that this body highly commends the agency, the Administrator James V. Smith, and Idaho Director Donald L. Winder for their empathy, understanding and diligence in helping meet the credit needs of rural residents; and this body urges the continuation and expansion of Farmers Home Administration credit programs in Idaho.

"Be it further resolved, that the Secretary of the Senate be, and he is hereby authorized and directed to forward copies of this Memorial to the Honorable Earl L. Butz, and to the Senators and Representatives representing the State of Idaho in the Congress of the United States."

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

"SENATE JOINT MEMORIAL NO. 107

"A joint memorial to the honorable Senate and House of Representatives of the United States in Congress assembled, and the honorable congressional delegation representing the State of Idaho in the Congress of the United States

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

"Whereas, the majority of young men called to military service through the Selective Service proecss accept that responsibility and serve their country in time of need; and

"Whereas, a minority of young men chose not to accept their responsibility and through defiance of the law and disregard for the manpower needs of their country, dodged their obligation by leaving the United States to seek sanctuary in other countries; and

"Whereas, these men and others who deserted from the military and residing in other countries, but desirous of returning to the United States without prosecution and punishment can be avoided as they avoided their citizen's duty; and

"Whereas, some politicians, some members of the judiciary, news media, clergy and other organizations and agencies are advocating some sort of amnesty or second-chance program for these expatriates; and

"Whereas, this obligation to the Nation can only be fulfilled by complete compliance by all of its citizens.

"Now, therefore, be it resolved by the First Regular Session of the Forty-second Idaho Legislature now in session, the Senate and the House of Representatives concurring, that we go on record as opposing any attempt to grant blanket amnesty or freedom from prosecution to those men who either by illegally avoiding the draft or desertion from the Armed Forces failed to fulfill their military obligation to the United States, until the end of the conflict when peace is established and our Prisoners of War and Missing in Action have been repatriated or accounted for, and each should then be reviewed on a case-by-case basis under existing procedures available to the courts and the President; and

"Be it further resolved that we insist upon prosecution to the full extent of the law of anyone guilty of either of the aforementioned violations; and

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

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

"SENATE JOINT MEMORIAL NO. 102

"A joint memorial to the Honorable Senate and House of Representatives of the United States in Congress assembled, the Federal Communications Commission, and the National Communications Networks

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

"Whereas, the American people deserve and should be granted the assurance of a free, democratic election process, particularly as the process relates to the selection of the President of the United States; and

"Whereas, the current practice of network radio and television operations is to project the election of the President, based upon sample returns in eastern states at the earliest possible hour; and

"Whereas, there are variations in the time the polls close across the United States, and there are states in the midwest and west where voters are advised that the President has been selected before they have had the opportunity to cast their vote; and

"Whereas, while no certain evidence of the impact of such advance information is available, yet it is a distinct possibility that such information could have a drastic effect on national presidential elections.

"Now, therefore, be it resolved by the First Regular Session of the Forty-second Legislature, the Senate and the House of Representatives concurring therein, that we do hereby respectfully petition the Congress of the United States, the Federal Communications Commission, and the responsible television and radio networks of America to give consideration to alternatives to the early transmission of election predictions. We recommend for their consideration the possibility of prohibiting the transmission of such predictions prior to the hour at which the polls close in the area under consideration. No national elections results should be presented prior to closing of the polls.

"Be it further resolved that the Secretary of the Senate be, and he is hereby authorized and directed to forward copies of tihs Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, to the Federal Communications Commission, and the Presidents of the national communications networks, and to the Senators and Representatives representing the State of Idaho in the Congress of the United States."

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

"SENATE JOINT MEMORIAL NO. 113 BY STATE AFFAIRS COMMITTEE

"A joint memorial to the Congress of the United States and the Senators and Representatives representing the State of Idaho in the Congress of the United States relating to action necessary to preserve the right to life of unborn children

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

"Whereas, the United States Supreme Court has severely limited the rights of the states to regulate and prohibit abortions; and

"Whereas, the decision of the Supreme Court fails to recognize the right to life of unborn children; and

"Whereas, immediate action is necessary to preserve the right to life of unborn children and to forestall a wholesale wave of life-taking abortions.

"Now, therefore, be it resolved by the First Regular Session of the Forty-second Idaho Legislature, the Senate and House of Representatives concurring therein, that we urge the Congress of the United States to take, without delay, such action as necessary including proposing a constitutional amendment to preserve the right to life of unborn children and to forestall a wholesale wave of life-taking abortions which could result from the recent decision of the Supreme Court.

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

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

"SENATE JOINT MEMORIAL NO. 109 BY STATE AFFAIRS COMMITTEE

"A joint memorial relating to the occupational Safety and Health Act of 1970; to the honorable Senate and House of Representatives of the United States in Congress assembled, and the honorable Congressional delegation representing the State of Idaho in the Congress of the United States

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

"Whereas, the Occupational Safety and Health Act of 1970 is causing hardships upon business, industries and farmers in Idaho.

"Now, therefore, be it resolved by the First Regular Session of the Forty-second Idaho Legislature, the Senate and the House of Representatives concurring, that we most respectfully urge the Congress of the United States to amend the Occupational Safety and Health Act of 1970 to make it workable in guarding the health and lives of America's working citizens.

"Be it further resolved that the Secretary of the Senate be, and he is hereby authorized and directed to forward certified copies of this Memorial to the Leadership of the Senate and House of Representatives of Congress, and to the Senators and Representatives representing this state in Congress".

"SENATE JOINT MEMORIAL No. 111

"A joint memorial to the President of the Senate and the Honorable Speaker of the House of Representatives in Congress, the Secretary of Health, Education and Welfare, the Senators and Representatives representing this State in Congress; concerning Federal social service regulations

"We, your Memorialists, the Senate and the House of Representaties of the First Regular Session of the Forty-second Idaho Legislature, do respectfully represent that:

"Whereas, there exists in the State of Idaho a recognized need for an effective program of social services to combat the multiple problems of mental illness, mental retardation, drug abuse, juvenile delinquency, alcoholism, child abuse, and child development; and

"Whereas, the Congress of the United States has clearly reaffirmed its belief in the necessity of these programs and has attempted to continue these programs at their current levels; and

"Whereas, the Department of Health, Education, and Welfare, in implementing these programs has previously advanced the principle of the new federalism which is designed to expand the authority and responsibility of state and local governments and reduce the concentration of federal power and authority in Washington, D.C.; and

"Whereas, the department's recently proposed amendments to the social services regulations are, in many respects, violative of specific statutory provisions and of expressed Congressional intent, and are in important respects arbitrary, capricious and antithetical to the principles of the new federalism, and would impose upon the State of Idaho and local governments within this state additional federal controls, restraints and infringements; and

"Whereas, these amendments to the regulations would seriously jeopardize and in some cases effect the termination of essentially needed programs currently operated within this state, especially those programs designed to serve the mentally ill and mentally retarded.

"Now, therefore, be it resolved by the First Regular Session of the Forty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Forty-second Idaho Legislature is unalterably opposed to the recently proposed social service regulations, as circulated, inasmuch as they would drastically reduce the essential programs currently provided within this state, thwart the ongoing attempts of this state to integrate and improve services, impose upon this state cumbersome and unnecessary federal controls and administrative procedures designed to hamstring the program and arbitrarily infringe upon those areas of authority and responsibility traditionally reserved by the State of Idaho and its local governments; and

"Be it further resolved that the Forty-second Idaho Legislature urges the Secretary of Health, Education and Welfare to withdraw the proposed regulations forthwith and withhold any future regulations in this area until the Congress has had an opportunity to definitively act in this area.

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

A concurrent resolution of the Legislature of the State of Kansas. Referred to the Committee on Commerce:

"HOUSE CONCURRENT RESOLUTION No. 1002

"A concurrent resolution memorializing the Congress of the United States to enact legislation limiting Daylight Savings Time to the period between Memorial Day and Labor Day

"Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein: That the legislature of Kansas respectfully petitions the Congress of the United States to give serious consideration to enacting some type of legislation which would limit Daylight Savings Time to the months between Memorial Day and Labor Day.

"Be it further resolved: That the Secretary of state be directed to transmit enrolled copies of this resolution to the President of the United States Senate, the Speaker of the United States House of Representatives and to each member of Congress from this state."

Resolutions of the Commonwealth of Massachusetts. Referred to the Committee on Commerce:

"RESOLUTIONS MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ENACT APPROPRIATE LEGISLATION FOR THE UNIFORM AND COORDINATED OBSERVANCE BY THE SEVERAL STATES OF A 12-MONTH SYSTEM OF DAYLIGHT SAVING TIME

"Whereas, A uniform and coordinated system of reckoning time thorughout the several states is convenient and necessary for the proper and efficient carrying on of interstate commerce; and

"Whereas, By the Uniform Time Act of 1966 Congress provided for such a uniform and coordinated system, including the observance of Daylight Saving Time, except in those states which by law omit such observance, during the summer months, from 2:00 A.M. on the last Sunday of April until the last Sunday of October of each year, and

"Whereas, The benefits of Daylight Saving Time, in providing an extension of natural light into the evening hours, have been almost universally acknowledged not only in the United States but also in many foreign nations, some of which currently observe it on a twelve month basis; and

"Whereas, The return each fall to Standard Time, whereby winter sunset occurs at 5:00 P.M. and earlier in most latitudes of the United States, causes an undesirable encroachment of darkness upon the later part of the active day, requiring an unnecessary and undesirable drain upon valuable and increasingly scarce power resources to supply artificial light, creating conditions hazardous to vehicular and pedestrian traffic during a peak travel period and offering unduly propitious conditions for violent and predatory criminal acts upon the streets and thoroughfares of many urban areas and

"Whereas, The value of Daylight Saving Time as a conservation measure, reducing the consumption of fuel for power generation and the concomitant effusion of pollutants, was recognized by the Congress in providing for a twelve month observance of this time reckoning during the war emergency period from February, nineteen hundred and forty-two to October, nineteen hundred and forty-five; and

"Whereas, Urgent current needs for conservation of energy sources, control of pollution, deterrence of street crime and reduction of the human suffering and property damage due to accidents combine to support the advisability of a permanent twelve month advance in the system of time reckoning; and

"Whereas, Resolutions substantially identical to this have been submitted for the consideration of the legislatures of the several states comprised, in whole or in part, in the Eastern Time Zone, for the purpose of permitting and encouraging a uniform expression and representation to the Congress by said states acting in concert; now, therefore, be it

"Resolved, That the General Court of Massachusetts joins with the other states in the Eastern Time Zone in calling upon the Congress of the United States to enact appropriate legislation for the uniform and coordinated observance by the several states of a twelve month system of Daylight Saving Time; and be it further

"Resolved, That copies of these resolutions be transmitted forthwith by the secretary of the commonwealth to the President of the United States to the presiding office of each branch of the Congress, and to each member thereof from the commonwealth and to the presiding officers of the legislative bodies of the several states in the Eastern Time Zone.

"House of Representatives, adopted March 12, 1973.

"Senate, adopted in concurrence, March 19, 1973."

Resolutions of the Commonwealth of Massachusetts. Referred to the Committee on Finance:

"RESOLUTIONS MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ENACT A NATIONAL HEALTH CARE INSURANCE PLAN

"Whereas, Many of our citizens receiving fixed inadequate income are unable to participate in private or public health insurance programs covering medical, surgical, hospital, nursing and dental care and treatment; and

"Whereas, Many of our citizens now covered by Medicare are still unable to meet the ancillary costs of medical, hospital, surgical, nursing, pharmaceutical and prosthetic care and treatment; and

"Whereas, Many of our citizens now covered by private health insurance programs are unable to meet the cost of increasing premiums for adequate medical care and treatment; and

"Whereas, The care and treatment of the health of our citizens and the prevention of diseases and illnesses tending to destroy that health are now recognized as prime obligations of the federal government; now, therefore, be it

"Resolved, That the General Court of Massachusetts hereby respectfully urges the Congress of the United States to enact legislation providing for a national health insurance program to cover all of its citizens to be administered by federal government agencies and financed, in part at least, by Social Security financing; and be it further

"Resolved, That copies of these resolutions be transmitted forthwith by the state secretary to the President of the United States, to the presiding officer of each branch of the Congress, to the chairman of Ways and Means committee of the United States House of Representatives, to the chairman of the Committee on Labor and Public Welfare of the United States Senate, to the Secretary of Health Education and Welfare and to the members of each branch of the Congress from the commonwealth.

"House of Representatives, adopted, March 12, 1973.

"Senate, adopted in concurrence, March 19, 1973."

Resolutions of the Commonwealth of Mas-

sachusetts. Referred to the Committee on Finance:

"RESOLUTIONS MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ENACT LEGISLATION EXPANDING THE MEDICARE PROGRAM TO INCLUDE DRUG COSTS

"Whereas, Millions of recipients of Medicare incur great and heavy financial expenses due to the high cost of drugs; now, therefore, be it

"Resolved, That the Massachusetts Senate hereby respectfully urges the Congress of the United States to enact legislation expanding the Medicare program to include drug costs; and be it further

"Resolved, That a copy of these resolutions be transmitted forthwith by the Senate Clerk and Parliamentarian to the President of the United States, to the presiding officer of each branch of the Congress of the United States and to the members thereof from the Commonwealth.

"Senate, adopted, March 7, 1973."

Resolutions of the Commonwealth of Massachusetts. Referred to the Committee on Foreign Relations:

"RESOLUTIONS MEMORIALIZING THE PRESIDENT AND THE CONGRESS OF THE UNITED STATES TO CONSIDER THE PLIGHT OF SOVIET JEWS PRIOR TO GRANTING FAVORED NATION STATUS TO THE SOVIET UNION

"Whereas, In the Soviet Union men and women are denied freedoms recognized as basic by all civilized countries of the world and indeed by the Soviet Constitution; and

"Whereas, Jews and other religious minorities in the Soviet Union are being denied the means to exercise their religion and sustain their identity; and

"Whereas, The government of the Soviet Union is persecuting Jewish citizens by denying them the same rights and privileges accorded other recognized religions in the Soviet Union and by discrimination against Jews in cultural activities and access to higher education; and

"Whereas, The right freely to emigrate, which is denied Soviet Jews who seek to maintain their identity by moving elsewhere, is a right affirmed by the United Nations Declaration of Human Rights, adopted unanimously by the General Assembly of the United Nations; and

"Whereas, These infringements of human rights are an obstacle to the development of better understanding and better relations between the people of the United States and the people of the Soviet Union; now, therefore, be it

"Resolved, That the Massachusetts Senate memorializes the President and the Congress of the United States to consider the plight of Soviet Jews when granting most favored nation status to the Soviet Union and to call upon the Soviet government to end its persecution of the Jews and other minorities and to permit the free exercise of religion by all its citizens in accordance with the Soviet Constitution, to permit its citizens to emigrate from the Soviet Union to the countries of their choice as affirmed by the United Nations Declaration of Human Rights and to use all appropriate diplomatic means to engender the fullest support possible among other nations for such a request to the Soviet Union; and be it further

"Resolved, That copies of these resolutions be transmitted by the Senate Clerk and Parliamentarian to the President, the Secretary of State of the United States, the presiding officer of each branch of the Congress of the United States and to each member thereof from the Commonwealth.

"Senate, adopted, March 8, 1973."

Resolutions of the Commonwealth of Massachusetts. Referred to the Committee on Interior and Insular Affairs:

"RESOLUTIONS MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO OPPOSE THE PROPOSED NANTUCKET SOUND ISLAND TRUST LEGISLATION

"Whereas, There is pending before the United States Senate, a bill numbered S. 3845, having been amended on July twenty-seven, nineteen hundred and seventy-two, amendment numbered 1372 and a companion bill pending before the United States House of Representatives numbered H.R. 17187, both proposing to establish the Nantucket Sound Island Trust of which Dukes County is a part; and

"Whereas, The terms of Dukes County have tried to preserve and conserve the natural beauty and physical aspects of their island by placing control of all future building and use of land under the jurisdiction of the selectmen, county commissioners and other locally elected officials; and

"Whereas, There exists a viable planning and economic development commission established by Chapter six hundred and ninety of the Acts of nineteen hundred and sixty-six by the General Court of Massachusetts; and

"Whereas, The town governments in the county have taken steps to develop effective land use and subdivision controls, building codes and conservation commissions; and

"Whereas, If the Nantucket Sound Islands Trust were to become a reality, it would abolish home rule as guaranteed under the laws of the commonwealth and the United States Constitution; and

"Whereas, By a vote of the citizens of Dukes County through a referendum question on the ballot of November seven, nineteen hundred and seventy-two, a substantial majority expressed opposition to federal land use controls as proposed in the Nantucket Sound Island Trust Bill; now, therefore, be it

"Resolved, That the General Court of Massachusetts respectfully urges the Congress of the United States to oppose the proposed Nantucket Sound Islands Trust legislation; and be it further

"Resolved, That copies of these resolutions be transmitted forthwith by the state secretary to the President of the United States, to the presiding officer of each branch of the Congress and to each member thereof from the Commonwealth.

"House of Representatives, adopted, March 19, 1973."

Resolutions of the Commonwealth of Massachusetts. Referred to the Committee on Labor and Public Welfare:

"RESOLUTIONS MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ENACT THE NATIONAL HEALTH CARE EXPANSION AND IMPROVEMENT ACT INTRODUCED BY SENATOR PELL

"Whereas, The per capita cost for medical services is higher in the United States than in other developed nations; and

"Whereas, The health delivery system of the Unted States lags behind that of other developed nations in important categories; now, therefore, be it

"Resolved, That the General Court of Massachusetts hereby respectfully urges the Congress of the United States to enact the health insurance system known as "The Pell Bill", the National Health Care Expansion and Improvement Act; and be it further

"Resolved, That copies of these resolutions be transmitted forthwith by the secretary of the commonwealth to the President of the United States, the presiding officer of each branch of the Congress and to the members thereof from this commonwealth.

"House of Representatives, adopted, March 12, 1973."

Resolutions of the Commonwealth of Massachusetts. Referred to the Committee on the Judiciary:

"RESOLUTIONS MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ENACT LEGISLATION PROVIDING THAT THE FEDERAL GOVERNMENT ASSUME ALL WELFARE COSTS OF THE SEVERAL STATES

"Whereas, The welfare costs of the several states have risen in such alarming proportions that the available means of obtaining revenue by the states are proving insufficient to meet such costs; and

"Whereas, It is the responsibility of the federal government to provide to its citizens on public welfare a minimum income to satisfy their food, clothing and housing needs; now, therefore, be it

"Resolved, That the General Court of Massachusetts hereby respectfully urges the Congress of the United States to enact legislation providing for the assumption of all welfare costs of the several states by the federal government with local administration; and be it further

"Resolved, That copies of these resolutions be transmitted forthwith by the secretary of the commonwealth to the President of the United States, to the presiding officer to each branch of the Congress and to each member thereof from the commonwealth.

"House of Representatives, adopted March 12, 1973."

Resolutions of the Commonwealth of Massachusetts. Referred to the Committee on Veterans' Affairs:

"RESOLUTIONS MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ESTABLISH A NATIONAL CEMETERY IN THE COMMONWEALTH

"Whereas, It is the right of every veteran to be accorded the honor of a burial in a national place of honor; and

"Whereas, Of the Ninety-eight national cemeteries in the United States there is none in the New England area; and

"Whereas, The saturation point of these cemeteries is rapidly being reached and the need for new land is pressing; now, therefore, be it

"Resolved, That the General Court of Massachusetts hereby memorializes the Congress of the United States to establish a national cemetery in Massachusetts and be it further

"Resolved, That copies of these resolutions be transmitted forthwith by the secretary of the commonwealth to the President of the United States, to the presiding officer of each branch of the Congress and to each member thereof from the commonwealth.

"House of Representatives, adopted, March 12, 1973.

"Senate, adopted in concurrence, March 19, 1973."

"EXECUTIVE DEPARTMENT, COUNCIL CHAMBER,
"BOSTON, *December 6, 1972.*

"His Excellency the Governor and Council, having examined the copies of returns of votes cast on the Referendum Question given in the several cities and towns in the manner prescribed by the Constitution and Laws of the Commonwealth on the seventh day of November last past, certify as follows:

"REFERENDUM QUESTION NO. 9

"Law Submitted Upon Referendum After Passage

"Shall the voluntary recitation of prayer be authorized in the public schools of the Commonwealth?"

"County of Barnstable, yes, 46,067 votes; no, 9,117 votes.

"County of Berkshire, yes, 45,891; no, 9,797 votes.

"County of Bristol, yes, 144,815; no, 20,293 votes.

"County of Dukes, yes, 3,182; no, 806 votes.

"County of Essex, yes, 229,489; no, 42,596 votes.

"County of Franklin, yes, 21,965; no, 3,753 votes.

"County of Hampden, yes, 125,396; no, 25,991 votes.

"County of Hampshire, yes, 39,927; no, 9,557 votes.

"County of Middlesex, yes, 443,206; no, 114,460 votes.

"County of Nantucket, yes, 1,805; no, 317 votes.

"County of Norfolk, yes, 212,042; no, 52,103 votes.

"County of Plymouth, yes, 116,980; no, 20,594 votes.

"County of Suffolk, yes, 128,315; no, 39,831 votes.

"County of Worcester, yes, 207,900; no, 34,276 votes.

Totals: yes, 1,766,980 votes; no, 387,496 votes.

"And the said law appears to be approved.

"The number of persons who voted at the State Election, as returned under the provisions of Chapter 54, Section 132 of the General Laws was 2,503,494."

A concurrent resolution of the Legislature of the State of Mississippi. Referred to the Committee on Commerce:

"SENATE CONCURRENT RESOLUTION NO. 585

"A concurrent resolution memorializing the United States Congress to adopt United States Senate concurrent resolution 11 which advocates a national policy in support of America's Commercial Fishing Industry and to commend United States Senator James O. Eastland for providing leadership and a national policy in support of this important American industry.

"Whereas, the commercial fishing industry of the United States has suffered greatly in relation to national support for commercial fishing; and

"Whereas, foreign countries have vigorously supported and encouraged the commercial fishing industry to the extent that foreign fishermen have invaded waters surrounding the North American continent to the detriment of our fishing industry; and

"Whereas, America has suffered from a lack of policy, guidance and financial support to the commercial fishing industry; and

"Whereas, the State of Mississippi has a vested interest in the future of the fishing industry of this country, and it is the position of the Legislature of the State of Mississippi that immediate steps must be taken to strengthen our fishing industry against excessive foreign fishing; and

"Whereas, United States Senator James O. Eastland has offered strong leadership and national guidance in urging the adoption of a national policy in support of the commercial fishing industry through the introduction of United States Senate Concurrent Resolution 11, and this Senate Concurrent Resolution is a realization of the position of the Mississippi State Legislature; and

"Whereas, a national policy with respect to strengthening our fishing industry is long overdue:

"Now, therefore, be it resolved by the Mississippi State Senate, the House of Representatives concurring therein, That the Legislature of the State of Mississippi memorializes the United States Senate and Concurrent Resolution 11, thereby strengthening the position of the domestic fishing industry.

"Be it further resolved, That the Legislature of the State of Mississippi does hereby publicly commend Senior Senator James O. Eastland for his effective and timely support and leadership in the development of a national commercial fishing policy and applaud his action.

"Be it further resolved, That copies of this Resolution be sent to the Vice President of the United States, Spiro T. Agnew; the Speaker of the House of Representatives, Carl Albert; Senators James O. Eastland and John C. Stennis; Representatives G. V. Montgomery, David Bowen, Thad Cochran, Trent Lott, and Jamie Whitten; and members of the press.

"Adopted by the Senate, March 22, 1973

Adopted by the House of Representatives, March 27, 1973."

A joint resolution of the Legislature of the State of Nevada. Referred to the Committee on Post Office and Civil Service:

"SENATE JOINT RESOLUTION NO. 2—SENATOR YOUNG—FILE NUMBER 40

"Senate Joint Resolution—Memorializing the Congress of the United States to adopt certain legislation requiring the decennial United States census of each state to be made according to a plan and form approved by the governor of the state whose population is being tabulated.

"Whereas, The representation in the legislature of the State of Nevada is apportioned according to the population of districts within the State of Nevada, as determined by the decennial United States census; and

"Whereas, The process of reapportioning of the legislature is lengthy and complex; and

"Whereas, The process of reapportioning the legislature would be greatly expedited by the prompt reporting to the governor of the State of Nevada of the results of a census made according to a plan and form approved by the governor of the State of Nevada; now, therefore, be it

"Resolved by the Senate and Assembly of the State of Nevada, jointly, That the 93d Congress of the United States is hereby memorialized to adopt legislation embodying the provisions of H.R. 15773 of the 92d Congress of the United States, which will require the tabulation of total population by state (for the apportionment of the legislative bodies of each state) to be made and promptly reported according to a plan and form approved by the governor of the state being tabulated; and be it further

"Resolved, That copies of this resolution be prepared and transmitted forthwith by the legislative counsel to the Speaker of the House of Representatives, the President of the Senate and the members of the Nevada congressional delegation."

A concurrent resolution of the Legislature of the State of New Hampshire. Referred to the Committee on Foreign Relations:

"HOUSE CONCURRENT RESOLUTION NO. 3

"Memorializing the Congress of the United States to enact legislation setting February 1, 1955, as the starting date of the Vietnam Conflict in order to give recognition to all who served in the Vietnam theatre of war

"Whereas, on November 8, 1950, the first American United States Air Force advisers arrived in Vietnam to assist the French and South Vietnamese, who at that time were deeply engaged in the Indochina War, and we have remained in Vietnam during twenty years of continuing combat, and

"Whereas, after the fall of Dien Bien Phu in May 1954 and the partitioning of Vietnam at the 17th parallel, French forces withdrew and the American presence was gradually increased and escalated as more and more Americans were committed during the ensuing years of insurgency, and

"Whereas, many Americans were killed and injured during the twenty years of continuous strife, the first combat death that the government officially recognizes occurred in 1961, over three and one-half years before the date now set as the start of the Vietnam Conflict, August 5, 1964, and

"Whereas, the United States Senate has twice voted to repeal the Gulf of Tonkin Resolution that was passed as a result of the attack by the North Vietnamese on August 5, 1964 against United States Navy ships cruising in the Tonkin Gulf. The administration has publicly stated that it does not regard the Gulf of Tonkin Resolution as the basis for its authority to operate in Vietnam, therefore there no longer exists any validity for retaining August 5, 1964 as the starting date of the Vietnam Conflict, now therefore be it

"Resolved by the House of Representatives of the State of New Hampshire, the Senate concurring:

"That the Congress of the United States is hereby memorialized to set February 1, 1955 as the starting date of the Vietnam Conflict for the purposes of veterans administration and all other branches of the federal government so that all Vietnam Veterans may receive their full entitlement to benefits; and be it further

"Resolved, that the secretary of state be instructed to forward a copy of this concurrent resolution to the President of the United States, the Vice President of the United States, the Speaker of the House of Representatives, and to each member of the congressional delegation from New Hampshire."

A resolution of the General Assembly of New Jersey. Referred to the Committee on the Judiciary:

"ASSEMBLY RESOLUTION NO. 215—STATE OF NEW JERSEY

"An Assembly Resolution memorializing the Congress of the United States to maintain the legal services program as an independent entity fully funded, and to create an independent corporation for the administration of said program

"Whereas, Federally-funded legal services was established with the approval of the bench and the bar to provide counsel to individuals who, by reason of their poverty, could not afford legal representation equal to that available to others; and

"Whereas, A program for the provision of legal services has existed throughout the State of New Jersey for the past 7 years; and

"Whereas, The people of New Jersey are of the firm conviction that such program for legal services renders indispensable services to the poor of New Jersey who would not otherwise have adequate access to the legal process in civil causes; and

"Whereas, The legal services program was established as a semi-independent entity within the Office of Economic Opportunity because it was recognized that lawyers owe primary responsibility to their clients; and

"Whereas, The people of New Jersey believe that the legal services program must be continued as an independent entity free of bureaucratic interference; therefore

"Be it resolved by the General Assembly of the State of New Jersey:

"1. That it is the conviction of the people of New Jersey that the Congress of the United States maintain and mandate continuation of the legal services program through adequate and uninterrupted funding. To insure the effectuation of this purpose, the people of New Jersey respectfully request that the Congress of the United States promptly create an independent corporation for the administration of the legal services program, so designed that it will be free of partisan or administrative interference, to the end that legal services attorneys may continue to function with vigor and fidelity on behalf of their clients.

"2. That a copy of this resolution signed by the Speaker of the General Assembly and attested to by the Clerk thereof shall be sent to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives and every United States Senator and United States Representative elected from the State of New Jersey."

A concurrent resolution of the Legislature of the State of South Carolina. Referred to the Committee on Commerce:

"CALENDAR No. S. 3

"A concurrent resolution to memorialize the Congress of the United States to Take Necessary Legislative Action to Terminate Daylight Saving Time on the Fourth Monday in September of 1973 and Each Year Thereafter

"Whereas, the control of standard and daylight saving time schedules has been preempted by the Congress of the United States and daylight saving time now begins on the last Sunday in April and ends on the fourth Monday in October; and

"Whereas, this scheduling of daylight saving time results in a severe hardship for many persons who begin work or must travel long distances to school in almost total darkness in the morning hours of early fall; and

"Whereas, this situation creates a very serious safety problem for young children who, by bus or on foot, must go to school in darkness; and

"Whereas, this problem is particularly acute in the early fall and could be solved at least partially by ending daylight saving time in late September, Now, therefore,

"Be it resolved by the Senate, the House of Representatives concurring:

"That the Congress of the United States be and hereby is memorialized to take necessary legislative action to change the termination time of daylight saving time to the last Monday in September.

"Be it further resolved that copies of this resolution be forwarded to the President of the United States Senate and the Speaker of the United States House of Representatives and to each member of the South Carolina Congressional Delegation."

A concurrent resolution of the Legislature of the State of South Dakota. Referred to the Committee on Commerce:

"HOUSE CONCURRENT RESOLUTION No. 512

"A concurrent resolution, citing legislative interest in, and requesting the Governor to conduct, a study of railway abandonments in South Dakota and their effect upon the economy of the state, and requesting a moratorium upon further abandonments until such study is completed

"Be it resolved by the House of Representatives of the State of South Dakota, the Senate concurring therein:

"Whereas, the economic prosperity of South Dakota is critically dependent upon the cost, convenience, and quality of transportation services which are required to move agricultural commodities to principal markets; and

"Whereas, a large proportion of agricultural commodity movement is accomplished by railroad transportation; and

"Whereas, scattered, uncoordinated, and unexpected abandonment of railroad trackage in South Dakota seriously threatens the integrity of the transportation service system; and

"Whereas, the Legislature of the state of South Dakota recognizes the need to offer positive alternatives which would preserve basic rail service:

"Now, therefore, be it resolved, by the House of Representatives of the Forty-eighth Legislature of the state of South Dakota, the Senate concurring therein, that the Governor is hereby requested to establish a task force on rail abandonment policy whose term of existence shall continue until July 1, 1974, which task force shall conduct research and prepare a study report including, but not limited to, the following:

"(1) An analysis of past track abandonments, together with an assessment of selected abandonments upon the costs of farming and other businesses in affected communities;

"(2) A discussion of interstate commerce commission policy with respect to rail abandonments, including such criteria and decision rules as the commission currently applies to determine whether or not a given section of track shall be abandoned;

"(3) Proposals for new institutional arrangements which would encourage discussion and maximum exchange of information among carriers and between carriers and state and local governments affected by potential abandonments;

"(4) A review of the powers and authorities of the public utilities commission and other instruments of state government with respect to abandonment procedures;

"(5) A series of recommendations, illustrated by maps or such other material as may be appropriate, setting forth major sections of South Dakota trackage in their order of economic importance; and

"(6) A series of recommendations for change in state or federal statute which would improve the economic viability of a basic railroad transportation system in South Dakota; and

"Be it further resolved, that the Legislature of South Dakota urges the task force on rail abandonment policy to consider the adequacy of rail service and the effects of abandonment upon that service within the context of all other available transportation modes, and that particular attention be given to abandonment of rail routes which are not paralleled by suitable highways; and

"Be it further resolved, that the Legislature of South Dakota urges the Interstate Commerce Commission to adopt a moratorium on rail abandonment until such time as the study requested herein has been completed and until the results of that study have been distributed to the fiftieth legislative session for its full consideration; and

"Be it further resolved, that copies of this Concurrent Resolution be transmitted by the chief clerk of the House of Representatives to the members of the South Dakota Congressional Delegation, to the Interstate Commerce Commission, the United States Secretary of Transportation, the Governor of the state of South Dakota and to the South Dakota Public Utilities Commission.

"Adopted by the House, February 23, 1973.

"Concurred in by the Senate, March 7, 1973."

A concurrent resolution of the Legislature of the State of South Dakota. Referred to the Committee on Interior and Insular Affairs:

"HOUSE CONCURRENT RESOLUTION No. 514

"A concurrent resolution, memorializing the President and Congress of the United States to instruct and direct the Bureau of Reclamation to expeditiously complete the feasibility study of the Wagner Unit of the Pick-Sloan Missouri River Basin Project and to appropriate and authorize funds sufficient to complete construction of the project

"Be it resolved by the House of Representatives of the State of South Dakota, the Senate concurring therein:

"Whereas, construction of the Wager Unit of the Lake Andes-Wagner Irrigation District is a practical way to stabilize agriculture and the entire economy and would preserve and enhance the fish and wildlife and recreation values of the area; and

"Whereas, the Bureau of Reclamation initiated a survey of the Wagner Unit in 1959; and

"Whereas, a project evaluation was set forth in a report dated March, 1966; and

"Whereas, the Lake Andes-Wagner Irrigation District composed of 80,000 acres was formed under state law and confirmed by a favorable vote of 93 per cent of the landowners of the area in 1969; and

"Whereas, the Fort Randall Conservancy Sub-district was organized to cover a five county area; and

"Whereas, both the irrigation district and conservancy sub-district have taxing powers sufficient for financial support of the Wagner Unit project; and

"Whereas, the feasibility evaluation appearing in the 1966 report was not complete and reactivation and a new study was begun in 1971; and

"Whereas, the reactivated feasibility study is scheduled for completion in 1975:

"Now, therefore, be it resolved, by the House of Representatives of the Forty-eighth Legislature of the state of South Dakota, the Senate concurring therein, that the President and Congress of the United States be respectfully urged and requested to instruct and direct the Bureau of Reclamation of the Department of the Interior to complete with all possible haste the feasibility study of the Wagner Unit of the Pick-Sloan Missouri River Basin Project and that such report be delivered to the President and the Congress; and

"Be it further resolved, that subsequent to receiving the above report the Congress appropriate and the President authorize with all possible haste funds sufficient to complete construction of the Wagner Unit; and

"Be it further resolved, that copies of this concurrent resolution be transmitted by the chief clerk of the House of Representatives of the state of South Dakota to the offices of the President and Vice President of the United States, the Speaker of the House of Representatives of the United States, the members of the Congressional delegation of the state of South Dakota, the Secretary of the Department of the Interior of the United States and the Governor of the state of South Dakota.

"Adopted by the House, February 27, 1973.

"Concurred in by the Senate, March 14, 1973."

A concurrent resolution of the Legislature of the State of South Dakota. Referred to the Committee on the Judiciary:

"HOUSE CONCURRENT RESOLUTION No. 510

"A concurrent resolution, memorializing the Congress of the United States to propose an appropriate amendment to the Constitution of the United States recognizing the right to life for all unborn children and affording protection for that right or, in the alternative, specifically reserving to the states the power to make and enforce such laws as the states deem fit which would recognize and would afford protection for such right

"Be it resolved by the House of Representatives of the State of South Dakota, the Senate concurring therein:

"Whereas, since time immemorial mankind has recognized the inherent sanctity and right to life of unborn children; and

"Whereas, many of the several states, including South Dakota, have, since statehood, made and enforced laws recognizing and enforcing such right, including laws restricting or prohibiting abortion; and

"Whereas, a recent decision by a majority of the United States Supreme Court has failed to give full recognition to this inherent right to life and has rendered invalid the laws of many states, including those of South Dakota, which seek to enforce such right;

"Now, therefore, be it resolved by the House of Representatives of the State of South Dakota, the Senate concurring therein:

To hereby memorialize the Congress to propose, by a two-thirds vote of each house thereof, an amendment to the Constitution of the United States recognizing the right to life for all unborn children and affording protection for that right or, in the alternative, specifically reserving to the states the power to make and enforce such laws as the states deem fit which would recognize and would afford protection for such right, the said amendment which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several states.

"Be it further resolved, that duly certified copies of this Resolution be forthwith transmitted to the President of the Senate and

the Speaker of the House of Representatives of the Congress of the United States and to each member of Congress from this state.

"Adopted by the House, February 21, 1973.

"Concurred in by the Senate, March 14, 1973."

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

"HOUSE JOINT RESOLUTION No. 10

"Be it resolved by the Senate and House of Representatives of the State of Washington in legislative session assembled:

"Whereas, Both Houses at the second session of the Ninety-second Congress of the United States of America by a constitutional majority of two-thirds thereof proposed an amendment to the Constitution of the United States which is in words and figures as follows, to-wit:

"'JOINT RESOLUTION

"'Proposing an amendment to the Constitution of the United States relative to equal rights for men and women

"'*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein)*, That the following article is proposed as an amendment to the Constitution of the United States which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"'ARTICLE —

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

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

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

"Now, therefore, be it resolved, That said proposed amendment to the Constitution of the United States of America be, and the same is hereby ratified by the legislature of the State of Washington.

"And be it further resolved, That certified copies of this joint resolution be forwarded by the Governor of the State of Washington to the Administrator of General Services, Washington, D.C., and the President of the Senate, and the Speaker of the House of Representatives of the Congress of the United States.

"Passed the House March 9, 1973.

"Passed the Senate March 22, 1973."

A resolution of the Trust Territory of the Pacific Islands. Referred to the Committee on Labor and Public Welfare:

"RESOLUTION No. 39–1973

"A resolution relative to respectively memoralizing and requesting the President of the United States of America and the United States Congress to continue funding the Office of Economic Opportunity

"Whereas, the proposed budget for the operation of the various agencies of the United States Government for fiscal year 1974 submitted to the United States Congress by the President of the United States contains no request for operating funds for the Office of Economic Opportunity; and

"Whereas, the justification that is given for the absence of a budgetary request to fund the Office of Economic Opportunity is that the funding of these programs are to be taken over by the revenue sharing proposals that have been approved by the United States Congress; and

"Whereas, unfortunately, the Trust Territory of the Pacific Islands is not included in the General Revenue Sharing legislation recently passed by the United States Congress, which will have the effect of eliminating these essential programs to the people of Micronesia; and

"Whereas, the people of Micronesia have received great benefits from the various programs that have been sponsored by the Office of Economic Opportunity, and to suddenly have these essential services stopped would create a great deal of confusion among both the local population as well as those persons who are employed for the various CAA's within the Trust Territory; and

"Whereas, in order to avoid the confusion that would result, it is respectfully urged that the funds for the Office of Economic Opportunity be continued;

"Now, therefore, be it resolved by the 4th. Mariana Islands District Legislature that the President of the United States of America and the Congress of the United States be and hereby are respectfully memorialized and requested to continue funding the Office of Economic Opportunity;

"And be it further resolved that the President certify to and the Legislative Secretary attest the adoption hereof and thereafter transmit copies of the same to the President of the United States of America, the President of the United States Senate, the Speaker of the U.S. House of Representatives, and to the Secretary of the U.S. Department of the Interior."

A resolution of the Legislature of the Virgin Islands. Referred to the Committee on Interior and Insular Affairs:

"RESOLUTION No. 670

"To express the support of the Legislature of H.R. 291, calling for a constitutional amendment to permit Guam and the Virgin Islands to participate in the election of President and Vice President of the United States

"Whereas the Virgin Islands' and Guam's Delegates to the United States House of Representatives recently introduced, as their first official actions as members of that body, legislation calling for an amendment to the Constitution of the United States to permit the Virgin Islands and Guam to participate, by membership in the Electoral College, in the election of the President and Vice-President of the United States; and

"Whereas the introduction of this legislation received strong support from many members of the House of Representatives; and

"Whereas it has long been the policy of the United States Virgin Islands to seek not only a greater voice in determining local affairs but also a more active role and greater participation in national affairs which so profoundly affect all of our lives; and

"Whereas permitting Virgin Islanders, as United States citizens, to cast their ballots in the national election for President and Vice-President would be not only extremely logical, but a significant step toward the achievement of greater self-determination for the Virgin Islands and an indication of the coming-of-age of the Virgin Islands as a political entity; and

"Whereas it is the sense of the Legislature that the Congress and President of the United States receive some tangible indication of the position of the Legislature of the Virgin Islands on the question of the Presidential vote for Virgin Islanders; Now, Therefore,

"Be it resolved by the Legislature of the Virgin Islands:

"'Section 1. That the Legislature of the Virgin Islands hereby expresses its wholehearted and enthusiastic support of the Presidential vote for Virgin Islanders.

"'Section 2. That copies of this Resolution, immediately upon its passage, be forwarded to the President of the United States, the President of the Senate, the Speaker of the House of Representatives, the Chairmen of the respective Congressional Committees on Interior and Insular Affairs, and the Virgin Islands Delegate to the United States House of Representatives, Washington, D.C.'"

A joint resolution of the Senate of Micronesia. Referred to the Committee on Foreign Relations:

"SENATE JOINT RESOLUTION No. 48

"A Senate joint resolution expressing the sense of the Congress of Micronesia that the people of Roi-Namur should be permitted to return to their island and respectfully requesting the Administering Authority and the United Nations to assure the peaceful and uninterrupted return and resettlement of the said people, to their island and to provide for relief funds for that purpose

"Whereas, the United States Armed Forces have retained and used the island of Roi-Namur for the defense purposes of the United States without having compensated the landowners for the use and occupancy of their land; and

"Whereas, the Roi-Namur landowners have suffered considerable hardship for a long period of time by the loss of their land; and

"Whereas, the United States Government has been breaking its promises to the people of Micronesia regarding the taking of their land and has been most equivocal in any attempt to bring about settlement of the long pending Roi-Namur case; and

"Whereas, the legal assistance to the people of Roi-Namur for these negotiations which was promised and initiated by the High Commissioner has been denied and discontinued by the representatives of the United States Government; and

"Whereas, it now appears that the possibility of fair negotiations for an equitable settlement between the representatives of the people of Roi-Namur and the United States Government is improbable and uncertain, and may entail further unreasonable delays for a long time because of the action of the United States Government to deny legal representation to the people of Roi-Namur; and

"Whereas, such situation has become almost hopeless considering the time which has passed during the last decade and the only remaining desire and hope of the people is to return and find peace and livelihood on their island of Roi-Namur; and

"Whereas, it is almost certain that the involvement of the United Nations in monitoring and assisting in this matter will assure the peaceful and uninterrupted return and resettlement of the people of Roi-Namur; and

"Whereas, in the event the attempt to obtain financial assistance to regain control of their island should prove unsuccessful, the need for appropriate United Nations funds becomes apparent; now, therefore,

"Be it resolved by the Senate of the Fifth Congress of Micronesia, First Regular Session, 1973, the House of Representatives concurring, that it is the sense of the Congress of Micronesia with regard to the case of the people of the Roi-Namur island that:

"(1) it sympathizes with the grievances of the people for the unfair treatment accorded them and the undue inconveiences and burden inflicted upon them for an unreasonable period of time by the United States Government;

(2) it recognizes the legal rights of the people of return to their homeland, the need of the people to rectify the situation by themselves when the hope of fair settlement for the use of their land by the United States Government has been uncertain for a period of more than twenty-five years;

"(3) it supports such justifiable movement on the part of the people to seek peaceful redress by themselves;

"(4) it urges the United States Government to give all possible support and cooperation to make the resettlement of the Roi-Namur people possible and peaceful; and

"Be it further resolved that the United

Nations is respectfully requested to dispatch observers to the scene where and when the resettlement movement is to take place to assure peaceful resettlement of the people on Roi-Namur Island; and

"Be it further resolved that in the event the funds appropriated by this Congress for the purpose of assisting and defraying the cost of resettling the people of Roi-Namur, including cost of building shelters and providing means of subsistence as well as other needs in the process of the resettlement, are not available or made unavailable by action of the Trust Territory Administration, the United Nations or its appropriate agencies are hereby and respectfully requested to give financial assistance in any amount they deem necessary for, at least, the cost of the first year of the resettlement of the people; and

"Be it further resolved that certified copies of this Senate Joint Resolution be forwarded to the High Commissioner of the Trust Territory of the Pacific Islands, Secretary of the Interior, Secretary of Defense, Speaker of the House of Representatives and President of the Senate of the Congress of the United States and President of the Trusteeship Council and the Secretary-General of the United Nations.

"Adopted: February 25, 1973."

A joint resolution of the Congress of Micronesia. Referred to the Committee on Interior and Insular Affairs:

"SENATE JOINT RESOLUTION No. 38

"A Senate joint resolution expressing the sense of the Congress of Micronesia with regard to certain issues relating to the future political status of Micronesia, and directing the Joint Committee on Future Status to conduct negotiations accordingly

"Whereas, House Joint Resolution No. 102, adopted by the Third Congress of Micronesia, created the Joint Committee on Future Status and gave it authority to negotiate with the United States of America toward the termination of the Trusteeship and the attainment of a new political status for Micronesia, subject to expressions of policies by the Congress of Micronesia; and

"Whereas, the Congress of Micronesia is desirous of expressing the sense of the Congress with regard to certain important issues bearing upon such negotiations; now, therefore,

"Be it resolved by the Senate of the Fifth Congress of Micronesia, First Regular Session, 1973, the House of Representatives concurring, that it is the sense of the Congress that the Trust Territory of the Pacific Islands is one single and indivisible political unit, and the Trusteeship may not be terminated or modified as to one part thereof while another part or parts thereof remain under such Trusteeship; and

"Be it further resolved that it is the sense of the Congress that the Congress of Micronesia, through the Joint Committee on Future Status, is the sole authority in the Trust Territory of the Pacific Islands which is legally authorized and empowered to conduct negotiations with regard to the future political status of the Trust Territory, including all parts thereof, and that the Congress has the sole responsibility to negotiate on behalf of and provide for the future political status of the entire Trust Territory; and

"Be it further resolved that the Joint Committee on Future Status is hereby directed to continue its negotiations with the United States of America based on the guidelines set forth in this Senate Joint Resolution; and

"Be it further resolved that certified copies of this Senate Joint Resolution be transmitted to the Chairman of the Joint Committee on Future Status; to the President's Personal Representative for Micronesian Status Negotiations; to the Secretary-General of the United Nations; to the President of the United Nations Trusteeship Council; to the President of the United States; to the President of the United States Senate; to the Speaker of the United States House of Representatives; to the Secretary of the Interior; to the Secretary of State; to the Secretary of Defense; and to the High Commissioner.

"Adopted: February 26, 1973."

A resolution adopted by the Woden PTA Executive Committee, Woden, Tex., relating to films shown on television. Referred to the Committee on Commerce.

A resolution adopted by the Truck Trailer Manufacturers Association, Washington, D.C., expressing opposition to attempts to divert moneys from the highway trust fund. Referred to the Committee on Finance.

A resolution adopted by the parish of Winn, La., police jury, expressing objection to the proposed rebuilding of North Vietnam. Referred to the Committee on Foreign Relations.

A resolution adopted by the St. Landry Parish police jury, Louisiana, expressing opposition to the proposed rebuilding of North Vietnam. Referred to the Committee on Foreign Relations.

A resolution adopted by the St. Mary Policy Jury, Franklin, La., expressing opposition to the proposed rebuilding of North Vietnam. Referred to the Committee on Foreign Relations.

A resolution adopted by the legislature of Rockland County, N.Y., relating to the return of the "Fort Worth Five" to the State of New York for trial. Referred to the Committee on the Judiciary.

A resolution adopted by the Viroqua Kiwanis Club, of Viroqua, Wis., praying for the enactment of legislation to promote the principle of justice for the good of all men. Referred to the Committee on the Judiciary.

A resolution adopted by the Council of the County of Maui, Hawaii, praying for the enactment of legislation to reevaluate the funding for social programs and restore moneys proposed to be deleted. Referred to the Committee on Labor and Public Welfare.

A resolution adopted by the California School Boards Association, relating to nominations. Referred to the Committee on Labor and Public Welfare.

A resolution adopted by the California School Boards Association, praying for the enactment of legislation to extend the funding of Vocational Act Amendments of 1968. Referred to the Committee on Labor and Public Welfare.

A resolution adopted by the Kaiser Foundation Parent-Child Center, Los Angeles, Calif., praying for the reinstatement of the Neighborhood Youth Corps program in the budget. Referred to the Committee on Labor and Public Welfare.

A resolution adopted by the National Association of Regulatory Utility Commissioners, Washington, D.C., praying for the enactment of legislation relating to the construction of a pipeline from Prudhoe Bay through Canada to the United States. Referred to the Committee on Commerce.

A resolution adopted by the National Association of Regulatory Utility Commissioners, Washington, D.C., urging the immediate institution of comprehensive studies relating to the environment. Referred to the Committee on Interior and Insular Affairs.

A resolution adopted by the Commissioners' Court of Maverick County, Tex., expressing appreciation for the passage of revenue-sharing legislation. Ordered to lie on the table.

A resolution adopted by the city council, city of Elizabeth, N.J., urging the Congress to review its policies concerning the production, export and imports of meats and agricultural products. Referred to the Committee on Agriculture and Forestry.

A resolution adopted by the Sacramento County Central Committee of the American Independent Party of the State of California, urging that the control and operation of the Panama Canal be kept in the hands of the United States. Referred to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PELL from the Committee on Labor and Public Welfare, with an amendment:

S. 795. A bill to amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes (Rept. No. 93-100).

REPORT ENTITLED "LEGISLATIVE REVIEW ACTIVITIES OF THE COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS"—REPORT OF A COMMITTEE (S. REPT. NO. 93-99)

Mr. SPARKMAN, from the Committee on Banking, Housing and Urban Affairs, submitted a report entitled "Legislative Review Activities of the Committee on Banking, Housing and Urban Affairs," which was ordered to be printed.

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. FULBRIGHT:

S. 1443. A bill to authorize the furnishing of defense articles and services to foreign countries and international organizations. Referred to the Committee on Foreign Relations.

By Mr. HOLLINGS:

S. 1444. A bill to provide for a comprehensive national program of earthquake monitoring, research and engineering in order to reduce loss of life and property; to provide for studies leading to earthquake prediction and control; and for other purposes. Referred to the Committee on Commerce.

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

S. 1445. A bill to provide for the striking of medals in commemoration of the 100th anniversary of the statehood of Colorado. Referred to the Committee on Banking, Housing and Urban Affairs.

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

S. 1446. A bill to protect the public health by amending the Federal Food, Drug, and Cosmetic Act to assure the safety and effectiveness of medical devices. Referred to the Committee on Labor and Public Welfare.

By Mr. MATHIAS:

S. 1447. A bill for the relief of Rosa Miriam Alvarado; and

S. 1448. A bill for the relief of Lynne B. MacDonald. Referred to the Committee on the Judiciary.

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

S. 1449. A bill to eliminate racketeering in the sale and distribution of cigarettes, and for other purposes. Referred to the Committee on Commerce.

By Mr. JAVITS (by request):

S. 1450. A bill to consolidate and extend the authorizations for appropriations for assistance to medical libraries, to repeal provisions for assistance for construction of facilities and for grants for training in medical library sciences, and for other purposes. Re-

ferred to the Committee on Labor and Public Welfare.

By Mr. JAVITS (for himself, Mr. SCOTT of Pennsylvania, and Mr. DOMINICK):

S. 1451. A bill to amend the Federal Food, Drug, and Cosmetic Act to require the disclosure of ingredients on the labels of all foods. Referred to the Committee on Labor and Public Welfare.

By Mr. HARRY F. BYRD, JR.:

S. 1452. A bill to prohibit Department of Defense funds from being used for the purpose of providing assistance to or on behalf of North Vietnam. Referred to the Committee on Armed Services.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FULBRIGHT:

S. 1443. A bill to authorize the furnishing of defense articles and services to foreign countries and international organizations. Referred to the Committee on Foreign Relations.

A BILL TO REVISE THE FOREIGN MILITARY AID AND SALES PROGRAM

Mr. FULBRIGHT. Mr. President, 26 years ago, with the Greek-Turkish aid program, the United States began a program of economic and military aid whose purpose was to contain communism and promote the growth of democracy around the world. The report of the Foreign Relations Committee on the 1948 Greek-Turkish aid bill stated that—

> The primary purpose of the assistance proposed to be rendered under the bill is to enable the peoples of Greece and Turkey to retain their freedom to decide for themselves what the form and composition of their governments are to be.

The results in Greece, whose people are controlled by a military dictatorship, leave something to be desired. It is an appropriate benchmark for evaluating the entire military aid program.

Today the problem is not the fall of friendly dominoes to communism but their fall to military rule. Totalitarianism of the right should be as offensive to Washington as totalitarianism of the left. But the major recipients of our military aid—Korea, Thailand, the Philippines, Greece, and Taiwan are hardly paragons of democratic government. Yet, the lexicon of the military aid program they are all "free world" countries—our kind of folks.

The world of a quarter of a century ago, which spawned the military aid program, bears little relations to the world of today. The cold war is over. Yet the policies of that era linger on in the military aid program. It is time to wipe out this relic of the past. The bill I am introducing today will give it a fitting burial.

For many years reports by the Committee on Foreign Relations have been replete with criticism of both the economic and military aid programs. Each year the committee has nibbled at the fringes of foreign aid policy but to date has failed to bring about significant changes. As long ago as 1965, the committee voted to liquidate the existing program and proposed machinery for coming up with a new approach to foreign aid. That effort, like so many others since, was unacceptable to the House. In report after report on foreign aid legislation the committee has called for a new look for foreign aid.

In 1968 it said:

> The committee is persuaded that the United States cannot longer postpone giving priority to putting its own house in order. Over both the foreign and domestic problems of the United States hang the fiscal and balance-of-payments crises which have been alleviated but not solved, and which fundamentally result from overcommitment, both at home and abroad, and from efforts to spread available resources too thinly.

In 1969 the committee again warned:

> The future of foreign aid is bleak indeed until a new program can be developed which will command greater respect and support, both with the public and the Congress, than the current program commands.

In the last year and a half the Senate has rejected two foreign aid bills. No foreign military aid authorization bill was enacted for the current fiscal year. The bill reported by the committee on March 14 lies dead on the calendar because the executive branch succeeded in getting Congress to provide the money for the foreign aid program although no regular authorization or appropriation bills were passed. And this notwithstanding a provision of law which states that appropriations for foreign aid cannot be spent unless there is a valid authorization. The aid program—like old man river—keeps on rolling along. It is a prime example of the difficulty of eliminating a Government program, no matter how outdated by time and events.

Following the Senate's defeat of the foreign aid bill in 1971, the committee reported two bills separating military from economic aid. Each bill stated that it was an interim measure which "looks to the phaseout of the current program and to establishment of a new one which will command the respect and the support of Congress and the American people." I hope the bill I am introducing today will merit that support.

By the end of this fiscal year, the U.S. taxpayers will have provided $180 billion in assistance to foreign countries since the end of World War II, $80 billion of that in military and related aid. That flow of military aid will continue unless Congress acts to make the nations of the world look to their own resources—not to the United States—for the setting of their defense priorities. Too many nations around the world have become overly dependent on the largesse of the American people.

In his inaugural the President said that—

> The time has passed when America will make every other nation's conflict our own, or make every other nation's future our responsibility, or presume to tell the people of other nations how to manage their own affairs. * * * So let us encourage individuals at home and nations abroad to do more for themselves.

That, I understand, is the basic thesis of the Nixon doctrine.

In the Foreign Relations Committee's report on the first aid to Korea bill, in 1949, the committee said:

> No country desires to be dependent on others permanently, and our aim in South Korea should be to assist it to stand on its own feet economically. With such assistance South Korea will eventually eliminate the necessity for all outside help. Finally, our aid should make it possible for the South Koreans to * * * retain their free elections, and preserve the freedom and dignity of the individual so dear and fundamental to democratic people everywhere.

But in Korea, with one-man rule 20 years after the end of the war there, we still maintain 40,000 troops at a cost of $600 million annually. In addition, we pay out $150 million or more a year for the South Korean Armed Forces. This is a country with an army far larger than, and a population twice that of North Korea. Thanks to American generosity, South Korea spends only 4 percent of its GNP on defense, compared with 16 percent for North Korea, which fiercely maintains its independence from both China and the Soviet Union. Perhaps if we had not been so willing to underwrite South Korea's military forces all these years, South and North would have reached some type of political accommodation. It is quite possible that our presence and our aid have served to prevent the very goal we profess to seek.

Now it appears that in South Vietnam executive branch officials are planning a rerun of the Korean experience, minus U.S. uniformed forces, but plus thousands of civilian technicians and advisors. Once we get our hands on a client state—and they on us—both seem to find it impossible to let go. If the South Vietnamese Government is ever going to be able to compete politically with the Communists, the United States must pry loose the Thieu government's hold on Uncle Sam's coattails and checkbook. But probably neither our Government nor the Thieu government have learned that lesson from this tragic war.

Sixty-five percent of our administrative budget goes for war-related expenses. Seven percent of our wealth at best, is spent for military purposes. And some $5 billion per year is spent on military and related foreign aid. Contrast this with Japan which spends less than 1 percent of GNP for military purposes and has no military aid clients. Our NATO allies spend, on the average, about 4 percent of GNP for defense while the cost of U.S. forces committed to NATO now runs about $17 billion a year. Wherever you look the rich nations expect the United States to subsidize their defense. For example, why cannot our prosperous NATO allies, instead of the American taxpayer, support Turkey's armed forces, or pay for the rental of Britain's naval base at Malta. It is, I fear, only because of the American Government's long standing habit of reaching for the check.

The Peterson Commission report put the problem this way:

> The United States now devotes seven of its GNP for defense expenditures. In part, these security responsibilities make it possible for our allies to spend less themselves on military security. As a group, their defense expenditures as a percentage of GNP are perhaps half those of the United States.

Only recently the Greek Government said that it no longer wanted any U.S. military grant aid after they learned that it would soon be phased out. But their decision came only after our Navy

began homeporting many ships there—a decision which will earn Greece more dollars than the value of our grant aid, hardly the way to cut down the expense to the American taxpayer.

It is the same story wherever you look. On Taiwan we continue to funnel tens of millions of the taxpayers' money into Chiang Kai-shek's military establishment, long after the policy justifying that aid was abandoned. Even though the old policy has been discarded, its manifestations live on in the form of a 165-man U.S. military advisory mission on Taiwan and a $103 million program of military grants and credit sales this fiscal year. Once the door to our Treasury is opened to a foreign government, it is difficult to close it.

Mr. President, the United States' financial house is in disorder, largely due to the accumulated effects of many years of overcommitment abroad. Our Government's zealous determination to control and shape the destinies of much of the world has brought our Nation to a state of financial exhaustion. Since 1965, the Federal debt has increased by $150 billion, interest on the national debt has doubled, the defense budget is up by 50 percent and the cost of living by 36 percent. The statistical picture is bleak.

For too many years we have lived beyond our means abroad, maintaining vast military forces and bases, lending and giving away our resources, and watching complacently while those we aided seized our markets. The $50-billion balance-of-payments deficit our Nation has incurred over the last 3 years is directly related to overcommitment abroad and the lessening of world confidence in the United States' ability to put its house in order. Military operations abroad alone account for a $5-billion drain each year on our balance of payments. Two years ago we ran a $2-billion trade deficit, the first time in this century. Last year that deficit rose to $6.4 billion.

Dollar holdings of foreigners now total over $80 billion and our official reserves are less than $14 billion. One columnist, close to the President, recently wrote that—

> There are now $12 billion of Arab oil money sloshing about on the world money market, like an excess of bilge in the hold of an unstable ship. By the same estimates, this figure will reach $36 billion in three more years!

Unless we restore the integrity of the dollar, these excess dollars will in future years be a mightier weapon against our country than any army, air force, or navy. Revamping the military aid program will be one small step to stem this outflow.

The bill I am introducing today will phase out military grant assistance over a 2-year period and permit loans on concessional terms for the countries being phased out. It would thus implement the philosophy expressed in the Peterson Commission report that—

> More should be done to enable these countries to estimate their own requirements, to relate them to their budgetary priorities, and to make their military decisions in the light of available resources * * * moving military assistance from a grant to a credit basis also will serve this purpose. Unlike military grants, military credits are subject to the budgetary discipline of the receiving country.

To insure this budgetary discipline during the phase-out period, the bill requires a 50-percent payment in foreign currency for grant aid, which will be available to meet U.S. expenditures within the country. The United States is now spending dollars at the rate of $375 million a year in the 10 countries which are the top recipients of military grant aid. This year those countries will receive $580 million in military grant aid, including excess arms and equipment. The new bill thus requires true burden sharing which, we are told, is the basic meaning of the Nixon doctrine.

In the committee's report on the 1947 Greek-Turkish aid bill, it was stated that—

> Testimony heard by the Committee indicated that the military mission to Greece would probably not exceed 40 and the naval mission would probably be less than 30.

A quarter of a century later we still have 54 Americans there as military advisers in addition to many attachés. In all, there are some 2,300 U.S. military advisers assigned to aid missions in 47 countries around the world, including countries like France, Germany, Denmark, where military grant aid ended years ago.

My bill would phase out all military aid missions over a 2-year period and, in the interim, require that a foreign country pay 50 percent of the operating costs of the mission. This also implements a recommendation of the Peterson Commission that—

> U.S. military missions and advisory groups should be consolidated with other elements in our overseas mission as soon as possible.

The Foreign Relations Committee endorsed this position 2 years ago. These missions, in most cases, are lingering vestiges of the cold war and a soft tour of duty for officers before retirement.

The bill also ends funding of military aid to Vietnam and Laos from the defense budget, as the committee has recommended since 1971. Now that U.S. involvement in the hostilities has formally ended, there is no reason to treat these two countries any differently from other aid recipients.

The bill also requires that all transfers of naval vessels be under the authority of the new act, ending the existing practice where ships could be furnished to foreign governments under a number of different authorities, carrying out a recent recommendation by the General Accounting Office.

As to surplus arms and equipment, the bill requires that this material be used to the maximum extent possible to save U.S. tax dollars and stop the abuses revealed in a recent General Accounting Office study of this program.

Military credit sales to the underdeveloped countries would be financed to the maximum extent possible through the guaranty of commercial bank loans, thus cutting down on the amount of tax dollars tied up on loans. The prohibition on Export-Import Bank loans to finance arms sales to the developing countries would be removed. But Export-Import loans could not be covered under the guaranty program, the Bank's normal credit criteria would still apply. A fixed ceiling would continue on total credit sales allowed to these countries as under existing law. Interest rates on direct loans, other than those for the phaseout grant recipients, would be at the rate charged by the Export-Import Bank for comparable loans.

I wish to emphasize that the ultimate objective of this bill is to get the State and Defense Departments out of the arms sales business and get these transactions back to a free enterprise, commercial basis, where they belong.

This bill also authorizes all grant aid and supporting assistance on a country-by-country basis, thus ending the situation where the President had complete freedom to allocate the lump sums Congress provided.

I point out, however, that the bill does not include supporting assistance or military aid for the nations of Indochina. It would be premature for Congress to authorize any additional foreign aid for these countries since the President has not submitted his recommendations for postwar programs in that area. It would, however, permit continued delivery of aid in the pipeline and Public Law 480 food aid.

The Secretary of State's control over military aid and sales matters is enhanced by providing that appropriations be made directly to him.

The bill completely rewrites the Foreign Military Sales Act and the military aid and supporting assistance provisions of the Foreign Assistance Act. It is possible that in merging the authority for the grant aid and the sales authority, additional administrative provisions may be needed other than those included in the new bill. If so, the committee will be glad to consider any changes that the executive branch deems necessary.

The authorization for military grant assistance proposed for fiscal year 1974 by this bill is $250 million, which, after deduction of the 50 percent foreign currency payment requirements, means a cost of $125 million to the taxpayer. A separate item of $25 million is included for military training. These compare with the administration's budget request of $685 million, a reduction of $535 million. Additional savings will come from the foreign currency payments received for excess defense articles.

For military credit sales, the bill authorizes $200 million, a reduction of $325 million from the budget request. Eighty million dollars for supporting assistance is authorized. But, as stated, this does not include funds for Indochina which will be dealt with in separate legislation. This is a reduction of $652 million from the budget request for supporting assistance. The total reduction from the budget requests for these programs comes to $1.512 billion. When military aid for Vietnam, Cambodia, and Laos are considered later, in connection with proposals for reconstruction, additional savings can be anticipated from the amount budgeted.

I ask unanimous consent that the text of the bill, a comparative table, and a

section-by-section analysis be printed in the RECORD after my remarks. Hearings will be scheduled on the bill in the near future.

A bill to revise the economic aid program is now being drafted and will be introduced as soon as possible.

Mr. President, in recent months many Members of this body have expressed their concern over the growth in the power of the President over foreign policy. There has been much talk, but all too little action, about restoring the Senate's proper role in the formation of foreign policy. The Senate, and Congress as an institution, has power to make policy—foreign or domestic—only to the extent it is willing to use it. But politicians feel far more comfortable *passing* the buck than in taking the initiative. Thus, if Congress is contemptible in the President's eyes, it is largely because it is deserving of contempt. But if Congress is to regain its role as the fundamental source of national policy, as the Founding Fathers intended it must assume the responsibility and free itself from subservience to the Pentagon and the White House, which have controlled its actions since World War II. It must have the courage to take the initiative in matters like foreign aid. If not, the initiative and the control will forever remain with the President.

I hope that the Senate will demonstrate that on military aid policy it has the will, as well as desire, to chart a new course, one which *is* geared both to the realities of the world today and the depleted state of our national pocketbook.

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

S. 1443

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, divided into parts, chapters, and sections according to the following table of contents, may be cited as the "Foreign Military Sales and Assistance Act":

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PART I—GENERAL PROVISIONS

Chapter 1.—Coordination; Definitions; Certain Authorizations; Eligibility

COORDINATION

SEC. 101. (a) Under the direction of the President, the Secretary of State shall be responsible for the direction and continuous supervision in carrying out the provisions of this Act. The responsibilities of the Secretary shall include, but not be limited to, determining whether sales, credit sales, or guaranties shall be made and other assistance (and the kind thereof) shall be provided a foreign country or international organization under this Act, and, if so, the amount or value thereof.

(b) The President shall prescribe appropriate procedures to assure effective direction and control by the Chief of the United States Diplomatic Mission in each country with respect to all activities and programs carried out under this Act within that country. The Chief of the Diplomatic Mission shall insure that sales, credit sales, and guaranties made and other assistance provided under this Act are coordinated with political and economic considerations, and he shall be responsible for the submission of all recommendations pertaining to such sales, credit sales, guaranties, and other assistance in that country.

DEFINITIONS

SEC. 102. For purposes of this Act—

(1) "agency of the United States Government" includes any agency, department, board, wholly or partly owned corporation, instrumentality, commission, or establishment of the United States Government;

(2) "armed forces" of the United States means the Army, Navy, Air Force, Marine Corps, and Coast Guard;

(3) "commodity" includes any material, article, supply, goods, or equipment furnished for nonmilitary purposes;

(4) "defense article" includes—

(A) any weapon, weapons system, munition, aircraft, vessel, boat, or other implement of war;

(B) any property, installation, commodity, material, equipment, supply, or goods furnished for military purposes;

(C) any machinery, facility, tool, material, supply, or other item necessary for the manufacture, production, processing, repair, servicing, storage, construction, transportation, operation, or use of any article listed in this subsection; or

(D) any component or part of any article listed in this subsection; but shall not include merchant vessels or, as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011), source material, byproduct material, special nuclear material, production facilities, utilization facilities, or atomic weapons or articles involving restricted data;

(5) "defense information" includes any document, writing, sketch, photograph, plan, model, specification, design, prototype, or other recorded or oral information relating to any defense article or defense service, but shall not include restricted data as defined by the Atomic Energy Act of 1954, as amended, and data removed from the restricted data category under section 142d of that Act;

(6) "defense service" includes military training, and any service, test, inspection, repair, publication, or technical or other assistance, or defense information furnished for military purposes;

(7) "excess defense articles" means the quantity of defense articles owned by the United States Government, and not procured in anticipation of military assistance or sales requirements, or pursuant to a military assistance or sales order, which are excess to the needs of the Department of Defense for other than military assistance purposes at the time such articles are dropped from inventory by the supplying agency for delivery to countries or international organizations under this Act;

(8) "function" includes any duty, obligation, power, authority, responsibility, right, privilege, discretion, or activity;

(9) "military training" includes formal or informal instruction, for military purposes, of foreign students by officers or employees of the United States, contract technicians, contractors (including instruction at civilian institutions), or by correspondence courses, technical, educational, or information publications and media of all kinds, training aid, orientation, training exercise, and military advice to foreign military units and forces;

(10) "officer or employee" means civilian personnel and members of the Armed Forces of the United States Government;

(11) "services" include any service, repair, training of personnel, or technical or other assistance or information furnished for nonmilitary purposes;

(12) "surplus agricultural commodity" means any agricultural commodity or product thereof, class, kind, type, or other specification thereof, produced in the United States either publicly or privately owned, which is in excess of domestic requirements, adequate carryover, and anticipated exports for United States dollars, as determined by the Secretary of Agriculture; and

(13) "value" means—

(A) with respect to an excess defense article, the actual value of the article, but not

less than 33⅓ percent of the amount of the United States paid at the time the defense article was acquired by the United States;

(B) with respect to a nonexcess defense article delivered from inventory to foreign countries or international organizations under this Act, the acquisition cost to the United States Government, adjusted as appropriate for condition and market value, plus a proportional share of the administrative expenses incurred by the United States Government in supplying such article;

(C) with respect to a nonexcess defense article delivered from new procurement to foreign countries or international organizations under this Act, the contract or production costs of such article plus a proportional share of the administrative expenses incurred by the United States Government, in supplying such article; and

(D) with respect to a defense service, the cost to the United States Government of such service plus a proportional share of the administrative expenses incurred by the United States in providing that service.

PRIOR AUTHORIZATION

SEC. 103. (a) Notwithstanding any provision of law enacted before the effective date of this Act, no money appropriated to carry out any provision of part II or part III of this Act shall be available for obligation or expenditure—

(1) unless the appropriation thereof has been previously authorized by law; or

(2) in excess of an amount previously prescribed by law.

(b) To the extent that legislation enacted after the making of an appropriation to carry out any provision of part II or part III of this Act authorizes the obligation or expenditure thereof, the limitation contained in subsection (a) shall have no effect.

(c) The provisions of this section shall not be superseded except by a provision of law enacted after the date of enactment of this subsection which specifically repeals or modifies the provisions of this section.

(d) The provisions of this section shall not apply to, or affect in any manner permanent appropriations, trust funds, and other similar accounts administered as authorized by law.

AUTHORIZATIONS FOR LAOS AND SOUTH VIETNAM

SEC. 104. After June 30, 1973, no sale, credit sale, or guaranty of any defense article or defense service shall be made, or any military assistance, including supporting assistance, furnished to Laos or South Vietnam directly or through any other foreign country unless that sale, credit sale, or guaranty is made under, or such assistance is furnished under this Act. The provisions of this section shall not apply to funds obligated prior to July 1, 1973.

ELIGIBILITY

SEC. 105. (a) No defense article may be furnished to any foreign country under this Act unless that country shall have agreed that—

(1) it will not, without the consent of the President—

(A) permit any use of such article by anyone not an officer, employee, or agent of that country;

(B) transfer, or permit any officer, employee, or agent of that country to transfer such article by gift, sale, or otherwise; and

(C) use or permit the use of such article for purposes other than those for which furnished; and

(2) it will maintain the security of such article, and will provide substantially the same degree of security protection afforded to such article by the United States Government.

(b) In considering a request for approval of any transfer of a defense article to another country, the President shall not give his consent to the transfer unless (1) the United States itself would transfer the defense article under consideration to that country, and (2) prior to the date he intends to give his consent to the transfer, the President notifies the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate in writing of each such intended consent, the justification for giving such consent, the defense article for which he intends to give his consent to be so transferred, and the foreign country to which that defense article is to be transferred.

(c) The President shall not give his consent to the transfer of any weapon, weapons system, munition, aircraft, military boat, military vessel, or other implement of war unless (1) the foreign country requesting consent to transfer agrees to demilitarize such defense article prior to transfer, or (2) the proposed recipient foreign country provides a commitment in writing to the United States Government that it will not transfer such defense article, if not demilitarized, to any other foreign country or person without first obtaining the consent of the President.

PART II.—MILITARY SALES, CREDIT SALES, AND GUARANTIES

Chapter 11.—Authorizations

REDUCTION IN GOVERNMENT PARTICIPATION

SEC. 1101. In order to reduce the role of the United States Government in the furnishing of defense articles and defense services to foreign countries and international organizations, and return such transactions to commercial channels, the United States Government shall reduce its sales, credit sales, and guarantees of such articles and defense services as soon as, and to the maximum extent, practicable.

CASH SALES FROM STOCK

SEC. 1102. The President may sell defense articles from the stocks of the Department of Defense and defense services of the Department of Defense to any foreign country or international organization if such country or international organization agrees to pay not less than the value thereof in United States dollars. Payment shall be made in advance or, as determined by the President to be in the best interests of the United States, within a reasonable period not to exceed one hundred and twenty days after the delivery of the defense articles or the rendering of the defense services.

PROCUREMENT FOR CASH SALES

SEC. 1103. (a) Except as otherwise provided in this section, the President may, without requirement for charge to any appropriation or contract authorization otherwise provided, enter into contracts for the procurement of defense articles or defense services for sale for United States dollars to any foreign country or international organization if such country or international organization provides the United States Government with a dependable undertaking (1) to pay the full amount of such contract which will assure the United States Government against any loss on the contract, (2) to make funds available in such amounts and at such times as may be required to meet the payments required by the contract, and any damages and costs that may accrue from the cancellation of such contract, in advance of the time such payments, damages, or costs are due, and (3) to pay the United States Government an amount equal to the administrative costs incurred by the Government in procuring such defense articles and defense services under this section.

(b) The President may, when he determines it to be in the national interest, accept a dependable undertaking of a foreign country or international organization with respect to any such sale, to make full payment within one hundred and twenty days after delivery of the defense articles, or the rendering of the defense services. Appropriations available to the Department of Defense may be used to meet the payments required by the contracts for the procurement of defense articles and defense services and shall be reimbursed by the amounts subsequently received from the country or international organization to whom articles or services are sold.

(c) No sales of defense articles shall be made to the government of any economically developed country under the provisions of this section unless such articles are not generally available for purchase by such country from commercial sources in the United States.

CREDIT SALES

SEC. 1104. (a) Except to the extent otherwise provided in this section, the President is authorized to finance procurements of defense articles and defense services by less-developed foreign countries and international organizations on terms requiring the payment of the United States Government in United States dollars of—

(1) the value of such articles or services within a period not to exceed 10 years after the delivery of such articles or the rendering of such services; and

(2) interest, on the unpaid balance of that obligation for payment of the value of such articles or services, at a rate equivalent to the current average interest rate, as of the last day of the month preceding the financing of such procurement, that (A) the Export-Import Bank of the United States charges for obligations of similar purposes and comparable maturities or (B) the United States Government pays on * * * marketable obligations of comparable maturity, whichever is greater.

(b) (1) For the period from July 1, 1973, through June 30, 1975, the President is authorized to finance such procurements by any foreign country receiving defense articles and defense services during fiscal year 1973 under the Foreign Assistance Act of 1961 on terms providing for the payment of the value of such articles or services in the currency of that country and without the payment of any interest. The total amount of procurements by a foreign country financed under this paragraph shall not exceed in any fiscal year the total amount of such articles and services (other than military training) furnished that country under chapter 2 of part II of that Act during fiscal year 1973.

(2) For the period from July 1, 1975, through June 30, 1978, the President is authorized to finance procurements by any foreign country receiving defense articles or defense services during fiscal year 1973 under the Foreign Assistance Act of 1961, on terms providing for the payment, in the currency of the country (to the extent that the President determines that payment in that currency is needed to pay for all official costs of the United States Government payable in the currency of that country, including all costs relating to the financing of international educational and cultural exchange activities in which that country participates under the programs authorized by the Mutual Educational and Cultural Exchange Act of 1961), (A) of the value of such articles and services but not to exceed the amount of such articles and services for military training furnished that country in fiscal year 1973 under chapter 2 of part II of the Foreign Assistance Act of 1961, and (B) at a rate of interest of not less than 3 percent a year.

GUARANTIES

SEC. 1105. (a) The President may guarantee any individual, corporation, partnership, or other judicial entity doing business in the United States (excluding United States Government agencies) against political and credit risks of nonpayment arising out of their financing of credit sales of defense articles and defense services to less-developed foreign countries and international organizations. Guaranties shall be made under this section whenever possible rather than credit sales

under section 1103 of this Act, in order to minimize outlays by the United States Government in carrying out this part. Fees shall be charged for such guaranties.

(b) The President may sell to any individual, corporation, partnership , or other juridical entity (excluding United States Government agencies) promissory notes issued by less-developed foreign countries and international organizations as evidence of their obligations to make repayments to the United States on account of credit sales financed under section 1104 of this Act, and may guarantee payment thereof.

(c) Funds made available under section 1106 of this Act shall be obligated in an amount equal to 25 percent of the contractual liability related to any guaranty issued under this section, and all the funds so obligated shall constitute a single reserve for the payment of claims under such guaranties. Any funds so obligated which are deobligated from time to time during any current fiscal year as being in excess of the amount necessary to maintain a fractional reserve of 25 percent of the contractual liability under outstanding guaranties shall be transferred to the general fund of the Treasury. Any guaranties issued hereunder shall be backed by the full faith and credit of the United States.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1106. There are authorized to be appropriated to the Secretary of State to carry out this part not to exceed $200,000,000 for the fiscal year 1974.

Chapter 13.—Ceilings

AGGREGATE CEILINGS

SEC. 1301. The aggregate total of credits, or participations in credits, extended pursuant to this part (excluding credits covered by guaranties issued under section 1105(b) of this Act), the face amount of guaranties issued under section 1105 (a) and (b) of this Act, and the amount of assistance extended by the Export-Import Bank of the United States to finance sales of defense articles and defense services to less developed countries shall not exceed $700,000,000 for the fiscal year 1974, of which amount not less than $300,000,000 shall be available to Israel only.

REGIONAL CEILINGS

SEC. 1302. (a) The aggregate of the total amount of military assistance under part II of this Act, of cash sales pursuant to sections 1102 and 1103 of this Act, of credits, or participation in credit , financed under section 1105(b) of this Act, of the face amount of contracts of guaranty issued under section 1105 (a) and (b) of this Act, and of transfers of vessels and boats under this Act, shall, excluding training, not to exceed $150,000,000 in each fiscal year for Latin American countries.

(b) The aggregate of the total amount of military assistance under part II of this Act, of cash sales under sections 1102 and 1103 of this Act, of credits, or participations in credits, financed under section 1104 of this Act (excluding credits covered by guaranties issued under section 1105(b) of this Act, and of the face amount of contracts or guaranty issued under section 1105 (a) and (b) of this Act, shall, excluding training, not exceed $40,000,000 in each fiscal year for African countries.

Chapter 15.—Administrative and Fiscal Provisions

PAYMENTS RECEIVED

SEC. 1501. (a) Cash payments received under sections 1102 and 1103 of this Act and advances received under section 1104 of this Act shall be available solely for payments to suppliers (including the military departments) and refunds to purchasers and shall not be available for financing credits and guaranties.

(b) Amounts received from foreign governments and international organizations as repayments for credits extended under section 1104 of this Act, amounts received from the disposition of instruments evidencing indebtedness, and other collections (including fees and interests) shall be transferred to the miscellaneous receipts of the Treasury.

CREDIT STANDARDS

SEC. 1502. The President shall establish standards and criteria for credit and guaranty transactions under sections 1104 and 1105 of this Act in accordance with the provisions of this Act.

PART III—MILITARY ASSISTANCE

Chapter 21.—Military Grant Assistance

GENERAL AUTHORITY

SEC. 2101. From July 1, 1973, through June 30, 1975, the President is authorized to furnish military grant assistance under this chapter on such terms and conditions as he may determine to any foreign country which is otherwise eligible to receive such assistance, by—

(1) acquiring from any source and providing any defense article or defense service (other than military training); and

(2) assigning or detailing members of the Armed Forces of the United States and other personnel of the Department of Defense to United States missions in foreign countries to perform duties of a noncombatant nature in carrying out duties (other than military training) in carrying out the provisions of this Act.

TERMINATION OF AUTHORITY

SEC. 2102. (a) The President shall gradually reduce assistance provided under this chapter so that, by not later than June 30, 1975, no assistance shall be provided under this chapter.

(b) The provision of subsection (a) of this section shall not apply to funds obligated prior to July 1, 1975.

AUTHORIZATION OF APPROPRIATIONS

SEC. 2103. There are authorized to be appropriated to the Secretary of State to carry out this chapter, not to exceed $250,000,000 for fiscal year 1974, which sum shall be allocated and made available to or for each of the following foreign countries and not in excess of the amount specified for that country:

Country:	*Amount*
(1) Republic of Korea	$110,000,000
(2) Turkey	46,000,000
(3) Thailand	31,000,000
(4) Jordan	27,000,000
(5) Philippines	12,000,000
(6) Indonesia	12,000,000
(7) Ethiopa	7,500,000
(8) Spain	5,000,000

CONDITIONS OF ELIGIBILITY

SEC. 2104. (a) In addition to the provisions of section 105 of this Act, and such other provisions as the President may require, no defense article shall be furnished to any foreign country under this chapter unless that country shall have agreed that—

(1) it will, as the President may require, permit continuous observation and review by, and furnish necessary information to, representatives of the United States Government with regard to the use of any such article;

(2) unless the President consents to other disposition, it will return to the United States Government for such use or disposition as the President considers in the best interests of the United States, such article which is no longer needed for the purpose for which furnished; and

(3) any funds received by that country in disposing of any weapon, weapons system, munition, aircraft, military boat, military vessel, or other implement of war received under this chapter, will be paid to the United States Government and shall be available to pay all official costs of the United States Government payable in the currency of that country, including all costs relating to the financing of international educational and cultural exchange activities in which that country participates under the programs authorized by the Mutual Educational and Cultural Exchange Act of 1961.

(b) Any foreign country which hereafter uses defense articles or defense services furnished such country under this Act, the Mutual Security Act of 1954, as amended, or any predecessor foreign assistance Act, in substantial violation of the provisions of this chapter or any agreements entered into under any of such Acts shall be immediately ineligible for further assistance.

EXCESS DEFENSE ARTICLES

SEC. 2105. (a) The value of any excess defense article furnished to a foreign country or international organization by any agency of the United States Government shall be considered to be an expenditure made from funds appropriated under section 2103 of this Act. Unless such agency certifies to the Comptroller General of the United States that the excess defense article it is ordering is not to be transferred by any means to a foreign country or international organization, when an order is placed for a defense article whose stock status is excess at the time ordered, a sum equal to the value thereof shall (1) be reserved and transferred to a suspense account, (2) remain in the suspense account until the excess defense article is either delivered to a foreign country or international organization or the order therefor is canceled, and (3) be transferred from the suspense account to (A) the general fund of the Treasury upon delivery of such article or (B) to the appropriation made under section 2103 of this Act for the current fiscal year upon cancellation of the order. Such sum shall be transferred to the appropriation made under section 2103 of this Act for the current fiscal year, upon delivery such article, if at the time of delivery the stock status of the article is determined, in accordance with section 102(7) and (13) of this Act to be nonexcess.

(b) Excess defense articles shall be provided whenever possible rather than providing such articles by the procurement of new items.

SPECIAL MILITARY GRANT ASSISTANCE ACCOUNTS

SEC. 2106. (a) Except as otherwise provided in this section no military grant assistance shall be furnished under this chapter to a foreign country unless the country agrees—

(1) to deposit in a special account established by the United States Government the following amounts of currency of that country:

(A) in the case of any excess defense article to be given to that country, an amount equal to 50 percent of the fair value of the article, as determined by the Secretary of State, at the time agreement to give the article to the country is made; and

(B) in the case of a grant of military assistance to be made to that country, an amount equal to 50 percent of each such grant; and

(2) to allow the United States Government to use such amounts from that special account as may be determined, from time to time, by the President to be necessary to pay all official costs of the United States Government payable in the currency of that country, including all costs relating to the financing of international educational and cultural exchange activities in which that country participates under the programs authorized by the Mutual Educational and Cultural Exchange Act of 1961.

(b) The provisions of this section shall not apply in any case in which military grant assistance is furnished to a foreign

country under an agreement with that country which allows the United States Government to operate a military or other similar base in that country in exchange for that grant assistance, if the Senate has given its advice and consent to such agreement.

(c) If a special account is established for that foreign country under section 2303 of this Act, any currencies in that account shall be transferred to and consolidated with the special account established under such section 2303. The special account of that country shall thereupon be closed. Any currencies that would be placed in the special account established under this section for that country, but for the enactment of this subsection, shall be deposited directly in the special account of that country established under such section 2303. If a special account has been established for a foreign country under such section 2303 prior to establishing a special account under this section, then any currencies that would have been deposited, but for the enactment of this subsection, in the account established under this section, shall be deposited directly into the account established under such section 2303.

MILITARY ASSISTANCE INFORMATION

SEC. 2107. Notwithstanding any other provision of law, that portion of any record showing the name of any foreign country or international organization and the amount of military assistance intended to be provided, or that has been provided, by the United States to such country or organization for any fiscal year under this or any other law shall be made available to the public, and that portion of the record shall not be withheld from public disclosure by designating such record as classified information.

SPECIAL MILITARY ASSISTANCE REPORT

SEC. 2108. Not later than January 31, 1974, the President shall transmit to Congress a report on all military assistance agreements entered into under this chapter, chapter 2 of part II of the Foreign Assistance Act of 1961, and prior comparable provisions of law and which are in effect as of December 31, 1973. Such report shall list those agreements which the President believes should be continued beyond the date such assistance is to be terminated under the provisions of this chapter and include a detailed justification for continuing each such agreement.

REPEAL OF MILITARY GRANT ASSISTANCE AUTHORITY

SEC. 2109. Sections 2101, 2102(a), and 2103–2108 of this Act are repealed on July 1, 1975. Any special account of a foreign country established under section 2106 of this Act shall continue in existence until the currencies in that account are expended for the purposes specified in such section 2106, except that if a special account is established for that country under section 2303 of this Act, such currencies shall be transferred to and consolidated with the currencies in that account established under such section 2303. The special account of that country established under this section shall thereupon be closed.

Chapter 23.—Military Training

GENERAL AUTHORITY

SEC. 2301. The President is authorized to furnish, on such other terms and conditions as the President may determine, military training to any foreign country or international organization. After June 30, 1974, no such training shall be conducted outside the United States except by specific authorization of law.

AUTHORIZATION OF APPROPRIATIONS

SEC. 2302. There are authorized to be appropriated to the Secretary of State, to carry out the provisions of this chapter, not to exceed $25,000,000 for fiscal year 1974.

SPECIAL MILITARY TRAINING ACCOUNTS

SEC. 2303. (a) Except as otherwise provided in this section no military training may be furnished under this chapter to a foreign country unless that country agrees—

(1) to deposit in a special account established by the United States Government amounts of currency of that country equal to 25 percent of the cost of the military training furnished; and

(2) to allow the United States Government to use such amounts from that special account as may be determined, from to time, by the President to be necessary to pay all official costs of the United States Government payable in the currency of that country, including all costs relating to the financing of international educational and cultural exchange activities in which that country participates under the programs authorized by the Mutual Educational and Cultural Exchange Act of 1961.

(b) The provisions of this section shall not apply in any case in which military training is furnished to a foreign country under an agreement with that country which allows the United States Government to operate a military or other similar base in that country in exchange for that training if the Senate has given its advice and consent to such agreement.

RESTRICTION ON FOREIGN MILITARY STUDENTS

SEC. 2304. The number of foreign military students to be trained in the United States in any fiscal year, out of funds appropriated pursuant to this chapter, may not exceed a number equal to the number of foreign civilians brought to the United States under the Mutual Educational and Cultural Exchange Act of 1961 in the immediate preceding fiscal year.

Chapter 25.—Military Assistance Advisory Groups and Missions

TRANSFER OF FUNCTIONS

SEC. 2501. (a) By not later than June 30, 1975, all the functions of a military assistance advisory group, a military mission, or other organization of the United States Government in a foreign country performing activities similar to any such group or mission shall be transferred to the Chief of the United States Diplomatic Mission to that country. Upon the transfer of such functions, that group, mission, or organization, as the case may be, shall cease to exist.

(b) On and after July 1, 1973, the total number of military attachés assigned or detailed to the United States Diplomatic Mission of a foreign country shall not exceed by 25 percent the total number of military attachés authorized to be assigned or detailed to that mission on June 30, 1973.

AUTHORIZING MILITARY ASSISTANCE ADVISORY GROUPS AND MISSIONS

SEC. 2502. On and after July 1, 1975, no military assistance advisory group, military mission, or other organization of the United States Government in a foreign country shall be established or continued unless such group, mission, or organization is authorized by law specifically for that country and the foreign country agrees to reimburse the United States Government for the entire cost of such group, mission, or similar organization.

Chapter 27.—Supporting Assistance

GENERAL AUTHORITY

SEC. 2701. The President is authorized to furnish supporting assistance to foreign countries, eligible to receive assistance under this Act on such terms and conditions as he may determine, in cases in which important security interests of the United States are involved.

AUTHORIZATION OF APPROPRIATIONS

SEC. 2702. (a) There are authorized to be appropriated to the Secretary of State to carry out this chapter, not to exceed $80,000,000 for the fiscal year 1974, which sum shall be allocated and made available to or for each of the following foreign countries and not in excess of the amount specified for that country:

Country:	*Amount*
(1) Israel	$50,000,000
(2) Jordan	20,000,000
(3) Thailand	7,000,000
(4) Spain	3,000,000

(b) No part of any appropriation made available to carry out this chapter shall be used to conduct any public safety program.

PART IV.—MISCELLANEOUS PROVISIONS

Chapter 31.—General Limitations

TRANSFERS OF VESSELS AND BOATS

SEC. 3101. Notwithstanding any other provision of law, no vessel or boat of the United States Government (including, but not limited to, any battleship, aircraft carrier, cruiser, destroyer, or submarine) may be sold, loaned, leased, given, or transferred by any other means to a foreign country or international organization except under the provisions of this Act.

USE OF UNITED STATES ARMED FORCES

SEC. 3102. The making of any sale, credit sale, or guaranty, or the furnishing of any assistance, under this Act shall not be construed as creating a new commitment or as affecting any existing commitment to use Armed Forces of the United States for the defense of any foreign country.

FAILURE TO PROVIDE REQUESTED INFORMATION

SEC. 3103. None of the funds made available pursuant to the provisions of this Act shall be used to carry out any provision of this Act in any country or with respect to any project or activity after the expiration of the 35-day period which begins on the date the General Accounting Office or any committee of the Congress charged with considering legislation, appropriations, or expenditures under this Act has delivered to the office of the head of any agency carrying out such provision a written request that it be furnished any document, paper, communication, audit, review, finding, recommendation, report, or other material in its custody or control relating to the administration of such provision in such country or with respect to such project or activity, unless and until there has been furnished to the General Accounting Office, or to such committee, as the case may be, the document, paper, communication, audit, review, finding, recommendation, report, or other material so requested.

PROCUREMENT

SEC. 3104. (a) Funds made available under this Act may be used for procurement outside the United States only if the President determines that such procurement will not result in adverse effects upon the economy of the United States or the industrial mobilization base, with special reference to any areas of labor surplus or to the net position of the United States in its balance of payments with the rest of the world, which outweigh the economic or other advantages to the United States of less costly procurement outside the United States, and only if the price of any commodity procured in bulk is lower than the market price prevailing in the United States at the time of procurement, adjusted for differences in the cost of transportation to destination, quality, and terms of payment.

(b) No funds made available under this Act shall be used for the purchase in bulk of any commodities at prices higher than the market price prevailing in the United States at the time of purchase, adjusted for differences in the cost of transportation to destination, quality, and terms of payment.

(c) In providing for the procurement of any agricultural commodity or product thereof available for disposition under the Agri-

cultural Trade Development and Assistance Act of 1954, as amended, for transfer by grant under this Act to any recipient country in accordance with its requirements, the President shall, insofar as practicable and when in furtherance of the purposes of this Act, authorize the procurement of such agricultural commodity only within the United States except to the extent that such agricultural commodity is not available in the United States in sufficient quantities to supply emergency requirements of recipients under this Act.

(d) In providing assistance in the procurement of commodities in the United States, the United States dollars shall be made available for marine insurance on such commodities where such insurance is placed on a competitive basis in accordance with normal trade practice prevailing prior to the outbreak of World War II, except that in the event a participating country, by statute, decree, rule, or regulation, discriminates against any marine insurance company authorized to do business in any State of the United States, then commodities purchased with funds provided hereunder and destined for such country shall be insured in the United States against marine risk with a company or companies authorized to do a marine insurance business in any State of the United States.

(e) No funds made available under this Act shall be used for the procurement of any agricultural commodity or product thereof outside the United States when the domestic price of such commodity is less than parity.

(f) The President shall take all appropriate steps to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars. Dollar funds made available under this Act shall not be expended for goods and services when United States-owned foreign currencies are available for such purposes unless the administrative official approving the voucher certifies as to the reason for the use of dollars in each case. The President shall also take all appropriate steps to assure that, to the maximum extent possible, countries receiving assistance under this Act contribute local currencies to meet the cost of contractual and other services rendered in conjunction with such assistance.

SMALL BUSINESS

SEC. 3105. Insofar as practicable and to the maximum extent consistent with the accomplishment of the purposes of this Act, the President shall assist American small business to participate equitably in the furnishing of commodities, defense articles, and services (including defense services) financed with funds made available under this Act by causing to be made available to suppliers in the United States, and particularly to small independent enterprises, information, as far in advance as possible, with respect to purchases proposed to be financed with such funds.

SHIPPING ON UNITED STATES VESSELS

SEC. 3106. The ocean transportation between foreign countries of commodities and defense articles purchased with foreign currencies made available or derived from funds made available under this Act or the Agricultural Trade Development and Assistance Act of 1954, as amended, shall not be governed by the provisions of section 901(b) of the Merchant Marine Act of 1936, as amended, or any other law relating to the ocean transportation of commodities on United States flag vessels.

TERMINATION OF ASSISTANCE

SEC. 3107. Assistance (including sales) provided under any section of part II or part III of this Act, may, unless sooner terminated by the President, be terminated by concurrent resolution of Congress.

PUBLIC LAW 480

SEC. 3108. Section 104(c) of the Agricultural Trade Development and Assistance Act of 1954, as amended, is amended by striking out the semicolon at the end of such section and inserting in lieu thereof a comma and the following: "except that no agreement may be entered into under this subsection (c) unless such agreement has been specifically authorized by legislation enacted after the date of enactment of the Foreign Military Sales and Assistance Act;".

Chapter 33.—Reports and Information

ANNUAL FOREIGN ASSISTANCE REPORT

SEC. 3301. (a) In order that the Congress and the American people may be better and more currently informed regarding the volume and cost of assistance extended by the United States Government to foreign countries and international organizations, and in order that the Congress and the American people may be better informed regarding the sale of arms to foreign countries and international organizations by private industry of the United States, not later than December 31 of each year the President shall transmit to the Congress an annual report, for the fiscal year ending prior to the fiscal year in which the report is transmitted, showing—

(1) the aggregate dollar value of all foreign assistance provided by the United States Government by any means to all foreign countries and international organizations, and the aggregate dollar value of such assistance by category provided by the United States Government to each such country and organization, during that fiscal year;

(2) the total amounts of foreign currency paid by each foreign country or international organization to the United States Government in such fiscal year, what each payment was made for, whether any portion of such payment was returned by the United States Government to the country or organization from which the payment was obtained or whether any such portion was transferred by the United States Government to another foreign country or international organization, and, if so returned or transferred, the kind of assistance obtained by that country or organization with those foreign currencies and the dollar value of such kind of assistance;

(3) the aggregate dollar value of all weapons, weapons systems, munitions, aircraft, military boats, military vessels, and other implements of war, and the aggregate dollar value of each category of such implements of war, exported under any export license, to all foreign countries and international organizations, and to each such country and organization, during that fiscal year;

(4) all exports of significant defense articles on the United States munitions list to any foreign government, international organization, or other foreign recipient or purchaser, by the United States under this Act or any other authority, or by any individual, corporation, partnership, or other association doing business in the United States, including but not limited to, full information as to the particular defense articles so exported, the particular recipient or purchaser, the terms of the export, including its selling price, if any, and such other information as may be appropriate to enable the Congress to evaluate the distribution of United States defense articles abroad; and

(5) such other matters relating to foreign assistance provided by the United States Government as the President considers appropriate, including explanations of the information required under clauses (1) through (3) of this subsection.

(b) All information contained in any report transmitted under this section shall be public information. However, in the case of any item of information to be included in any such report that the President, on an extraordinary basis, determines is clearly detrimental to the security of the United States, he shall explain in a supplemental report why publication of each specific item would be detrimental to the security of the United States. A supplement to any report shall be transmitted to the Congress at the same time that the report is transmitted.

(c) If the Congress is not in session at the time a report or supplement is transmitted to the Congress; the Secretary of the Senate and the Clerk of the House of Representatives shall accept the report or supplement on behalf of their respective Houses of Congress and present the report or supplement to the two Houses immediately upon their convening.

(d) For purposes of this section—

(1) "foreign assistance" means any tangible or intangible item provided by the United States Government under this or any other law to a foreign country or international organization, including, but not limited to, any training, service, or technical advice, any item of real, personal, or mixed property, any agricultural commodity, United States dollars, and any currencies owned by the United States Government of any foreign country;

(2) "provided by the United States Government" includes, but is not limited to, foreign assistance provided by means of gift, loan, sale, credit sale, or guaranty; and

(3) "value" means value at the time of transfer except that in no case shall any commodity or article of equipment or material be considered to have a value less than one-third of the amount the United States Government paid at the time the commodity or article was acquired by the United States Government.

QUARTERLY REPORTS

SEC. 3302. Commencing with the fiscal year which begins July 1, 1973, the Secretary of State shall transmit to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate, within 30 days after the end of each quarter of each fiscal year, a written report with respect to such quarter on—

(1)(A) sales, credit sales, and guaranties made to or on behalf of each foreign country under chapter 11 of this Act, giving in detail each country to or on whose behalf such sales, credit sales, and guaranties were extended, and the terms and conditions of such sales, credit sales, and guaranties (including the guaranty fee and the person extending the credit so guaranteed), (B) forecasts of sales, credit sales, and guaranties to that foreign country for the remainder of the fiscal year in which the report is transmited and the next suceeding fiscal year, and (C) the balance remaining to be paid by that country on each loan made or guaranteed under such chapter;

(2) the total value for each foreign country of all deliveries of excess defense articles, including a specification for each country of the aggregate original acquisition costs and the aggregate value at time of delivery of such articles;

(3) the total value of all defense articles and defense services provided each foreign country under this Act or any other provision of law, specifying separately for each such country (A) the total value of defense articles and the total value of defense services provided that country, and (B) each provision and the toal value furnished under each such provision; and

(4)(A) the number of United Sates Government personnel detailed or assigned to each military assistance advisory group, military mission, or other organization of the United States Government in each foreign country performing activities similar to any such group or mission, (B) the number of such personnel detailed or assigned to the Chief of the United States Diplomatic Mission to that country performing primarily

military advisory duties, (C) the number of such personnel so detailed or assigned to each such group, mission, organization, and diplomatic mission on the first day of the fiscal year with respect to which such report pertains, and (D) the number of such personnel so detailed or assigned to each such group, mission, organization, or diplomatic mission on the last of the quarter of the fiscal year with respect to which that report pertains.

PRESIDENTIAL FINDINGS AND DETERMINATIONS

SEC. 3303. (a) In any case in which the President is required to make a report to the Congress, or to any committee or officer of either House of Congress, concerning any finding or determination under any provision of this Act, the International Development Act, or the Foreign Assistance and Related Programs Appropriations Act for each fiscal year, that finding or determination shall be reduced to writing and signed by the President.

(b) No action shall be taken pursuant to any such finding or determination prior to the date on which that finding or determination has been reduced to writing and signed by the President.

(c) Each such finding or determination shall be published in the Federal Register as soon as practicable after it has been reduced to writing and signed by the President. In any case in which the President concludes that such publication would be harmful to the national security of the United States, only a statement that a determination or finding has been made by the President, including the name and section of the Act under which it was made, shall be published.

(d) No committee or officer of either House of Congress shall be denied any requested information relating to any finding or determination which the President is required to report to the Congress, or to any committee or officer of either House of Congress, under any provision of this Act, the International Development Act, or the Foreign Assistance and Related Programs Appropriation Act for each fiscal year, even though such report has not yet been transmitted to the appropriate committee or officer of either House of Congress.

Chapter 35.—Effective Date; Repeals; Technical Provisions

EFFECTIVE DATE

SEC. 3501. This Act is effective July 1, 1973.

LAWS REPEALED

SEC. 3502. (a) The following provisions of law are repealed:

(1) part II of the Foreign Assistance Act of 1961;

(2) sections 634, 650, 654, and 657 of the Foreign Assistance Act of 1961;

(3) the Foreign Military Sales Act;

(4) the Act entitled "An Act to amend the Foreign Military Sales Act, and for other purposes", approved January 12, 1971, as amended (except section 12);

(5) the Special Foreign Assistance Act of 1971 (except section 7); and

(6) section 712 of title 10, United States Code.

(b) Any amounts in the separate fund account established under section 524 of the Foreign Assistance Act of 1961, and any amounts that would have been paid into such fund but for the repeal of such section, shall be covered into the Treasury as miscellaneous receipts. There are authorized to be appropriated such sums as may be necessary to pay liabilities incurred by the United States in providing military assistance on credit and guaranty terms under part II of the Foreign Assistance Act of 1961.

(c) References in law to the Acts, or provisions of such Acts, repealed by subsection (a) of this section shall hereafter be deemed to be references to this Act or appropriate provisions of this Act.

(d) The repeal of the Acts listed in subsection (a) of this section shall not be deemed to affect amendments contained in such Acts not named in that subsection.

SAVINGS PROVISIONS

SEC. 3503. (a) Except as may be expressly provided to the contrary in this Act, all determinations, authorizations, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of any provision of law repealed by section 3502 of this Act shall continue in full force and effect until modified by appropriate authority.

(b) Wherever provisions of this Act establish conditions which must be complied with before use may be made of authority contained in, or funds authorized by, this Act, compliance with, or satisfaction of, substantially similar conditions under Acts listed in section 3502 of this Act or Acts repealed by those Acts shall be deemed to constitute compliance with the conditions established by this Act.

(c) Funds made available pursuant to provisions of law repealed by section 3502 of this Act shall, unless otherwise authorized or provided by law, remain available for their original purposes in accordance with the provision of law originally applicable thereto, or in accordance with the provisions of law currently applicable to those purposes.

STATUTORY CONSTRUCTION

SEC. 3504. (a) If any provision of this Act, or the application of any provision to any circumstances or persons shall be held invalid, the validity of the remainder of this Act, and the applicability of such provision to other circumstances or persons shall not be affected thereby.

(b) No provision of this Act shall be construed as modifying in any way the provisions of the Atomic Energy Act of 1954, as amended, or section 7307 of title 10, United States Code.

COMPARATIVE TABLE ON MILITARY ASSISTANCE AND RELATED PROGRAMS

[In millions of dollars]

Program and country	Fiscal year 1974 budget request	Proposed bill
I. Military grant assistance:		
1. South Korea		110
2. Turkey		46
3. Thailand		31
4. Jordan		27
5. Philippines		12
6. Indonesia		12
7. Ethiopia		7
8. Spain		5
Total military grants	685	250
II. Military training (included above)		25
III. Military credit sales	525	200
1. Credit sales ceiling	(760)	(700)
(a) Earmarked for Israel		300
IV. Supporting assistance:		
1. Israel		50
2. Jordan		50
3. Thailand		7
4. Spain		3
Total supporting assistance	732	80
Total, all programs	1,842	535
Less expected owings from currency payments		125+
Total		410

Note.—Net reduction from the fiscal year 1974 budget request=$1,512,000,000.

FOREIGN MILITARY SALES AND ASSISTANCE ACT, SECTION-BY-SECTION ANALYSIS

PART I.—GENERAL PROVISIONS—CHAPTER 1.—COORDINATION; DEFINITIONS; CERTAIN AUTHORIZATIONS; ELIGIBILITY

Section 101. Coordination

Subsection (a) assigns to the Secretary of State the responsibility for direction and continuous supervision of operations carried out under the Act. The Secretary shall be responsible, among other things, for determining whether sales shall be made or assistance provided to a country under the Act and the amount of the sale or assistance.

Subsection (b) directs the President to prescribe procedures to assure effective direction and control by the Chief of the U.S. diplomatic mission in each country concerning all activities and programs within that country carried out under the new Act. The chief of mission shall be responsible for submission of all recommendations pertaining to programs under the Act.

Section 102. Definitions

Section 102 defines certain terms used in the Act.

(1) "agency of the United States Government" includes any agency, department, board, wholly or partly owned corporation, instrumentality, commission, or establishment of the United States Government;

(2) "armed forces" of the United States means the Army, Navy, Air Force, Marine Corps, and Coast Guard;

(3) "commodity" includes any material, article, supply, goods, or equipment furnished for nonmilitary purposes;

(4) "defense article" includes—

(A) any weapon, weapons system, munition, aircraft, vessel, boat, or other implement of war;

(B) any property, installation, commodity, material equipment supply, or goods furnished for military purposes;

(C) any machinery, facility, tool, material, supply, or other item necessary for the manufacture, production, processing, repair, servicing, storage, construction, transportation, operation, or use of any article listed in the subsection; or

(D) any component or part of any article listed in the subsection; but does not include merchant vessels or, as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011), source material, byproduct material, special nuclear material, production facilities, utilization facilities, or atomic weapons or articles involving restricted data;

(5) "defense information" includes any document, writing, sketch, photograph, plan, model, specification, design, prototype, or other recorded or oral information relating to any defense article or defense service, but does not include restricted data as defined by the Atomic Energy Act of 1954, as amended, and data removed from the restricted data category under section 142d of that Act;

(6) "defense service" includes military training, and any service, test, inspection, repair, publication, or technical or other assistance, or defense information furnished for military purposes;

(7) "excess defense articles" mean the quantity of defense articles owned by the United States Government, and not procured in anticipation of military assistance or sales requirements, or pursuant to a military assistance or sales order, which are excess to the needs of the Department of Defense for other than military assistance purposes at the time such articles are dropped from inventory by the supplying agency for delivery to countries or international organizations under this Act;

(8) "function" includes any duty, obligation, power, authority, responsibility, right, privilege, discretion, or activity;

(9) "military training" includes formal or informal instruction, for military purposes, of foreign students by officers or employees of the United States, contract technicians, contractors (including instruction at civilian institutions), or by correspondence courses, technical, educational, or information publications and media of all kinds, training aid, orientation, training exercise, and military advice to foreign military units and forces;

(10) "officer or employee" means civilian personnel and members of the Armed Forces of the United States Government;

(11) "Services" include any service, repair, training of personnel, or personnel, or technical or other assistance or information furnished for nonmilitary purposes;

(12) "surplus agricultural commodity" means any agricultural commodity or product thereof, class, kind, type, or other specification thereof, produced in the United States, either publicly or privately owned, which is in excess of domestic requirements, adequate carry-over, and anticipated exports for United States dollars, as determined by the Secretary of Agriculture; and

(13, "value" means—

(A) with respect to an excess defense article, the actual value of the article, but not less than 33⅓ per cent of the acquisition cost of the article;

(B) with respect to a nonexcess defense article delivered from inventory to foreign countries or international organizations under this Act, the acquisition cost to the United States Government, adjusted as appropriate for condition and market value, plus a proportional share of the administrative expenses incurred by the United States Government in supplying such article;

(C) with respect to a nonexcess defense article delivered from new procurement to foreign countries or international organizations under this Act, the contract or production costs of such article plus a proportional share of the administrative expenses incurred by the United States Government, in supplying such article; and

(D) with respect to a defense service, the cost to the United States Government of such service plus a proportional share of the administrative expenses incurred by the United States in providing that service.

Section 103. Prior authorization

This section is designed to insure that appropriations for programs under the Act cannot be spent unless a valid authorization exists. Thus, its purpose is to preserve the integrity of the regular authorization process. It is practically identical to Section 10 of Public Law 91-672, initiated in 1970 by the Committee on Foreign Relations.

Section 104. Authorizations for Laos and South Vietnam

This provision requires that after June 30, 1973, any military or supporting assistance or military sales to Laos or South Vietnam must be made pursuant to the authority of this Act. Military aid and suporting assistance to Thailand is now provided under authority of the Foreign Assistance Act of 1961, as amended. Military Assistance to South Vietnam has been funded through the Department of Defense since 1966 and for Laos since 1967. This provision will insure that funding of military aid and supporting assistance to these countries is treated on the same basis as aid to any other country. This section would not affect obligations made prior to July 1, 1973.

Section 105. Eligibility

This section states conditions of eligibility which foreign countries must agree to before any defense articles can be provided. Some are taken from existing law, others are new requirements.

Subsection (a) (1) requires the foreign countries to agree that it will not, without the consent of the President—

(A) permit anyone who is not an officer, employee or agent of the country to use this article;

(B) transfer, or permit the transfer of the article by gift, sale or otherwise; or

(C) Use or permit the use of the article for purposes other than those for which furnished. Subsection (A) (2) requires the recipient foreign country to provide substantially the same degree of security for defense articles furnished as the United States would provide.

Subsection (B) requires the President to refuse a request for a transfer to another country of a defense article of U.S. origin unless under current U.S. policy the article would be provided by the United States. It also requires the President to give prior notice to the Speaker of the House and the Senate Committee on Foreign Relations of his intention to consent to a request for transfer of material of U.S. origin to a third country and to provide appropriate details of the arrangement.

Subsection (C) requires that, before the President approves a proposed transfer of any implement of war that he require that either the item be made unsuitable for further military use or that the transferring country obtain a commitment to the U.S. in writing that it will not transfer the article to another country without the consent of the President.

PART II.—MILITARY SALES, CREDIT SALES, AND GUARANTEES—CHAPTER 11.—AUTHORIZATIONS

Section 1101. Reduction in Government participation

This section states the objective of returning U.S. arms sales transactions to commercial channels. A basic purpose of this act is to get the U.S. Government out of the arms sales business and return such transactions to commercial channels.

Section 1102. Cash sales from stocks

This section is basically the same as section 21 of the Foreign Military Sales Act, as amended.

It authorizes the President to sell defense articles from the stocks of the Department of Defense and defense services of the Department of Defense to any foreign country or international organization agrees to pay not less than the value thereof in United States dollars. Payment is to be made in advance or, as determined by the President to be in the best interests of the United States, within a reasonable period not to exceed one hundred and twenty days after the delivery of the defense articles or the rendering of the defense services.

Section 1103. Procurement for cash sales

This section is based on section 22 of the Foreign Military Sales Act, as amended.

Subsection (a) authorizes the President to enter into contracts for the procurement of defense articles or defense services for sale for dollars to any foreign country or international organization if the country or international organization provides the United States Government with a dependable undertaking (1) to pay the full amount of the contract which will assure the United States Government against any loss on the contract, (2) to make funds available in amounts and at times as may be required by the contract, and any damages and costs that may accrue from the cancellation of the contract, in advance of the time the payments, damages, or costs are due, and (3) to pay the United States Government an amount equal to the administrative costs incurred by the Government in procuring such defense articles and defense services under this section.

The principal changes from existing law are a specific requirement that the arrangements provide for payment by the foreign country of a pro rata base of the administrative expense for the sales program and repeal of a provision which allowed fixed price contracts with foreign countries which could result in losses to American taxpayers.

Subsection (b) is based on the first proviso to section 22 of the Foreign Military Sales Act, as amended.

When the President determines it to be in the national interest he may accept a dependable undertaking of a foreign country or international organization with respect to a sale, to make full payment within one hundred and twenty days after delivery of the defense articles, or the rendering of the defense services. Appropriations available to the Department of Defense may be used to meet the payments required by the contracts for the procurement of defense articles and defense services and shall be reimbursed by the amounts later received from the country or international organization to whom articles or services are sold.

Subsection (c) is designed to implement section 1101 by emphasizing that commercial sources for arms and equipment should be used whenever possible, thus minimizing the U.S. government's role in the sale of such material to foreign countries. It provides that sales of defense articles shall not be made to the government of any economically developed country under the provisions of section 1103 unless the articles are not generally available to the purchasing country from commercial sources in the United States.

Section 1104. Credit sales

Section 1103 authorizes the U.S. government to finance the sale of defense articles and defense services to less developed countries and international organizations through direct credit arrangements. Subsection (a) (1) establishes a maximum repayment period of ten years after delivery, the maximum allowed under existing law.

Subsection (a) (2) requires that the interest rate charged on the unpaid balance be not less than the rate charged by the Export-Import Bank for loans of comparable maturity to finance procurement of military materials or services, or the current rate for long term Treasury borrowings, whichever is greater.

Subsection (b) authorizes concessional terms for financing sales of defense articles and services to foreign countries for which military grant aid is being phased out under Chapter 21.

Under subsection (b) (1) a foreign country which received military grant aid in fiscal year 1973 is eligible for financing of credit sales in FY 1974 and FY 1975 without payment of interest and it may repay the loan in its own currency. The amount that can be financed under these concessional terms is limited in each of the two years to not more than the country received in military grant assistance, other than military training, in FY 1973.

Subsection (b) (2) authorizes other concessional lending terms for the grant phase-out countries during the following three fiscal years, from July 1, 1975 through June 30, 1978. For each year during this period credit can be extended to the limited list of phase-out countries, to the extent it received military grant assistance (other than training) during FY 1973. Repayment can be made in the currency of the country, if needed to meet U.S. local currency expenses in the country and finance educational and cultural exchange activities, and interest can be as low as 3 percent, also payable in local currency.

Section 1105. Guaranties

This section is based on section 24 of the Foreign Military Sales Act, as amended and continues the authority for the President to guaranty commercial loans to foreign countries for purchase of defense articles or defense services. Guaranties may be issued to any individual, corporation, partnership, or other juridical entity doing business in the United States (excluding United States Government agencies) against political and credit risks of nonpayment arising out of their financing of credit sales of defense articles and defense service to foreign countries and international organizations. The guaranty authority shall be used wherever possible instead of providing direct credit, in order to minimize outlays by the United States Government. Fees shall be charged for such guaranties.

Subsection (b) is also taken from existing law. It authorizes the President to sell to any individual, corporation, partnership, or other juridical entity (excluding United States Government agencies) promissory notes issued by foreign countries and international organizations as evidence of their obligations to make repayments to the United States on account of credit sales financed under section 1104 and may guarantee payment of the notes.

Subsection (c) provides for a guaranty reserve for promissory notes guaranteed under this section. It is also based on existing law. Twenty-five percent of the contractual liability related to any guaranty issued under this section shall be obligated and set aside in a reserve account for the payment of any claims that may be made under the guaranties. Any funds in the reserve account which are deobligated during any current fiscal year, as in excess of the amount necessary to maintain a fractional reserve of 25 per centum of the contractual liability under outstanding guaranties, must be transferred to the general fund of the Treasury. Guaranties issued under the Act shall be backed by the full faith and credit of the United States.

Section 1106. Authorization of appropriations

Section 1106 authorizes the appropriation to the Secretary of State in FY 1974 of $200,000,000 to finance sales and guaranties under the new Act. Through use of the guaranty authority this amount is more than sufficient to finance the full $700,000,000 in credit and guaranties allowed under the ceiling established by section 1301.

CHAPTER 13.—CEILINGS

Section 1301. Aggregate ceilings

Section 1301 establishes a ceiling for FY 1974 of $700,000,000 on the aggregate total of credits, or participations in credits (excluding credits covered by guaranties issued under section 1105(b) of this Act), the face amount of guaranties issued under section 1105 (a) and (b), and the amount of assistance extended by the Export-Import Bank on military sales to less developed countries. Of that amount, not less than $300,000,000 shall be available to Israel only, consistent with Congressional action over the last two years.

Section 1302. Regional ceilings

Latin America

Subsection (a) establishes an annual ceiling of $150,000,000 on the amount of U.S. government military assistance grants, credit sales, guaranties of credits, and the value of vessels or boats that can be provided to the Nations of Latin America, excluding grants for training. There is a ceiling of $100,000,000 under existing law which the President can waive, to increase to a maximum of $150,000,000. Neither existing law or the new provision restrict the amount of sales that may be made to Latin American countries through commercial channels.

Subsection (b) is a comparable ceiling on African countries and is the same amount in existing law.

CHAPTER 15.—ADMINISTRATIVE AND FISCAL PROVISIONS

Section 1501. Payments received

Section 1501 parallels provisions of existing law, section 37 of the Foreign Military Sales Act, as amended. Cash payments received under sections 1102 and 1103 and advances received under section 1104 shall be available solely for payments to suppliers (including the military departments) and refunds to purchasers and shall not be available for financing credits and guaranties.

Amounts received from foreign governments and international organizations as repayments for credits extended under section 1104, amounts received from the disposition of instruments evidencing indebtedness, and other collections (including fees and interest) shall be transferred to the miscellaneous receipts of the Treasury.

Section 1502. Credit standards

This section provides that the President shall establish standards and criteria for credit and guaranty transactions under sections 1104 and 1105 of this Act.

PART III.—MILITARY ASSISTANCE—CHAPTER 21.—MILITARY GRANT ASSISTANCE

Section 2101. General authority

This section provides the authority for the President to furnish military grant assistance to foreign countries during this two year phase-out period. The section is a modification of section 503 of the Foreign Assistance Act of 1961 as amended, which is being repealed.

The President is authorized to furnish military grant assistance to any foreign country which is otherwise eligible to receive such assistance, by—

(1) acquiring from any source and providing any defense article or defense service (other than military training); and

(2) assigning or detailing members of the Armed Forces of the United States and other personnel of the Department of Defense to U.S. missions in foreign countries to perform duties of a noncombatant nature in carrying out duties (other than military training) in carrying out the provisions of the Act.

Section 2102.—Termination of authority

This section requires the President to phase-out the grant military assistance program so that by not later than June 30, 1975, no additional grant-assistance shall be provided. However, deliveries could continue to be made after that date on military grant aid for which obligations were made prior to the cutoff date.

Section 2103.—Authorization of appropriations

Section 2103 authorizes the appropriation to the Secretary of State of $250,000,000 for FY 1974. That amount is to be distributed as follows:

Republic of Korea	$110,000,000
Turkey	46,000,000
Thailand	31,000,000
Jordan	27,000,000
Philippines	12,000,000
Indonesia	$12,000,000
Ethiopia	7,000,000
Spain	5,000,000
	250,000,000

No military asisstance is authorized for South Vietnam, Laos, or Cambodia. Military aid to these countries must be considered, not in isolation, but only within the context of proposals for reconstruction or other economic assistance for Indochina.

Section 2104.—Conditions of eligibility

Section 2104 imposes conditions of eligibility on recipients of grant military assistance, in addition to those imposed under section 105. In addition to such other provisions as the President may require, no defense article shall be furnished to any foreign country under the grant program unless that country agrees that—

(1) it will permit continuous observation and review by, and furnish necessary information to, representatives of the United States Government with regard to the use of any such article;

(2) unless the President consents to other disposition, it will return to the United States Government for the articles which are no longer needed; and

(3) any funds received by a country in disposing of any weapon, weapons system, munition, aircraft, military boat, military vessel, or other implement of war received under this chapter, will be paid to the United States Government and shall be available to pay all official local currency costs of the United States Government, including all costs of international educational and cultural exchange activities in that country under the programs authorized by the Mutual Educational and Cultural Exchange Act of 1961.

Subsection (b) provides that any foreign country which uses defense articles or defense services furnished to that country under this Act, the Mutual Security Act of 1954, as amended, or any predecessor foreign assistance Act, in substantial violation of the provisions of this chapter or any agreements entered into under any of such Acts shall be ineligible for further assistance.

Section 2105. Excess defense articles

Subsection (a) provides that the value of any excess defense article furnished to a foreign country or international organization by an agency of the United States Government shall be considered to be an expenditure made from military grant assistance funds appropriated under the Act. Unless the agency certifies to the Comptroller General of the United States that the excess defense article it is ordering is not to be transferred to a foreign country or international organization, when an order is placed for a defense article whose stock status is excess at the time ordered, a sum equal to the value thereof shall (1) be reserved and transferred to a suspense account, (2) remain in the suspense account until the excess defense article is either delivered to a foreign country or international organization or the order therefor is cancelled, and (3) be transferred from the suspense account to (A) the general fund of the Treasury upon delivery of such article, or (B) to the appropriation made under section 2103 for the current fiscal year upon cancellation of the order. Such sum shall be transferred to the appropriation made under section 2103 of this Act for the current fiscal year, upon delivery of such article, if at the time of delivery the stock status of the article is determined, in accordance with section 102(7) and (13) of this Act to be nonexcess.

Excess defense articles shall be provided whenever possible rather than providing such articles by the procurement of new items.

Section 2106. Special military grant assistance accounts

This section requires that a recipient of grant military assistance shall agree that—

(1) to deposit in a special account established by the United States the following amounts of currency of that country:

(A) in the case of any excess defense article to be given to the country, an amount equal to fifty percent of the fair value of the article, as determined by the Secretary of State, at the time the agreement to give the article to the country is made; and

(B) in the case of a grant of military assistance to be made to the country, an amount equal to fifty per cent of each such grant; and

(2) to allow the United States Government to use funds from the special account to pay all official costs of the United States Government payable in the currency of the country, including all costs relating to the financing of international educational and cultural exchange activities in which that country participates under the programs authorized by the Mutual Educational and Cultural Exchange Act of 1961.

Subsection (b) is an exemption from the foreign currency payment requirement under (a) for any case in which military grant assistance is furnished to a country under an agreement with which allows the United States Government to operate a military or other similar base in that country in exchange for grant assistance, if the Senate has given its advice and consent to the base agreement.

Subsection (c) provides a mechanism for combining the foreign currency accounts required under this section with that required for payments for training assistance under Section 2303.

Section 2107. Military assistance information

Section 2107 is designed to insure the full public disclosure of information concerning the Grant Military Assistance Program.

It requires that the record showing the name of any foreign country or international organization and the amount of military assistance to be provided, or that has been provided, by the United States to such country or organization for any fiscal year under this or any other law shall be made available to the public.

Section 2108. Special military assistance report

Section 2108 states that not later than January 31, 1974, the President shall transmit to Congress a report on all military assistance agreements with foreign countries which are in effect as of December 31, 1973. That report shall list the agreements which the President believes should be continued beyond the date grant assistance is to be terminated under the provisions of this chapter and include a detailed justification for continuing each agreement which, in his judgment, should be continued.

Section 2109. Repeal of military grant assistance authority

Section 2109 repeals the portions of this bill relative to military grant assistance effective July 1, 1975. Any special account of a foreign country established under Section 2106 of this bill shall continue in existence until the currencies in the account are expended for the purposes specified in Section 2106, except that if a special account is established for that country under Section 2303 of this Act, the currencies shall be transferred to and consolidated with the currencies in the account established under Section 2303. The special account of the country established under this section shall then be closed.

CHAPTER 23.—MILITARY TRAINING

Section 2301. General authority

This section authorizes the President to furnish military training to any foreign country or international organization. After June 30, 1974, no such training shall be conducted outside the United States except by specific authorization of law.

Section 2302. Authorization of appropriations

This section authorizes the appropriation of $25,000,000 for FY 1974 for foreign military training purposes.

Section 2303. Special military training accounts

Section 2303 is comparable to Section 2106. Subsection 2303(a) requires that in order to be eligible to receive training assistance, a country must agree—

(1) to deposit in a special account established by the United States Government its currency equal to 25 per cent of the cost of the military training furnished; and

(2) to allow the United States Government to use funds from that account as necessary to pay all official costs of the United States Government payable in the currency of the country, including all costs relating to the financing of international educational and cultural exchange activities in which the country participates under the programs authorized by the Mutual Educational and Cultural Exchange Act of 1961.

Subsection (b) exempts from the foreign currency payment for training any case in which military training is furnished to a foreign country under an agreement which allows the United States Government to operate a military or other similar base in that country in exchange for the training, if the Senate has given its advice and consent to the agreement.

Section 2304. Restriction on foreign military training students

Section 2304 restricts the number of foreign military students to be trained in the United States in any fiscal year to not more than the number of foreign civilians brought to the United States under the Mutual Educational and Cultural Exchange Act of 1961 in the preceding fiscal year.

CHAPTER 25.—MILITARY ASSISTANCE ADVISORY GROUPS AND MISSIONS

Section 2501. Transfer of functions

Subsection (a) phases out military missions and groups by not later than June 30, 1975. By that date all the functions of military assistance advisory groups or other organizations of the United States Government performing similar activities in a foreign country shall be transferred to the Chief of the United States Diplomatic Mission to the country.

Subsection (b) limits the number of military attaches that can be assigned to a U.S. diplomatic mission. It provides that on and after July 1, 1973, the total number of military attaches assigned to the United States diplomatic mission shall not exceed by 25 per cent the total number of military attaches authorized to be assigned to that mission on June 30, 1973.

Section 2502. Authorizing military assistance advisory groups and missions

This section requires that on and after July 1, 1975, no military assistance advisory group, military mission, or other organization of the United States Government in a foreign country shall be established or continued unless the group, mission, or organization is authorized by law specifically for that country and the country agrees to pay the entire costs for the operation of the group or mission.

CHAPTER 27. SUPPORTING ASSISTANCE

Section 2701. General authority

This section provides the general authority for the President to provide supporting assistance to foreign countries in cases in which important security intererts of the United States are involved.

Section 2702. Authorization of appropriations

Subsection (a) authorizes the appropriation to the Secretary of State of $80,000,000 for FY 1974 for supporting assistance to be distributed as follows:

Israel	$50,000,000
Jordan	20,000,000
Thailand	7,000,000
Spain	3,000,000
Total	80,000,000

No supporting assistance is authorized for South Vietnam, Laos, or Cambodia. This type of assistance for these countries should be considered only in the context of comprehensive proposals for relief and rehabilitation in Indochina.

Subsection (b) prohibits funding of public safety programs through this or any other act.

PART IV.—MISCELLANEOUS PROVISIONS—CHAPTER 31.—GENERAL LIMITATIONS

Section 3101. Transfers of vessels and boats

This section prohibits the sale, loan, lease, or other transfer of any vessel or boat of the United States Government (including, but not limited to, any battleship, aircraft carrier, cruiser, destroyer, or submarine) to a foreign country or international organization except under the provisions of this Act.

Sec. 3102. Use of United States Armed Forces

This section states that the making of any sale, credit sale, or guaranty, or the furnishing of any assistance, under the Act shall not be construed as creating a new commitment or as affecting any existing commitment to use Armed Forces of the United States for the defense of any foreign country.

This provision is a restatement of Section 650 of the Foreign Assistance Act of 1961, as amended.

Section 3103. Failure to provide requested information

Section 3103 requires that information concerning the programs carried out under this Act be provided, upon request, to appropriate committees of Congress or the General Accounting Office or funds for the program or activity involved will be cut off. It is a modification of Section 634(c) of the Foreign Assistance Act of 1961, as amended. Its purpose is to insure that Congress has available to it, from the Executive Branch, sufficient information on which to make rational judgments concerning the funding and operation of programs under the Act.

Specifically, it requires that no funds appropriated under the Act shall be available after the expiration of a 35-day period which begins on the date the General Accounting Office or a committee of the Congress charged with considering legislation, appropriations or expenditures under this Act has delivered to the office of the head of any agency carrying out that provision a written request that it be furnished any document or other material in its custody or control relating to programs under the Act until there has been furnished to the Committee on the General Accounting Office the document or other material so requested.

Section 3104. Procurement

Section 3104 is adopted from the existing provisions of the Foreign Assistance Act of 1961, as amended, pertaining to procurements.

Subsection (a) provides that funds made available may be used for procurement outside the United States only if the President determines that such procurement will not result in adverse effects upon the economy of the United States or the industrial mobilization base, with special reference to any areas of labor surplus or to the net position of the United States in its balance of payments with the rest of the world, which outweigh the economic or other advantages to the United States of less costly procurement outside the United States, and only if the price of any commodity procured in bulk is lower than the market price prevailing in the United States at the time of procurement, adjusted for differences in the cost of transportation to destination, quality, and terms of payment.

Subsection (b) provides that no funds made available under the Act shall be used for the purchase in bulk of any commodities at prices higher than the market price prevailing in the United States at the time of purchase, adjusted for differences in the cost of transportation to destination, quality, and terms of payment.

Subsection (c) states that in providing for the procurement of any agricultural commodity or product available for disposition under the Agricultural Trade Development and Assistance Act of 1954, as amended, for transfer by grant under the new act to any recipient country in accordance with its requirements, the President shall, insofar as practicable, authorize the procurement of the commodity only within the United States except to the extent that the commodity is not available in the United States in sufficient quantities to supply emergency requirements of recipients under this Act.

Subsection (d) relates to marine insurance. In providing assistance in the procurement of commodities in the United States, dollars shall be made available for marine insurance on such commodities where such insurance is placed on a competitive basis in accordance with normal trade practice prevailing prior to the outbreak of World War II, except that in the event a participating country, by statute, decree, rule, or regulation, discriminates against any marine insurance company authorized to do business in any State of the United States,

then commodities purchased with funds provided hereunder and destined for such country shall be insured in the United States against marine risk with a company or companies authorized to do a marine insurance business in any State of the United States.

Subsection (e) states that no funds under the act shall be used for the procurement of agricultural commodities or outside the United States when the domestic price of the commodity is less than parity.

Under subsection (f) the President is required to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars. Dollar funds made available under the act shall not be expended for goods and services when United States-owned foreign currencies are available for such purposes unless the administrative official approving the voucher certifies as to the reason for the use of dollars in each case. The President is also required to take all appropriate steps to assure that, to the maximum extent possible, countries receiving assistance under the act contribute local currencies to meet the cost of contractual and other services rendered in conjunction with that assistance.

Sec. 3105. Small business

Section 3105 is based on Section 602 of the Foreign Assistance Act of 1961, as amended. It provides that, insofar as practicable, the President shall assist American small business to participate equitably in the furnishing of commodities, defense articles, and services (including defense services) financed with funds appropriated under the act by causing to be made available to suppliers in the United States, and particularly to small independent enterprises, information, as far in advance as possible, with respect to purchases proposed to be financed with these funds.

Section 3106. Shipping on U.S. vessels

Section 3106 continues the provision now contained in Section 603 of the Foreign Assistance Act of 1961 as amended. It provides that ocean transportation between foreign countries of commodities and defense articles purchased with foreign currencies made available or derived from funds made available under this act or the Agricultural Trade Development and Assistance Act of 1954, as amended, shall not be governed by the provisions of section 901(b) of the Merchant Marine Act of 1936, as amended, or any other law relating to the ocean transportation of commodities on United States flag vessels.

Section 3107. Termination of assistance

This section provides that assistance (including sales) provided under the act, may be terminated by concurrent resolution of Congress. It is based on Section 617 of the Foreign Assistance Act of 1961, as amended.

Section 3108. Public Law 480

This section amends section 104(c) of the Agricultural Trade Development and Assistance Act of 1954, as amended, by requiring specific authorization, by law, of any agreement with a foreign country concerning grants for military purposes of foreign currencies accruing to the United States under Title I of that act.

CHAPTER 33.—REPORTS AND INFORMATION

Section 3301. Annual Foreign Assistance Report

Section 3301 requires a comprehensive annual report on foreign assistance and related transactions. It is derived from Section 657 of the Foreign Assistance Act of 1961, as amended, and Section 36 of the Foreign Military Sales Act. The President is required to transmit to Congress by December 31, an annual report, for the prior fiscal year showing—

(1) the aggregate dollar value of all foreign assistance provided by the United States Government to all foreign countries and international organizations, and the aggregate dollar value of that assistance by category provided by the United States Government to each country and organization, during the fiscal year;

(2) the total amounts of foreign currency paid by each foreign country or international organization to the United States Government in the fiscal year, what each payment was made for, whether any portion of the payment was returned by the United States Government to the country or organization from which the payment was obtained or whether any portion was transferred by the United States Government to another foreign country or international organization and, if so, the kind of assistance obtained by the country or organization with the foreign currencies and the dollar value of the assistance;

(3) the aggregate dollar value of all weapons, weapons systems, munitions, aircraft, military boats, military vessels, and other implements of war, and the aggregate dollar value of each category of the implements of war, exported under any export license, to all foreign countries and international organizations, and to each country and organization, during the fiscal year;

(4) all exports of significant defense articles on the United States munitions list to any foreign government, international organization, or other foreign recipient or purchaser, by the United States under this act or any other authority, or by any individual, corporation, partnership, or other association doing business in the United States, including but not limited to, full information as to the particular defense articles exported, the particular recipient or purchaser, the terms of the export, including its selling price, if any, and any other information appropriate to enable the Congress to evaluate the distribution of United States defense articles abroad; and

(5) any other matters relating to foreign assistance provided by the United States Government as the President considers appropriate, including explanations of the information required under clauses (1) to (3) of the subsection.

Subsection (b) requires that all information contained in the report transmitted pursuant to this section shall be public information. However, if the President determines that it is clearly detrimental to the security of the United States, he shall explain in a supplemental report why publication of each specific item would be detrimental to the security of the United States. A supplement to the annual report shall be transmitted to the Congress at the same time that the report is transmitted.

Subsection (c) states that if the Congress is not in session at the time a report or supplement is transmitted to the Congress, the Secretary of the Senate and the Clerk of the House of Representatives shall accept the report or supplement on behalf of their respective Houses of Congress and present the report or supplement to the two Houses immediately upon their convening.

Subsection (d) defines terms used in the section.

Section 3302. Quarterly reports

Section 3302 is a quarterly reporting requirement. Commencing July 1, 1973, the Secretary of State shall transmit to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate, within 30 days after the end of each quarter, a written report with respect to that quarter on—

(1) (A) sales, credit sales, and guaranties made to or on behalf of each foreign country under chapter 11 of the Act, giving in detail each country to or on whose behalf the sales, credit sales, and guaranties were extended, and the terms and conditions of such sales, credit sales, and guaranties (including the guaranty fee and the person extending the credit so guaranteed), (B) forecasts of sales, credit sales, and guaranties to that foreign country for the remainder of the fiscal year in which the report is transmitted and the next succeeding fiscal year, and (C) the balance remaining to be paid by that country on each loan made or guaranteed under such chapter;

(2) the total value for each foreign country of all deliveries of excess defense articles, including a specification for each country of the aggregate original acquisition costs and the aggregate value at time of delivery of such articles;

(3) the total value of all defense articles and defense services provided each foreign country under this Act or any other provision of law, specifying separately for each such country (A) the total value of defense articles and the total value of defense services provided that country, and (B) each provision of law under which such articles and services are provided and the total value furnished under each provision;

(4) (A) the number of United States Government personnel detailed or assigned to each military assistance advisory group, military mission, or other organization of the United States Government in each foreign country performing activities similar to any such group or mission (B) the number of personnel detailed or assigned to the Chief of the United States Diplomatic Mission to that country performing primarily military advisory duties, (C) the number of personnel so detailed or assigned to each group, mission, organization, and diplomatic mission on the first day of the fiscal year with respect to which the report pertains, and (D) the number of personnel so detailed or assigned to each group, mission, organization, diplomatic mission on the last of the quarter of the fiscal year with respect to which that report pertains.

Section 3303. Presidential findings and determinations

Section 3303 is based on section 654 of the Foreign Assistance Act of 1961, as amended.

Subsection (a) provides that in any case in which the President is required to make a report to the Congress, or to any committee or officer of either House of Congress, concerning any finding or determination under any provision of this act, the International Development Act, or the Foreign Assistance and Related Programs Appropriations Act for each fiscal year, the finding or determination shall be reduced to writing and signed by the President.

Subsection (b) requires that no action shall be taken pursuant to any finding or determination prior to the date on which the finding or determination has been reduced to writing and signed by the President.

Under Subsection (c) each finding or determination must be published in the Federal Register as soon as practicable after it has been reduced to writing and signed by the President. In any case in which the President concludes that publication would be harmful to the national security of the United States, only a statement that a determination or finding has been made by the President, including the name and section of the Act under which it was made, shall be published.

Subsection (d) states that no committee or officer of either House of Congress shall be denied any requested information relating to any finding or determination which the President is required to report to the Congress, or to any committee or officer of either House of Congress, under any provision of the Act, the International Development Act, or the Foreign Assistance and Related Programs Appropriation Act for each fiscal year, even though the report has not yet been

transmitted to the appropriate committee or officer of either House of Congress.

CHAPTER 35.—EFFECTIVE DATE; REPEALS; TECHNICAL PROVISIONS

Section 3501. Effective date

This section provides an effective date for the Act of July 1, 1973.

Section 3502. Laws repealed

Section 3502 repeals or modifies provisions of existing law.

The following provisions of law are repealed:

(1) part II of the Foreign Assistance Act of 1961;

(2) sections 634, 650, 654, and 657 of the Foreign Assistance Act of 1961;

(3) the Foreign Military Sales Act;

(4) the Act entitled "An Act to amend the Foreign Military Sales Act, and for other purposes", approved January 12, 1971, as amended (except section 12);

(5) the Special Foreign Assistance Act of 1971 (except section 7); and

(6) Section 712 of title 10, United States Code.

Subsection (b) requires that any amounts in the separate fund account established under section 524 of the Foreign Assistance Act of 1961, and any amounts that would have been paid into such fund but for the repeal of such section, shall be covered into the Treasury as miscellaneous receipts. It authorizes to be appropriated such sums as may be necessary to pay any liabilities that may accrue as a result of providing military assistance on credit and guaranty terms under part II of the Foreign Assistance Act of 1961.

Subsection (c) states that references in law to the Acts, or provisions of acts, repealed by subsection (a) shall be deemed to be references to this act or appropriate provisions of this act.

Subsection (d) provides that repeal of the acts listed in subsection (a) shall not be deemed to affect amendments contained in these acts to acts not named in that subsection.

Section 3503. Saving provisions

Subsection (a) provides that except as may be expressly provided to the contrary in the act, all determinations, authorizations, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of any provision of law repealed by section 3502 of the Act shall continue in full force and effect until modified by appropriate authority.

Subsection (b) is a transitional provision which provides that wherever provisions of this Act establish conditions which must be complied with before use may be made of authority contained in, or funds authorized by, this Act, compliance with, or satisfaction of, substantially similar conditions under acts listed in section 3502 of this Act or Acts repealed by those Acts shall be deemed to constitute compliance with the conditions established by this Act.

Under subsection (c) funds made available pursuant to provisions of law repealed by section 3502 of this Act shall, unless otherwise authorized or provided by law, remain available for their original purposes in accordance with the applicable original provisions of law, or in accordance with the provisions of law currently applicable.

Section 3504. Statutory construction

If any provision of the Act, or the application of any provision to any circumstances or persons is held invalid, the validity of the remainder of the act, and the applicability of the provision to other circumstances or persons not be affected thereby.

No provision of the act shall be construed as modifying in any way the provisions of the Atomic Energy Act of 1954, as amended, or section 7307 of title 10, United States Code.

By Mr. HOLLINGS:

S. 1444. A bill to provide for a comprehensive national program of earthquake monitoring, research, and engineering in order to reduce loss of life and property; to provide for studies leading to earthquake prediction and control; and for other purposes. Referred to the Committee on Commerce.

Mr. HOLLINGS. Mr. President, today I am reintroducing my bill to provide for a comprehensive national program of earthquake monitoring, research, and engineering. The aim of this legislation, which is identical to S. 3584 of the 92d Congress, is to help reduce loss of life and reduce property damage in this country caused by earthquakes. Every year, hundreds of tremors of varying degrees occur in the United States, and when major quakes take place, even though they are infrequent, the loss of life and property can be enormous.

I cite as an example the Alaska quake of 1964 which caused some $500 million in damage, the loss of 131 lives and hundreds of injuries. The quake in San Fernando, Calif., in February of 1971, caused about the same amount of damage but took only half as many lives because of the distance of the main tremor from any densely populated area.

What is our Government doing to prepare our communities and our citizens for protection against natural hazards such as earthquakes? And can a national hazard protection system be devised? These are some of the questions which need examination.

My bill is not intended to stand as the final answer to this problem. In fact, I know that a more comprehensive approach to natural hazard protection is needed. To approach this problem, the Commerce Committee Subcommittee on Oceans and Atmosphere, which I am privileged to chair, has already scheduled field hearings later this month in California. We intend to take a look at my bill as well as legislation by the distinguished senior Senator from California (Mr. CRANSTON). We intend to get a first hand look at what Government, scientists, and experts from institutions of higher learning are doing to get at such problems as:

First. Revision of building code requirements and engineering practices;

Second. Detailed evaluation of earthquake hazards in heavily populated seismic areas prior to construction;

Third. Development of warning systems; and

Fourth. Arrangements for collection of data and insurance systems.

A hearing on this legislation was conducted in 1972, and it laid the groundwork for further examination of this issue. We intend to develop more information in these field hearings and conduct additional hearings in Washington later this session.

At present, there appears to be no national, coordinated plan to predict earthquakes or to develop the scientific and technical knowledge which will help us avoid the tremendous damage they can cause. Often, the lack of a policy itself can be part of the problem. I hope that this legislation will help us begin to establish such policy.

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

S. 1445. A bill to provide for the striking of medals in commemoration of the 100th anniversary of the statehood of Colorado. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. DOMINICK. Mr. President, on behalf of myself and my distinguished colleague, Senator FLOYD HASKELL, I am pleased to introduce a bill to authorize the Denver Mint to strike a special commemorative medallion honoring 100 years of Colorado statehood. An identical bill, H.R. 4738, has been introduced in the House by Congressman BROTZMAN for himself and for Congressmen ARMSTRONG, EVANS, and JOHNSON, and Congresswoman SCHROEDER.

Under the provisions of this bill, the expenses incurred by the Denver Mint in striking the medallion would be reimbursed by the Colorado Centennial-Bicentennial Commission. The commission would use proceeds from the sale of the medallion in excess of its cost to help finance appropriate commemorative events and ceremonies throughout the State. Production of the medallion would be limited to 250,000, with December 31, 1976, being the final date for striking such medals.

Mr. President, in 1976 Coloradans will have the singular distinction of holding a dual celebration commemorating 100 years of statehood as well as our Nation's 200th birthday. The medallions authorized under this bill would add to the celebration by serving as a tangible reminder to Coloradans that they have a past to remember and a future to mold. In addition, it would be particulary appropriate that the Denver Mint, whose establishment helped insure that development of Denver as a commercial center, be permitted to play a part in Colorado's celebration.

I am hopeful that my colleagues on the Senate Committee on Banking, Housing and Urban Affairs will give speedy and favorable consideration to hearings on this bill, just as they have for similar bills enacted in recent years to commemorate other historical events.

Mr. HASKELL. Mr. President, the people of Colorado will be celebrating two very special birthdays in 1976. They will share in the national bicentennial celebration for the entire United States. But they will also be celebrating the 100th anniversary of Colorado's admission to the Union.

August 1, 1976, will mark the 100th year Colorado has been a part of these United States. A special Centennial-Bicentennial Commission has been established to plan and coordinate the gala events.

I am pleased to join with my colleague, the senior Senator from the State of Colorado, in introducing legislation which would provide for the striking of medals in commemoration of the 100th anniversary of the statehood of Colorado.

The medals would be minted at the Denver Mint. They would be sold by the Centennial-Bicentennial Commission to help defray the costs of centennial and bicentennial celebration events. All costs incurred in the minting of the medals would be repaid to the mint. The legisla-

tion sets a limit of 250,000 on the number of medals to be minted. December 31, 1976, is the last date they can be struck.

Companion legislation to provide for the minting of these medals has already been introduced in the House of Representatives. The legislation is supported by the entire Colorado congressional delegation.

The people of Colorado are proud of their heritage. Coloradans have always played a basic role in the development of the "Wild West" and are looking forward to continuing that deep involvement of our Nation. The riches of Colorado range from spectacular mountain scenery to valuable mineral resources to valuable farming and grazing lands. Visitors to the State can enjoy pleasures ranging from skiing, hiking, fishing, and boating to the more urban pleasures of Colorado's cities. Denver is the hub of the West's transportation system and is a major Federal center for the West.

I hope that many people will travel to Colorado during our centennial and enjoy the celebration and Colorado's unique attributes. Our State has long been called the Centennial State and I am looking forward to that centennial celebration.

Mr. President, I hope my colleagues who are on the Banking, Housing and Urban Affairs Committee, will take early action on this legislation to help provide the people of Colorado with a means to finance their centennial celebration.

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

S. 1446. A bill to protect the public health by amending the Federal Food, Drug, and Cosmetic Act to assure the safety and effectiveness of medical devices. Referred to the Committee on Labor and Public Welfare.

MEDICAL DEVICE SAFETY ACT

Mr. JAVITS. Mr. President, I am reintroducing today on behalf of myself, Senators DOMINICK, SCHWEIKER, and BEALL a bill on behalf of the administration, to amend the Federal Food, Drug, and Cosmetic Act to assure the safety and effectiveness of medical devices entitled the "Medical Device Safety Act," which I first presented in the Senate on December 16, 1971.

The bill would authorize the Secretary of Health, Education, and Welfare to establish safety standards for medical devices, and to require unreasonably hazardous medical devices used in life-threatening situations to undergo a scientific review by the department for safety and efficacy prior to their introduction into commerce.

The scientific review section of the bill is more commonly referred to as the premarket clearance provision. It is the key element of the bill and is intended to assure the safety and efficacy of devices used in life-threatening situations. Classes of devices that may be expected to require scientific review are cardiovascular implants, other implants composed of new materials, applications of new forms of energy to the body—for example, lasers—and new designs for machines which substitute for major bodily functions—for example, heart-lung machines. When the principles of design and construction of any device or class of devices subject to scientific review evolve to the point at which the safety and efficacy of the device or class may be assured under appropriate standards, such standards would be promulgated under the bill's standard-setting authority and the scientific review requirement rescinded.

Two examples of devices which would be subject to appropriate standards are certain types of pacemakers and catheters. The miracles of scientific technology must be rapidly translated into improved quality health care for all Americans. However, at the same time, modern medical scientific instrumentation must be controlled to insure that untested scientific devices are not inappropriately foisted upon the public.

Mr. President, although the purpose of this legislation is to provide a comprehensive regulatory program for medical devices in order to protect consumers from their potential hazards, I am concerned that the legislation as presently written in regard to its standard-setting authority for medical devices is too limited. There is a limitation that there be "unreasonable" risk of illness or injury. I am not convinced that when we deal with the protection of consumers' health we should not provide authority for all risks, not merely "unreasonable" risks caused by medical devices.

Also, I am concerned that in the establishment of the various scientific advisory committees established pursuant to this legislation that there is no explicit provision for consumer representation on such committees, nor is there any provision which would assure the public that the scientific members of the advisory committee passing upon its safety and effectiveness.

I believe all of us in Congress have a deep concern that there be adequate protection of animals, for a mark of our civilization is the humane treatment of those creatures who cannot speak for themselves. Accordingly, I wish to assure all animal lovers that the exemption provision of this legislation will be carefully reviewed by the committee as the legislation receives further consideration.

There is a provision in the legislation for the exemption of "reports on the investigational use of devices." Although I share the concern that there be adequate protection of trade secrets, I am equally concerned that all information which may be affected with a public interest be made available to the interested subject parties' scrutiny. This section of the legislation shall also be subject to careful review by the committee as the measure receives further committee consideration.

Finally the legislation does not provide funding authorizations for the activities to be conducted pursuant to the legislation—and would, therefore, rely upon the general Department of Health, Education, and Welfare's funding authorities—and I am concerned that if we are adequately to protect the public, we must require specific funding authorizations to be provided for by this bill. This, of course, will be subject to careful review by the committee as the legislation progresses.

Although I expressed my concerns about the "unreasonable" limitation in order to effectuate standard setting; the need for consumer representation on advisory committees; the scope of trade secret protection; and the need for explicit funding authorizations to assure legislative implementation which adequately protects the public, there have not been any administration amendments to the bill as originally introduced. I believe these are critical provisions in the bill and when the bill is considered by the Committee on Labor and Public Welfare—of which I am ranking minority member—I intend to propose the necessary amendments to achieve these results, assuming that the testimony supports such recommendations.

Mr. President, I understand that representatives of the medical device industry and the scientific community have developed amendments to the administration's medical device legislation I introduced in the 92d Congress which they believe would improve the legislation and make it more workable.

One amendment provides that a medical device which may not conform to a promulgated standard may nevertheless be shipped for testing purposes under the guidance of the Secretary's regulations.

Another would insure that a surgeon could continue to develop or modify devices to meet the individual needs of a particular patient—the so-called custom devices.

Another would insure public participation in the crucial decision of whether or not scientific review is necessary in the first place.

The most significant amendment provides for a new definition of medical devices. Law review articles and lawsuits are not uncommon with regard to what is a device or a drug. I understand this proposed definition has been distributed to interested consumer groups and the industry and they have found it to be reasonable.

I believe we would want to accommodate these aforementioned legitimate interests to the maximum extent consistent with a workable regulatory scheme and reach a balance between competing interests. We should stand ready to consider all reasonable amendments developed by responsible groups and not prevent the development of lifesaving instruments. I am today asking Secretary Weinberger to provide me with his views on the amendment, which I request be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks, and I will consider the need to introduce a revised bill after reviewing the HEW comments.

Mr. President, although the committee is confronted with a monumental legislative "logjam"—there are more than 50 expiring provisions of the PHS Act alone—I believe this measure which provides legislative authority for the regulation of products considered to be medical devices deserves prompt action. The Medical Device Safety Act will assure medical and scientific safeguards essen-

tial to protecting the health of all our citizens.

I ask unanimous consent to have the bill, letter of transmittal from the Department of Health, Education, and Welfare, and a summary of the key provisions of the bill printed in the RECORD at the conclusion of my remarks.

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

S. 1446

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Medical Device Safety Act".

TITLE I—AUTHORITY TO ESTABLISH STANDARDS

"AUTHORITY TO SET STANDARDS

"SEC. 513. (a)(1) Whenever in the judgment of the Secretary such action is necessary to reduce or eliminate unreasonable risk of illness or injury associated with exposure to or use of a device (including the need for uniformity and compatibility with systems or environments in which it is intended to be used) and there are no other more practicable means to protect the public from such risk, he may by order issued in accordance with subsection (a) of this section promulgate for any device, or type or class of device, a standard relating to any one or more of the following: the composition, the construction, the properties, the uniform identification, or the performance of such device. Such standard may include provisions for the testing of the device and the measurement of its characteristics, and may require the use and prescribe the form and content of instructions or warnings necessary for the proper installation, maintenance, operation, and use of the device.

"(2) A standard shall, where feasible, pertain to the safety performance characteristics of a device, except that it may apply to the composition, design, construction, finish, or packaging of the device or any component thereof if the Secretary determines such application to be in the public interest. Without regard to the limitations of the preceding sentence, a standard may require that the device or any component thereof be marked, tagged, or accompanied by clear and adequate warnings or instructions reasonably necessary for the protection of health or safety.

"(3) The Secretary shall provide for a periodic evaluation of the adequacy of all standards promulgated under this section in order to reflect changes in the state of the art of the development of devices and in applicable medical, scientific, and other technological data.

"Consultation with Other Federal Agencies and Interested Groups; Use of Other Federal Agencies

"(b)(1) Prior to (A) initiating a proceeding under subsection (c) to promulgate a standard under this section, (B) initiating the development of a proposed standard under subsection (f) of this section, or (C) the taking of any action under subsection (g) of this section, the Secretary shall to the maximum practicable extent consult with, and give appropriate weight to relevant standards published by, other Federal agencies concerned with standard setting and other nationally or internationally recognized standard-setting agencies or organizations. In considering proposals for the development of standards, the Secretary may also invite appropriate participation, through joint or other conferences, workshops, or other means, by informed persons representative of scientific, professional, industry, or consumer organizations which in his judgment can make a significant contribution to such development.

"(2) In carrying out his duties under this section, the Secretary shall utilize to the maximum practicable extent the personnel, facilities, and other technical support available in other Federal agencies.

"Initiation of Proceeding for Standards—Development by Interested Parties

"(c) A proceeding to promulgate a standard under this section shall be initiated by the Secretary by publication of notice in the Federal Register. Such notice shall advise of the opportunity for comment on the need to initiate such proceeding and shall include—

"(1) a description or other designation of the device (or type or class of device) to which the proceeding relates;

"(2) the nature of the risk or risks intended to be controlled;

"(3) a summary of the data on which the Secretary has found a need for initiation of the proceeding;

"(4) identification of any existing standard (if known to the Secretary) which may be relevant to the proceeding; and

"(5) an invitation to any person, including any Federal agency, which has developed or is willing to develop a proposed standard to submit to the Secretary, within thirty days after the date of such notice, (A) such a standard; or (B) an offer to develop a proposed standard in accordance with procedures prescribed by regulations of the Secretary.

"Use of Existing Standards

"(d) If the Secretary (1) finds that there exists a standard which has been published by any Federal agency or other qualified agency, organization, or institution, (2) has made reference to such standard (unless it is a standard submitted under subsection (c)(5) in his notice pursuant to subsection (c)(4), and (3) determines that such standard may be substantially acceptable to him as a device standard, then he may, in lieu of accepting an offer under this section, publish such standard as a proposed device standard in accordance with subsection (g).

"Acceptance of Offer to Develop Standards

"(e)(1) Except as otherwise provided by subsection (d), the Secretary shall accept one or more offers to develop a proposed standard pursuant to the invitation prescribed by subsection (c)(5) if he determines that (A) the offeror is technically competent to undertake and complete the development of an appropriate standard within a reasonable period of time, and (B) the offeror has the capacity to comply with procedures prescribed by regulations of the Secretary under paragraph (4).

"(2) The Secretary shall publish in the Federal Register the name and address of each person whose offer is accepted, and a summary of the terms of such offer as accepted.

"(3) Upon an offeror's application therefor prior to the acceptance of his offer under this subsection, the Secretary may agree to contribute to the offeror's cost in developing a proposed standard, if the Secretary determines that such contribution is likely to result in a more satisfactory standard than would be developed without such contribution, and that the offeror is financially responsible. Regulations of the Secretary shall set forth the items of cost in which he may participate, except that such items may not include construction (except minor remodeling), or the acquisition of land or buildings.

"(4) The Secretary shall prescribe regulations governing the development of proposed standards under this subsection and subsection (f), which regulations shall not be considered rules of agency organization, procedure, or practice for purposes of section 553 of title 5 of the United States Code. Such regulations shall include requirements—

"(A) that standards recommended for promulgation be supported by test data or such other documents or materials as the Secretary may reasonably require to be developed, and be suitable for promulgation under subsection (g);

"(B) that standards recommended for promulgation contain such test methods as may be appropriate for measurement of compliance with such standards;

"C) for opportunity by interested persons to participate in the development of such standards;

"(D) for the maintenance of such records as the Secretary prescribes in such regulations to disclose the course of the development of standards recommended for promulgation, the comments and other information submitted by any person in connection with such development, including comments and information with respect to the need for such recommended standards, and such other matters as may be relevant to the evaluation of such recommended standards; and

"(E) that the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, have access for the purpose of audit and examination to any books, documents, papers, and records, relevant to the expenditure of any contribution of the Secretary, under paragraph (3).

"Development of Standards by the Secretary

"(f) If the Secretary has published a notice as provided by subsection (c), and—

"(1) no person accepts the invitation prescribed by subsection (c)(5);

"(2) the Secretary has accepted neither an existing standard pursuant to subsection (d) nor an offer to develop a proposed standard pursuant to subsection (e); or

"(3) the Secretary has accepted an offer pursuant to subsection (e), but determines that the offeror is unwilling or unable to continue the development of the standard which was the subject of the offer or the standard which has been developed is not satisfactory; then the Secretary may proceed to develop a proposed standard pursuant to procedures prescribed by subsection (g).

"Procedure for Promulgation, Amendment, or Revocation of Standards

"(g)(1)(A) As soon as practicable after the initiation of a proceeding to promulgate a standard, and after review of any proposal submitted under subsection (e), the Secretary shall publish in the Federal Register either a proposal to promulgate a standard applicable to the device (or type or class of device) subject to the proceeding, or a notice that the proceeding is terminated. The proposal to promulgate a standard shall set forth the standard, the manner in which interested persons may examine data and other information on which the standard is based, and the period within which interested persons may present their comments on the standard (including the need therefor) orally or in writing.

"(B) As soon as practicable after the publication of a proposal to promulgate a standard, the Secretary shall, by order published in the Federal Register, act upon the proposed standard or terminate the proceeding. The order shall set forth the standard, if any, the reasons for the Secretary's action (including reasons for the promulgation of a standard materially different than that set forth in the proposal or for his failure to promulgate any standard), and the date or dates upon which the standard, or portions thereof, will become effective. Such date or dates shall be established so as to minimize, consistent with the public health and safety, economic loss to, and disruption or dislocation of, domestic and international trade.

"(C)(i) Prior to his issuance of an order to promulgate a standard, the Secretary shall consider—

"(I) the degree of risk of illness of injury associated with those aspects of the devices subject to the order;

"(II) the approximate number of devices, or types or classes thereof, subject to the order;

"(III) the need of the public for the devices subject to the order, and the probable effect of the order upon the utility, cost, or availability of the devices to meet that need;

"(IV) means of achieving the objective of the order with a minimal disruption or dislocation of competition and of reasonable manufacturing and other commercial practices; and

"(V) data and comments submitted in the course of any proceeding initiated under subsection (c) relevant to such order.

Such order shall include appropriate findings with respect to the matters set forth in clauses (I) through (V) and such standard shall be based on such findings.

"(ii) The Secretary shall include in the order promulgating a standard such additional findings as he may determine to be necessary to support the judgment required by subsection (a)(1).

"(2) The Secretary may revoke any standard, in whole or in part, upon the ground that there no longer exists a need therefor or that such standard (or part thereof) is no longer in the public interest. Such revocation shall be published as a proposal in the Federal Register and shall set forth such standard or portion thereof to be revoked, a summary of the reasons for his determination that there may no longer be a need therefor or that such standard (or any part thereof) may no longer be in the public interest, the manner in which interested persons may examine data and other information relevant to the Secretary's determination, and the period within which any interested person may present his views, orally or in writing, with respect to such revocation. As soon as practicable thereafter, the Secretary shall by order act upon such proposal and shall publish such order in the Federal Register. The order shall include the reasons for the Secretary's action and the date or dates upon which such revocation shall become effective.

"(3) The Secretary may propose an amendment of a standard by publishing such proposal in the Federal Register. Such proposal shall be subject to paragraph (4) of this subsection and to subsection (h).

"(4) To the extent not inconsistent with this section, the provisions of section 553 of title 5 of the United States Code, shall govern proceedings under this section to promulgate, amend, or revoke a standard. An order promulgating, amending, or revoking a standard shall, upon its publication and without regard to its effective date, be a final order for purposes of chapter 7 of title 5 of the United States Code. Judicial review of such final order shall not be denied upon the ground that the petitioner has failed to seek the referral of any proposal to an advisory committee under subsection (h).

"Referral to Independent Advisory Committee

"(h)(1) A proposal under subsection (g) may be referred to an advisory committee of experts for a report and recommendations with respect to any matter involved in such proposal which requires the exercise of scientific judgment. The Secretary may so refer such proposal prior to or after its publication under such subsection, and shall so refer it after its publication upon a request, within the time specified in the proposal, of any interested person (unless the Secretary finds the request to be without good cause).

For the purpose of any such referral, the Secretary shall appoint such an advisory committee (which may be a standing advisory scientific review panel established under section 514(b)) and shall refer to it, together with all the data before him, the matter so involved for study, and for a report and recommendations.

The provisions of the first and second sentences of section 706(b)(5)(C)(ii) shall apply to such report and recommendations. A person who has requested the referral of a matter to an advisory committee pursuant to this subsection, as well as representatives of the Department, shall have the right to consult with such advisory committee, and such advisory committee is authorized to consult with any person, in connection with the matter referred to it.

"(2) The Secretary shall appoint as members of any such committee persons qualified in the subject matter to be referred to the committee and of appropriately diversified professional background. Members of an advisory committee who are not in the regular full-time employ of the United States, while attending conferences or meetings of their committee or otherwise serving at the request of the Secretary, shall be entitled to receive compensation at rates to be fixed by the Secretary but not at rates exceeding the daily equivalent for grade GS–18 of the General Schedule for each day so engaged, including travel time; and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 of the United States Code for persons in the Government service employed intermittently. The Secretary shall furnish the committee with clerical and other assistance, and shall by regulation prescribe the procedure to be followed by the committee.

"(3) If such a matter is referred to an expert advisory committee upon request of an interested person, the Secretary may, pursuant to regulations designed so as not to discourage any such referrals which are in the public interest, require such person to pay all or part of the cost to the Department arising by reason of such referral. Such payments, including advance deposits to cover such payments, shall be available until expended for paying (directly or by way of reimbursement of the applicable currently available appropriations) such costs and for refunds in accordance with such regulations.

"Testing or Manufacture of Devices to Assure Compliance With Standards

"(i)(1) Every manufacturer of a device subject to a standard under this section shall assure the Secretary, at such times and in such form and manner as the Secretary shall by regulation prescribe, that testing methods prescribed by the standard show the device to comply therewith, or that the device has been manufactured under a program of quality control which is in accord with current good manufacturing practice (as may be determined by regulations of the Secretary) designed to assure such compliance.

"(2) To assure that devices conform to standards under this section, the Secretary shall review and evaluate on a continuing basis testing and other quality control programs carried out by manufacturers of devices subject to such standards.

"Exemption

"(j) This section shall not apply to any device intended solely (1) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than man or (2) to affect the structure or any function of the body of such animals."

CONFORMING AMENDMENTS

SEC. 102. (a) Section 501 of such Act (21 U.S.C. 351) is amended by adding at the end thereof the following new paragraph:

"(e) If it is, or purports to be or is represented as, a device with respect to which, or with respect to any component, part, or accessory of which, there has been promulgated a standard under section 513, unless such device, or such component, part, or accessory, is in all respects in conformity with such standard."

(b) Section 502 of such Act (21 U.S.C. 352) is amended by adding at the end thereof the following new paragraph:

"(q) If it is a device subject to a standard promulgated under section 513, unless (1) its labeling bears such instructions and warnings as may be prescribed in such standard; and (2) it complies with the requirements of section 513(i)(1)."

TITLE II—SCIENTIFIC REVIEW OF CERTAIN MEDICAL DEVICES

SEC. 201. (a) Section 501 of such Act, as amended by section 102(a) of this Act, is further amended by adding at the end thereof the following new paragraph:

"(f) If (1) it is a device, and (2) such device, or any component, part, or accessory thereof, is deemed unsafe or ineffective within the meaning of section 514 with respect to its use or intended use."

(b) Chapter V of such Act, as amended by this Act, is further amended by adding at the end thereof the following new section:

"SCIENTIFIC REVIEW OF CERTAIN MEDICAL DEVICES

"When Scientific Review is Required

"SEC. 514. (a) The Secretary may declare that a device (or type or class of device) shall be subject to scientific review under this section with respect to any particular use or intended use thereof if, after consultation with the appropriate panel or panels specified in subsection (b), he finds that the device (or type or class of device) is used or intended to be used in life-threatening situations, that the composition, construction, or properties of the device (or type or class of device) is such that, in relation to that use or intended use, the device (or type of class of device) may present an unreasonable hazard, that scientific review may materially reduce this hazard, and that no more practicable means to reduce this hazard are available to the Secretary. The declaration shall be by regulation (which may be rescinded by the Secretary) which shall set forth and be based upon the findings prescribed by the preceding sentence and findings as described in clause (I), (II), (III), and (IV) of section 513(g)(1)(C)(i). A device (or type or class of device) declared to be subject to scientific review shall be deemed unsafe or ineffective for the purpose of the application of section 501(f) unless either—

"(1) there is in effect an approval of an application with respect to such device under this section,

"(2) such device is exempted by or pursuant to subsection (k) of this section, or

"(3) such device is intended solely (A) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than man or (B) to affect the structure or any function of the body of such animals.

"Standing Advisory Scientific Review Panels

"(b)(1) For the purpose of reviewing applications filed under subsection (c), and of reviewing plans and protocols submitted under subsection (k)(4), the Secretary shall establish one or more standing advisory scientific panels composed of members appointed by the Secretary. Such members shall consist of experts qualified by training and experience to evaluate the safety and effectiveness of devices in the category or class of devices to be referred to such a panel, including appropriate experts from one or more of the physical or biological sciences and of the professions of medicine, dentistry, and engineering. The Secretary shall from time to time designate one of the members of each panel to serve as chairman thereof.

"(2) Members of any standing advisory scientific panel established under this subsection, while attending conferences or meetings of their panels or otherwise serving at the request of the Secretary, shall be entitled to receive compensation at rates to be fixed

by the Secretary but not at rates exceeding the daily equivalent of the rate specified at the time of such service for grade GS–18 of the General Schedule, including travel time; and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5 of the United States Code for persons in the Government service employed intermittently. The Secretary shall furnish the committee with clerical and other assistance. The members shall not be subject to any other provisions of law regarding the appointment and compensation of employees of the United States.

"Application for Scientific Review

"(c)(1) Scientific review of a device (or type or class of device) which has been declared subject to such review in accordance with subsection (a) may be obtained by filing with the Secretary an application for his determination of the safety and effectiveness of the device. The application shall contain (A) full reports of all information, published or otherwise available to the applicant, concerning investigations which have been made to show whether or not such device is safe and effective for use; (B) a full statement of the composition, properties, and construction, and of the principle or principles of operation, of such device; (C) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and, when relevant, packing and installation of such device; (D) an identifying reference to any standard applicable to such device, which is in effect pursuant to section 513, and adequate information to show that such device fully meets such standard; (E) such samples of such device and of the articles used as components thereof as the Secretary may require; (F) specimens of the labeling proposed to be used for such device; and (G) such other information, relevant to the subject matter of the application, as the Secretary, upon advice of the appropriate panel or panels established pursuant to subsection (b), may require.

(2) Upon receipt of an application meeting the requirements set forth in paragraph (1), the Secretary shall refer such application to the appropriate panel or panels (established pursuant to subsection (b)) for study and for submission (within such period, if any, as he may establish) of a report and recommendations, together with all underlying data and the reasons or basis for the recommendations. The provisions of section 706(d)(2) shall apply with respect to the material so submitted.

"Consideration of and Initial Action on Application

"(d) As promptly as possible, but in no event later than one hundred and twenty days after the receipt of an application under subsection (c), unless an additional period is agreed upon by the Secretary and the applicant, the Secretary, after considering the report and recommendations referred to in paragraph (2) of such subsection, shall—

"(1) approve the application if he finds that one of the grounds for denying approval specified in subsection (e) applies,

"(2) advise the applicant that the application is not in approvable form; and inform the applicant, insofar as the Secretary determines to be practicable, of the measures required to place such application in approvable form (which measures may include further research by the applicant in accordance with one or more protocols prescribed by the Secretary); or

"(3) deny approval of the application if he finds (and sets forth the basis of such finding as part of or accompanying such denial) that one or more grounds for denial specified in subsection (e) applies.

"Bases for Approval or Disapproval; Opportunity for Review

"(e)(1) If, upon the basis of the information submitted to the Secretary as part of the application and any other information before him with respect to such device, the Secretary finds, after opportunity to the applicant for the review prescribed by paragraph (4), that—

"(A) such device is not shown to be safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof;

"(B) the methods used in, and the facilities and controls used for, the manufacture, processing, and packing and installation of such device do not conform to the requirements of section 501(g);

"(C) there is a lack of adequate scientific evidence that the device will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the proposed labeling thereof;

"(D) based on a fair evaluation of all material facts, such labeling is false or misleading in any particular; or

"(E) such device is not shown to conform in all respects to an applicable standard promulgated under section 513 and in effect;

he shall issue an order denying approval of the application and stating the findings upon which the order is based. In determining if a device is shown to be safe for purposes of this paragraph, the Secretary shall weigh any benefit to the public health probably resulting from the use of the device against any hazard to the public health probably resulting from such use.

"(2) As used in this subsection and subsection (f), the term 'adequate scientific evidence' means evidence consisting of sufficient well-controlled investigations, including clinical investigations where appropriate, by experts qualified by scientific training and experience to evaluate the effectiveness of the device involved, on the basis of which it could fairly and responsibly be concluded by such experts that the device will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling or proposed labeling thereof.

"(3) For the purposes of this section, when a device is intended for use by a physician, surgeon, or other person licensed or otherwise specially qualified therefor, its safety and effectiveness shall be determined in the light of such intended use.

"(4)(A) An applicant whose application has been denied approval (either pursuant to paragraph (3), or in consequence of the Secretary's finding pursuant to paragraph (2), of subsection (d)) may, by petition filed on or before the thirtieth day after the date upon which he receives notice of such denial, obtain review thereof in accordance with subsection (i). The Secretary shall consider and give appropriate weight to the report and recommendations received from the advisory committee conducting such review under such subsection.

"(B) In lieu of the review provided by subparagraph (A), such applicant may, for good cause shown by such petition, obtain a hearing in accordance with section 554 of title 5 of the United States Code.

"Withdrawal of Approval

"(f)(1) The Secretary may, upon obtaining, where appropriate, advice on scientific matters from a panel or panels established pursuant to subsection (b), and after due notice and opportunity for hearing to the applicant, issue an order withdrawing approval of an application with respect to a device under this section if the Secretary finds—

"(A)(i) that clinical or other experience, tests, or other scientific data show that such device is unsafe for use under the conditions of use upon the basis of which the application was approved; or (ii) on the basis of evidence of clinical experience, not included in or accompanying such application and not available to the Secretary until after the application was approved, or of tests by new methods or by methods not reasonably applicable when the application was approved, evaluated together with the evidence available to the Secretary when the application was approved, that such device is not shown to be safe for use under the conditions of use on the basis of which the application was approved;

"(B) on the basis of new information before him with respect to such device, evaluated together with the evidence available to him when the application was approved, that there is a lack of adequate scientific evidence that the device will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof;

"(C) that the application filed pursuant to subsection (c) contains or was accompanied by an untrue statement of a material fact;

"(D) that the applicant has failed to establish a system for maintaining records, or has repeatedly or deliberately failed to maintain records or to make reports, required by an applicable regulation or order under subsection (a) of section 516, or that the applicant has refused to permit access to, or copying or verification of, such records as required by paragraph (2) of such subsection;

"(E) on the basis of new information before him, evaluated together with the evidence before him when the application was approved, that the methods used in, or the facilities and controls used for, the manufacture, processing, packing, or installation of such device do not conform to the requirements of section 501(g) and were not brought into conformity with such requirements within a reasonable time after receipt of written notice from the Secretary; or

"(F) on the basis of new information before him, evaluated together with the evidence before him when the application was approved, that the labeling of such device, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Secretary; or

"(G) on the basis of new information before him, evaluated together with the evidence before him when the application was approved, that such device is not shown to conform in all respects to an applicable standard promulgated pursuant to section 513.

"(2) If the Secretary (or in his absence the officer acting as Secretary) finds that an imminent health or safety hazard is involved, he may by order suspend the approval of such application immediately and give the applicant prompt notice of his action and afford the applicant an opportunity for an expedited hearing under this subsection. Such authority to suspend the approval of an application may not be delegated.

"(3) Any order under this subsection shall state the findings upon which it is based.

"Authority To Revoke Adverse Orders

"(g) Whenever the Secretary finds that the facts so require, he shall revoke an order under subsection (e) or (f) denying, withdrawing, or suspending approval of an application and shall approve such application or reinstate such approval, as may be appropriate.

"Service of Secretary's Orders

"(h) Orders of the Secretary under this section shall be served (1) in person by any officer or employee of the Department designated by the Secretary or (2) by mailing the order by registered mail or certified

mail addressed to the applicant at his last known address in the records of the Secretary.

"Referral to Independent Advisory Committee

"(i)(1) A person who has filed an application under subsection (c) may petition the Secretary, in accordance with subparagraph (A) of subsection (e)(4), to refer such application, or the Secretary's action thereon, to an advisory committee of experts for a report and recommendations with respect to any question therein involved which requires the exercise of scientific judgment. Upon such petition, or if the Secretary on his own initiative deems such a referral necessary, the Secretary shall appoint an advisory committee and shall refer to it, together with all the data before him, the question so involved for study thereof and a report and recommendations thereon. The provisions of the first and second sentences of section 706(b)(5)(C)(ii) shall apply to such report and recommendations. The applicant, as well as representatives of the Department, shall have the right to consult with such advisory committee, and such advisory committee is authorized to consult with any person, in connection with the question referred to it.

"(2) Section 513(h)(2) shall apply to the appointment, compensation, staffing, and procedure of any such advisory committee.

"(3) Paragraph (3) of section 513(h) shall also apply in the case of a referral to an advisory committee under this subsection.

"Judicial Review

"(j) The applicant may, by appeal taken in accordance with section 505(h), obtain judicial review of a final order of the Secretary denying or withdrawing approval of an application filed under subsection (c) of this section. Judicial review of such final order shall not be denied upon the ground that the petitioner has failed to avail himself of the review or hearing provided by subsection (e)(4).

"Exemption for Investigational Use

"(k)(1) It is the purpose of this subsection to encourage, to the maximum extent consistent with the protection of the public health and safety and with professional ethics, the discovery and development of useful devices and to that end to maintain optimum freedom for individual scientific investigators in their pursuit of that objective.

"(2) Subject to the succeeding paragraphs of this subsection, there shall be exempt from the requirement of approval of an application under the foregoing provisions of this section any device which is intended solely for investigational use (in a hospital, laboratory, clinic, or other appropriate scientific environment) by an expert or experts qualified by scientific training and experience to investigate the safety and effectiveness of such device.

"(3) The Secretary shall promulgate regulations relating to the application of the exemption referred to in paragraph (2) to any device which is intended for use in the clinical testing thereof upon humans, in developing data required to support an application under subsection (c).

"(4) Such regulations may provide for conditioning the exemption, in the case of a device intended for such use, upon—

"(A) the submission, by the manufacturer of the device or the sponsor of the investigation, of an outline of the plan of initial clinical testing—

"(i) to a local institutional review committee which has been established to supervise clinical testing in the facility where the initial clinical testing is to be conducted, the composition and procedures of which comply with regulations of the Secretary, for review and approval as being adequate to justify the commencement of such testing, or

"(ii) if no such committee exists or if the Secretary finds that the process of review by such committee is inadequate or that protection of health and safety so requires (whether or not the plan has been approved by such committee), to the Secretary for review by the appropriate panel or panels established pursuant to subsection (b) and approval by the Secretary as being adequate to justify the commencement of such testing;

"(B) prompt notification to the Secretary by such manufacturer or sponsor (in such manner as the Secretary prescribes) of approval of any plan pursuant to clause (A)(i);

"(C) the submission, by the manufacturer of the device or the sponsor of the investigation, of an adequate protocol for clinical testing to be conducted by separate groups of investigators under essentially the same protocol, together with a report of prior investigations of the device (including, where appropriate, tests on animals) adequate to justify the proposed testing, either (i) to a local institutional review committee for review and approval in accordance with the provisions of clauses (A)(i) and (B), or (ii) to the Secretary for review and approval in accordance with the provisions of clause (A)(ii) if such testing involves facilities in which no such committee exists, or facilities served by more than one local institutional review committee if such committees are unable to agree on the adequacy of the submission;

"(D) the obtaining, by the manufacturer, of the device or the sponsor of the investigation, if the device is to be distributed to investigators for testing, of a signed agreement from each of such investigators that humans upon whom the device is to be used will be under such investigator's personal supervision or under the supervision of investigators responsible to him;

"(E) the establishment and maintenance of such records, and the making of such reports to the Secretary, by the manufacturer of the device or the sponsor of the investigation, of data (including but not limited to analytical reports by investigators) obtained as a result of such investigational use of the device, as the Secretary finds will enable him to evaluate the safety and effectiveness of the device in the event of the filing of an application pursuant to subsection (c); and

"(F) such other conditions relating to the protection of the public health and safety as the Secretary may determine to be necessary. Nothing in this subsection shall be construed to require any clinical investigator to submit directly to the Secretary reports on the investigational use of devices.

"(5) Such regulations shall condition such exemption upon the manufacturer of the device, or the sponsor of the investigation, requiring that investigators using the device certify to such manufacturer or sponsor that they—

"(A) will inform individuals upon whom such device or any controls in connection therewith are used, or the representatives of such individuals, that the device is being used for investigational purposes, and

"(B) will obtain the consent of such individuals or representatives,

except where such investigators deem it not feasible or, in their professional judgment, contrary to the best interest of such individuals.

"(6) Whenever the Secretary determines that a device is being or has been shipped or delivered for shipment in interstate commerce for investigational testing upon humans, and that such device is subject to the preceding subsections of this section and fails to meet the conditions for exemption therefrom for investigational use, he shall notify the sponsor of his determination and the reasons therefor, and the exemption will not thereafter apply with respect to such investigational use until such failure is corrected.

"(7) In determining whether this subsection is applicable to any device and, if so, whether there has been compliance with the conditions of exemption, or upon application for reconsideration of any such determination, the Secretary shall, if so requested by the sponsor of the investigation, or may on his own initiative, obtain the advice of an appropriate expert or experts who are not otherwise, except as consultants, engaged in the carrying out of this Act.

"(l)(1) If, on the day immediately prior to the date upon which a device is declared to be subject to scientific review under this section, the device was in use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man, or for the purpose of affecting the structure or any function of the body of man, section 501(f) shall become effective with respect to such preexisting use or uses of such device on the closing date (as defined in paragraph (2) of this subsection) or, if sooner, on the effective date of an order of the Secretary approving or denying approval of an application with respect to such use of the device under this section.

"(2) For the purposes of this subsection, the term 'closing date' means, with respect to a device, the first day of the thirty-first calendar month which begins after the month in which the device is declared to be subject to scientific review under this section, except that, if in the opinion of the Secretary it would not involve any undue risk to the public health, he may on application or on his own initiative postpone such closing date wtih respect to any particular use or uses of a device until such later date (but not beyond the close of the sixtieth month after the month of such declaration) as he determines is necessary to permit completion, in good faith and as soon as reasonably practicable, of the scientific investigations necessary to establish the safety and effectiveness of such use or uses. The Secretary may terminate any such postponement at any time if he finds that such postponement should not have been granted or that, by reason of a change in circumstances, the basis for such postponement no longer exists or that there has been a failure to comply with a requirement of the Secretary for submission of progress reports or with other conditions attached by him to such postponement."

PROHIBITED ACTS

SEC. 202. (a) Paragraph (e) of section 301 of such Act is amended (1) by striking out "or" before "512(j), (l), or (m)", and (2) by inserting ", 514(k), or 516(a)" after "512(j), (l), or (m)".

(b) Paragraph (j) of section 301 of such Act is amended by inserting "514, 516," immediately after "512,".

(c) Paragraph (1) of such section 301 is amended (1) by inserting "or device" after the word "drug" each time it appears therein, and (2) by striking out "505." and inserting in lieu thereof "505 or 514, as the case may be,".

TITLE III.—NOTIFICATION OF DEFECTIVE DEVICES; REPAIR OR REPLACEMENT

SEC. 301. Chapter V of such Act, as amended by sections 101 and 201(b) of this Act, is further amended by adding at the end thereof the following new section:

"NOTIFICATION OF DEFECTS IN, AND REPAIR OR REPLACEMENT OF, DEVICES

"SEC. 515. (a)(1) Every person who acquires information which may reasonably be understood to show that a device produced, assembled, or imported by him (A) contains a defect which is likely to create a substantial risk to the health or safety of any

person, or (B) on or after the effective date of an applicable standard promulgated pursuant to section 513 fails to comply with such standard, shall immediately notify the Secretary of such defect or failure to comply if such device has left the place of manufacture and shall, except as otherwise provided by paragraph (3) of this subsection, with reasonable promptness furnish notification of such defect or failure (C) by mail to any purchaser not for sale of such device (where known to such person), and (D) by mail or other more expeditious means to the dealers or distributors to whom such device was delivered.

"(2) The notifications required by paragraph (1) of this subsection shall contain a clear description of such defect or failure to comply, an evaluation of the hazard related thereto, and a statement of the measures to be taken to correct such defect or failure.

"(3) The Secretary shall by regulation prescribe a procedure for the exemption or partial exemption of any person from the requirements of paragraph (1) of this subsection (other than notification to the Secretary) if the Secretary finds, upon application of such person, that the defect or failure to comply is not such as to create a significant risk to the health or safety of any person.

"(4) A dealer or distributor who is notified under paragraph (1) of a defect or failure of a device shall furnish to the manufacturer or importer from whom he obtained the device such information (at such times and in such manner and form as the Secretary may by regulation prescribe) as may be necessary to identify and locate each purchaser not for sale of the device.

"(b) Every person required to furnish the notification (other than to the Secretary) specified in paragraph (2) of subsection (a) shall submit to the Secretary upon his request a copy of all notices, bulletins, and other communications to the dealers or distributors of such person or to purchasers not for sale of devices of such person regarding any such defect in such device or any such failure to comply with a standard applicable to such device. The Secretary shall disclose to the public so much of the information contained in such communications or other relevant information in his possession as he deems will assist in carrying out this Act, but he shall not disclose any information which contains or relates to a trade secret.

"(c) If any device contains a defect which relates to the safety or effectiveness of the device or fails to comply with an applicable standard promulgated pursuant to section 513, and the notification specified in paragraph (2) of subsection (a) is required to be furnished on account of such defect or failure, the producer, assembler, or importer of such device may be required by the Secretary, without charge, to—

"(1) bring such device into conformity with such standard or remedy such defect and provide reimbursement for any reasonable and necessary expenses incurred in connection with having such device brought into conformity or having such defect remedied; or

"(2) replace such device with a like or equivalent device which complies with each applicable standard promulgated under section 513 and which has no defect relating to its safety or effectiveness; or

"(3) refund the purchase price of such device upon tender of the device by the owner, less a reasonable allowance for depreciation, and provide reimbursement for any reasonable and necessary expenses incurred in its return.

The producer, assembler, or importer shall take the action required under this subsection in such manner, and with respect to such persons, as the Secretary may by regulation prescribe.

"(d) The remedies provided for in this section shall be in addition to and not in substitution for any other remedies provided by law.

"(e) This section shall not apply to any individual device that was manufactured before the date of the enactment of the Medical Device Safety Act."

PROHIBITED ACTS

SEC. 302. Section 301 of such Act, as amended by section 202 of this Act, is further amended by adding at the end thereof the following new paragraph:

"(q) (1) The failure or refusal to furnish any notification or other material or information as required by section 515 or 516(c); or (2) the failure or refusal to comply with any requirement prescribed under authority of section 515(c)."

CONFORMING AMENDMENT

SEC. 303. Section 502(j) of such Act is amended by inserting "or manner" after "dosage".

TITLE IV—REQUIREMENT OF GOOD MANUFACTURING PRACTICE

SEC. 401. Section 501 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351), as amended by sections 102 and 201 of this Act, is further amended by adding at the end thereof the following new paragraph:

"(g) If it is a device and the methods used in, or the facilities or controls used for, its manufacture, processing, packing, holding, or installation do not conform to, or are not operated or administered in conformity with, current good manufacturing practice as determined by regulations of the Secretary under section 701(a) to assure that such device is safe."

TITLE V—RECORDS AND REPORTS; INSPECTION AND REGISTRATION OF ESTABLISHMENTS; OFFICIAL NAMES

SEC. 501. Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C., ch. 9, subch. V) is further amended by adding at the end thereof the following new section:

"RECORDS AND REPORTS ON DEVICES

"SEC. 516. (a) (1) Every person engaged in manufacturing, processing, or distributing, a device that is subject to a standard promulgated under section 513, or with respect to which there is in effect an approval under section 514 of an application filed under subsection (c) thereof, shall establish and maintain such records, and make such reports to the Secretary, of data relating to clinical experience and other data or information, received or otherwise obtained by such person with respect to such device, and bearing on the safety or effectiveness of such device, or on whether such device may be adulterated or misbranded, as the Secretary may by general regulation, or by special regulation or order applicable to such device, require. In prescribing such regulations or issuing such orders the Secretary shall have due regard for the professional ethics of the medical profession and the interests of patients and shall provide, wherever he deems it appropriate, for the examination, upon request, by the persons to whom such regulations or orders are applicable, of similar information received or otherwise obtained by the Secretary.

"(2) Every person required under this subsection to maintain records, and every person in charge or custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to any copy and verify such records.

"(b) Subsection (a) shall not apply to—

"(1) practitioners licensed by law to prescribe or administer drugs and devices and who manufacture or process devices solely for use in the course of their professional practice;

"(2) persons who manufacture or process devices solely for use in research or teaching and not for sale;

"(3) such other classes of persons as the Secretary may be or pursuant to regulation exempt from the application of this subsection upon a finding that such application is not necessary to acommplish the purposes of this subsection.

"(c) Every person engaged in manufacturing a device subject to this Act shall provide to the Secretary upon his request such technical data and other data or information with respect to such device as may be reasonably required to carry out this Act."

INSPECTION RELATING TO DEVICES

SEC. 502. (a) The second sentence of subsection (a) of section 704 of such Act (21 U.S.C. 374) is amended by inserting "or prescription devices" after "prescription drugs" both times it appears.

(b) The third sentence of such subsection is amended (1) by striking out "for prescription drugs", (2) by striking out "and antibiotic drugs" and inserting in lieu thereof ", antibiotic drugs, and devices", (3) by striking out "or section 507(d) or (g)" and inserting in lieu thereof ", section 507(d) or (g), section 514(k), or section 516", and (4) by inserting "or devices" after "other drugs", inserting "or of a device subject to section 514" after "new drug", and inserting "or section 516" after "section 505(j)".

(c) (1) Paragraph (1) of the sixth sentence of such subsection is amended by inserting "or devices" after "drugs" each time such term occurs.

(2) Paragraph (2) of that sentence is amended by inserting ", or prescribe or use devices, as the case may be," after "administer drugs"; and by inserting ", or manufacture or process devices," after "process drugs".

(3) Paragraph (3) of that sentence is amended by inserting ", or manufacture or process devices," after "process drugs".

REGISTRATION OF DEVICE MANUFACTURERS; OFFICIAL NAMES OF DEVICES

SEC. 503. (a) Section 510 of such Act (21 U.S.C. 360) is amended as follows:

(1) The section heading is amended by inserting "AND DEVICES" after "DRUGS".

(2) Subsection (a) (1) is amended by inserting "or device package" after "drug package"; by inserting "or device" after "the drug"; and by inserting "or user' 'after "consumer".

(3) Subsection (d) is amended to read as follows:

"(d) (1) Every person duly registered in accordance with the foregoing subsections of this section shall immediately register with the Secretary any additional establishment which he owns or operates in any State and in which he begins the manufacture, preparation, propagation, compounding, or processing of a drug or drugs, or of a device or devices.

"(2) Every person who is registered with the Secretary pursuant to the first sentence of subsection (b) or (c) or paragraph (1) of this subsection shall, and any device is thereafter manufactured, prepared, propagated, compounded, or processed in any establishment with respect to which he is so registered, immediately file a supplement to such registration with the Secretary indicating such fact.

(4) Subsection (g) is amended by inserting "or devices" after "drugs" each time such term occurs in paragraphs (1), (2), and (3) of such subsection.

(5) The first sentence of subsection (i) is amended by inserting ", or a device or devices," after "drug or drugs"; and the second sentence of such subsection is amended by inserting "shall require such establishment to provide the information required by subsection (j) in the case of a device or devices and" immediately before "shall include", and by inserting "or devices" after "drugs".

(6) Subsection (j) is amended—

(A) in paragraph (1), preceding subpara-

graph (A), by striking out "a list of all drugs (by established name" and inserting in lieu thereof "a list of all drugs and a list of all devices (in each case by established name"; and by striking out "drugs filed" and inserting "drugs or devices filed" in lieu thereof;

(B) in subparagraph (A) of paragraph (1) by striking out "such list" and inserting "the applicable list" in lieu thereof; by inserting "or a device contained in the applicable list with respect to which a standard has been promulgated under section 513 or which is subject to section 514," after "512,"; and by inserting "or device" after "such drug" each time it appears;

(C) in subparagraph (B) or paragraph (1), before clause (i), by striking out "drug contained in such list" and inserting "drug or device contained in an applicable list" in lieu thereof;

(D) in clause (i) of paragraph (1)(B), by amending such clause to read as follows—

"(i) which drug is subject to section 503(b)(1), or which device is a prescription device under regulations promulgated under section 502(f), a copy of all labeling for such drug or device, a representative sampling of advertisements for such drug or device, and, upon request made by the Secretary for good cause, a copy of all advertisements for a particular drug product or device, or";

(E) in clause (ii) of paragraph (1)(B), by amending such clause to read as follows:

"(ii) which drug is not subject to section 503(b)(1), or which device is not a prescription device under regulations promulgated under section 502(f), the label and package insert for such drug or device and a representative sampling of any other labeling for such drug or device";

(F) in subparagraph (C) of paragraph (1), by striking out "such list" and inserting "an applicable list" in lieu thereof;

(G) in subparagraph (D) of paragraph (1), by striking out "the list" and inserting "a list" in lieu thereof; by inserting "or the particular device contained in such list is not subject to a standard promulgated under section 513, or is not a prescription device under regulations promulgated under section 502(f)," after "512,"; and by inserting 'or device" after "particular drug product";

(H) in paragraph (2), by inserting "or device" after "drug" each time it appears and, in subparagraph (C), by inserting "each" before "by established name".

(b) Subsection (o) of section 502 of such Act (21 U.S.C. 352) is amended by striking out "is a drug and".

(c) The second sentence of section 801(a) of such Act (21 U.S.C. 381(a)) is amended by inserting "or devices" after "drugs" both times such words appear.

(d)(1) Subparagraph (1) of section 502(e) of such Act (21 U.S.C. 352(e)) is amended by striking out "subparagraph (2)" and inserting in lieu thereof "subparagraph (3)".

(2) Subparagraph (2) of section 502(e) of such Act (21 U.S.C. 352(e)) is redesignated as subparagraph (3) and is amended by striking out "this paragraph (e)" and inserting in lieu thereof "subparagraph (1)".

(3) There is added to such paragraph (e) a new subparagraph (2) as follows:

"(2) If it is a device, unless its label bears, to the exclusion of any other nonproprietary name, the established name (as defined in subparagraph (4)) of the device, if such there be, prominently printed in type at least half as large as that used thereon for any proprietary name or designation for such device: *Provided*, That to the extent compliance with the requirements of this subparagraph is impracticable, exemptions shall be established by regulations promulgated by the Secretary."

(4) There is further added to such paragraph a new subparagraph (4) as follows:

"(4) As used in subparagraph (2), the term 'established name', with respect to a device, means (A) the applicable official name dseignated pursuant to section 508, or (B) if there is no such name and such device is an article recognized in an official compendium then the official title thereof in such compendium, or (C) if neither clause (A) nor clause (B) of this subparagraph applies, then the common or usual name of such device, if any."

(f) Section 508 of such Act (21 U.S.C. 358) is amended (1) in subsections (a) and (e) by adding "or device" after "drug" each time it appears; (2) in subsection (b) by adding after "all supplements thereto," the following: "and at such times as he may deem necessary shall cause a review to be made of the official names by which devices are identified in any official compendium, and all supplements thereto"; (3) in subsection (c)(2) by adding "or device" after "single drug", and by adding "or to two or more devices which are substantially similar in design and purpose" after "purity,"; (4) in subsection (c)(3) by adding "or device" after "useful drug", and after "drug or drugs" each time it appears; and (5) in subsection (d) by adding "or devices" after "drugs".

(g) Section 301 of the Drug Amendments of 1962 (76 Stat. 793) is amended by inserting "and devices" after "drugs' each time such word appears, except that "or devices" is inserted after "which drugs" and after "intrastate commerce in such drugs".

TITLE VI—GENERAL PROVISIONS ADVISORY COUNCIL ON DEVICES, ET CETERA

SEC. 601. Chapter VII of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end thereof the following new section:

"ADVISORY COUNCIL ON DEVICES, AND OTHER ADVISORY COMMITTEES

"SEC. 708. (a) For the purpose of advising the Secretary with respect to matters of policy in carrying out the provisions of this Act relating to devices, there is established in the Department on Advisory Council on Devices appointed by the Secretary without regard to the civil service and classification laws. The persons so appointed shall be manufacturers and other persons with special knowledge of the problems involved in the regulation of various kinds of devices under this Act, members of the professions using such devices, scientists expert in the investigational use of devices, engineers expert in the development of devices, and members of the general public representing consumers of devices.

"(b) The Secretary may also from time to time appoint, without regard to the civil service or classification laws, in addition to the advisory councils and committees otherwise authorized under this Act, such other advisory committees or councils as he deems desirable.

"(c) Members or an advisory council or committee appointed pursuant to subsection (a) or (b) who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the council or committee or otherwise engaged on its business, be compensated at per diem rates fixed by the Secretary but not in excess of the rate for grade GS–18 of the General Schedule at the time of such service, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by title 5, United States Code, section 5703, for persons in the Government service employed intermittently."

RESEARCH AND STUDIES

SEC. 602. Chapter VII of such Act, as amended by section 601 of this Act, is further amended by adding at the end thereof the following new section:

"RESEARCH AND STUDIES RELATING TO DEVICES

"SEC. 709. (a) The Secretary is authorized directly or through contracts with public or private agencies, institutions, and organizations and with individuals, to plan, conduct, coordinate, and support

"(1) research and investigation into the safety and effectiveness of devices, and into the causes and prevention of injuries or other health impairments associated with exposure to or use of devices;

"(2) studies relating to the development and improvement of device standards, and device testing methods and procedures; and

"(3) education and training with respect to the proper installation, maintenance, operation, and use of devices.

"(b) In carrying out the purposes of subsection (a), the Secretary, in addition to or in aid of the foregoing—

"(1) shall, to the maximum practicable extent, cooperate with and invite the participation of other Federal or State departments and agencies having related interests, and interested professional or industrial organizations;

"(2) shall collect and make available, through publications and by other appropriate means, the results of, and other information concerning, research and other activities undertaken pursuant to subsection (a); and

"(3) may procure (by negotiation or otherwise) devices for research and testing purposes, and sell or otherwise dispose of such products."

PUBLICITY

SEC. 603. Section 705 of such Act is amended by adding at the end thereof the following new subsection:

"(c) To assist in carrying out the provisions of this Act relating to devices, the Secretary may cause to be disseminated information regarding standards, testing facilities, and testing methods promulgated, established, or approved under this Act. Subject to the provisions of section 301(j), the Secretary may also cause to be published reports summarizing clinical data relevant to marketed devices approved under this Act."

EFFECTIVE DATES AND TRANSITIONAL PROVISIONS

SEC. 604. (a) Except as provided in subsections (b) and (c) of this section, the foregoing provisions of this Act shall take effect on the date of the enactment of this Act.

(b) Paragraph (f) of section 501 of the Federal Food, Drug, and Cosmetic Act, as added to such section by section 201(a) of this Act, shall, with respect to any particular use of a device, take effect (1) on the first day of the thirteenth calendar month following the month in which this Act is enacted, or (2) if sooner, on the effective date of an order of the Secretary approving or denying approval of an application with respect to such use of the device under section 514 of such Act as added by section 201(b) of this Act.

(c) Any person who, on the day immediately preceding the date of enactment of this Act, owned or operated any establishment in any State (as defined in section 201 of the Federal Food, Drug, and Cosmetic Act) engaged in the manufacture or processing of a device or devices, shall, if he first registers with respect to devices, or supplements his registration with respect thereto, in accordance with subsection (b) of section 510 of that Act (as amended by section 503 of this Act) prior to the first day of the seventh calendar month following the month in which this Act is enacted, be deemed to have complied with that subsection for the calendar year 1971. Such registration, if made

within such period and effected in 1972, shall also be deemed to be in compliance with such subsection for that calendar year.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., March 15, 1973.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed for the consideration of the Congress is a draft bill "To protect the public health by amending the Federal Food, Drug, and Cosmetic Act to assure the safety and effectiveness of medical devices." The bill has the short title of the "Medical Device Safety Act".

The draft bill would authorize the Secretary to establish safety standards for medical devices, and to require such devices used in life-threatening situations which may *present* an unreasonable hazard to undergo a scientific review by the Department for safety and efficacy prior to their introduction into commerce. A summary of the key provisions of the bill is enclosed.

Our proposal, which was submitted to the last Congress but which was not acted upon, is the product of a thorough study of medical device regulation undertaken by the Department at the request of the President in his October 31, 1969, consumer message. In the course of this study, we obtained the views of medical practitioners, research scientists, engineers, consumer groups, manufacturers, and Government agencies on the nature and extent of the medical device safety problem, and the type of legislation needed.

On the basis of these views we have prepared a comprehensive regulatory program to protect consumers from the potential hazards of these devices. A cornerstone of this program is its procedure for drawing upon the expert knowledge of consumer groups, manufacturers, and trade associations, in the development of safety standards; and upon the expert knowledge of the medical and scientific community in reviewing proposed standards, in advising upon the need for subjecting medical devices to scientific review for safety and effectiveness, and in conducting that review.

We ask that the draft bill receive favorable consideration.

We are advised by the Office of Management and Budget that enactment of this draft bill would be in accord with the program of the President.

Sincerely,

CASPAR W. WEINBERGER,
Secretary.

SUMMARY OF KEY PROVISIONS OF PROPOSED MEDICAL DEVICE SAFETY ACT

PROPOSED OF THE BILL

The draft bill, which has been prepared as an amendment to the Federal Food, Drug, and Cosmetic Act, would authorize the Secretary of Health, Education, and Welfare to establish safety standards for medical devices, and to require unreasonably hazardous devices used in life-threatening situations to undergo a scientific review by the Department for safety and efficacy prior to their introduction into commerce or, if already in commerce, to determine whether they may continue to be marketed.

The term "device", as now defined by section 201(h) of the present Act (which to a limited degree already regulates devices), means "instruments, apparatus, and contrivances, including their components, parts, and accessories, intended (1) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or (2) to affect the structure or any function of the body of man or other animals." (The bill would exempt from its standard-setting and scientific review provisions devices for use on animals, however. §§ 513(j) and 514(a)(3)*.)

PROMULGATION OF STANDARDS

The bill would authorize the Secretary to promulgate a standard governing the performance or other characteristics of a medical device whenever, in his judgment, a standard is necessary to reduce or eliminate unreasonable risk of illness or injury associated with exposure to or use of the device, and there are no other more practicable means to protect the public. § 513(a).

Prior to the initiation of a proceeding to promulgate a standard, and prior to publishing a proposed standard in the course of such proceeding, the Secretary would be required, to the maximum practicable extent, to consult with other Federal agencies concerned with standard setting and other nationally or internationally recognized standard-setting agencies or organizations, and to use the technical support of other Federal agencies. Under this provision the Department would contemplate extensive consultation with, and the use of the resources of, the National Bureau of Standards. § 513(b).

The Secretary would initiate a proceeding to promulgate a device standard by publishing a notice which would invite interested persons to submit to the Secretary an existing standard or an offer to develop a standard. The Secretary could accept one or more of such offers, or adopt an applicable existing standard, or in appropriate cases—for example, where no offeror is technically competent to prepare a standard within a reasonable period—develop a standard using the resources of the Department and other agencies, or by contracting with qualified non-governmental entities. A proposed standard would then be published by regulation, with opportunity for public comment before it became effective, § 513(c), (d), (e), and (f).

After publication of a proposed standard, interested persons may for good cause require the Secretary to refer the standard to an *ad hoc* independent advisory committee for recommendations with respect to any matter involved in the proposal which requires the exercise of scientific judgment. § 513(h).

The standard, when promulgated, would be subject to the judicial review provisions of the Administrative Procedure Act governing informal rule making. § 513(g).

Every manufacturer of a device subject to a standard would be required to assure the Secretary that appropriate tests or its manufacture under a quality control program in accord with good manufacturing practice show the device to conform to the standard.

Nonconforming devices would be deemed to be adulterated (or, as may be applicable, misbranded), and would therefore fall under the same proscriptions now applicable to adulterated or misbranded drugs. §§ 501(e) and 502(q).

SCIENTIFIC REVIEW

The Secretary would be authorized to subject a device, or a type or class of device, to scientific review for safety and efficacy if, after consultation with an appropriate scientific panel, he found the device to be unreasonably hazardous when used, as intended, in life-threatening situations, and determined that there was no more practicable means than such review to reduce the hazard. § 514 (a) and (b). Classes of devices that may be expected to meet these criteria would include cardio-vascular implants, other implants composed of new materials, applications of new forms of energy to the body (*e.g.*, lasers), and new designs for machines which substitute for major bodily functions (*e.g.*, heart-lung machines). When the principles of design and construction of any device or class of devices subject to scientific review evolve to the point at which the safety and efficacy of the device or class may be assured under appropriate standards, such standards would be promulgated under the bill's standard-setting authority, and the scientific review requirement rescinded.

The bill would provide for the exemption from scientific review of devices intended solely for investigational uses by qualified experts. § 514(k). Devices on the market which are made subject to scientific review could continue to be marketed during the pendency of the review unless presenting a hazard requiring otherwise. § 604 of the bill.

An application for scientific review would be referred by the Secretary to a standing advisory scientific review panel for its recommendations. § 514(c)(2). The application would be denied if the device is not shown to be safe and efficacious. § 514(e)(1), (2), and (3). An applicant may seek administrative review of the Secretary's denial of his application either through petitioning the Secretary to refer the application to an advisory committee of experts for its independent recommendations on the scientific issues involved, or in the alternative by obtaining a formal adjudicatory hearing. § 514(e)(4). Judicial review would be provided in the same manner as is now available for denial of new drug applications. § 514(j). Approval of applications may be withdrawn on grounds similar to those for which the Secretary may now withdraw approval of new drug applications. § 514(f).

NOTIFICATION OF DEFECTIVE DEVICES; REPAIR OR REPLACEMENT

A manufacturer or importer would be required to notify the Secretary of any defects in devices produced, assembled, or imported by him if the defect is likely to create a substantial risk to the health or safety of any person, or of the failure of a device to comply with an applicable standard. Unless exempted by the Secretary, the manufacturer or importer would also be required to notify his dealers or distributors, and purchasers not for sale who are known to him. (Dealers or distributors who are notified of a defect by the manufacturer would be required to provide to the manufacturer or importer the names and addresses of each purchaser not for sale.) The Secretary may require the manufacturer or importer to remedy the defect, replace the device, or refund the purchase price. § 515.

REQUIREMENT OF GOOD MANUFACTURING PRACTICE

The bill would require devices to be manufactured in accordance with current good manufacturing practice (as determined by the Secretary) to assure their safety and efficacy. § 501(g).

REGISTRATION OF MANUFACTURERS; OFFICIAL NAMES OF DEVICES

The bill would require the registration of device manufacturers, and their continuing notification of the Secretary of the devices that they are producing and marketing. § 510. The Secretary would be authorized to establish official names for devices (as he now does for drugs). § 508.

RECORDS AND REPORTS

The bill also contains provisions (similar to those now in effect with respect to drugs) requiring manufacturers and distributors of devices subject to a standard or marketed under an approval of a scientific review application to maintain certain records relating to the safety and efficacy of the devices. § 516.

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*Unless otherwise indicated, section references in this summary are to the Federal Food, Drug, and Cosmetic Act as it would be amended by the bill.

FACTORY INSPECTION

The factory inspection authority (now applicable to devices) would be amended to make clear the Secretary's authority to inspect research data on devices, and to extend to devices certain exemptions from inspection which are now applicable to drugs. § 704.

ADVISORY COUNCIL

The bill would establish an Advisory Council on Devices to advise the Secretary with respect to matters of policy in carrying out the bill's provisions. § 708.

INDUSTRY PROPOSED AMENDMENT

Insert p. 2, line 12 immediately after "standard relating to" the following: "safety and effectiveness, including where appropriate."

Strike on p. 2, lines 20–25.

Strike on p. 3, line 1, the word "sentence," and capitalize "a."

P. 5, line 2, strike "thirty" and insert in lieu thereof "sixty."

Insert, p. 14, new subsection as follows:

"TEMPORARY PERMITS

"(k) The Secretary shall issue regulations permitting the interstate shipment of devices varying from an applicable standard for the purpose of investigation or other testing prior to amendment of the standard. Such regulations may include reasonable conditions related to the safety and effectiveness of the devices."

Insert p. 14 after new subsection (k) a new subsection as follows:

"(1) This section shall not apply to any custom device to the extent that it is ordered by a physician to be made in a special way for individual patients. Any such device shall comply with all aspects of any applicable standard except those specifically ordered by a physician to be changed. This subsection shall apply only to devices ordered for individual patients, and shall not otherwise exempt a device from subsection (k)."

Insert p. 16, line 21, a new sentence after the word Secretary as follows:

"To the maximum extent practical the panel or panels shall provide an opportunity for any interested person to submit data and views on the appropriateness of applying scientific review to a device (or type or class of device) or any particular use of a device."

On p. 22, line 13 change period to a comma and add the following:

"unless the Secretary determines that other valid scientific evidence is sufficient to establish the effectiveness of the device."

On p. 32, redesignate subsection "(1)" as "(m)" and add immediately after subsection (k) a new subsection:

"CUSTOM DEVICES

"(1) This section shall not apply to any custom device to the extent that it is ordered by a physician to be made in a special way for individual patients. Any such device shall comply with all aspects of any applicable standard except those specifically ordered for individual patients, and shall not otherwise exempt a device from subsection (k)."

P. 50 redesignate "section 604" as "sec 607" and add immediately after section 603 the following new sections:

SEC. 604. Chapter IX of such Act is amended by adding at the end thereof the following new subsection:

"EFFECT ON STATE REQUIREMENTS

"SEC. 903(a) Whenever a standard pursuant to section 513 or scientific review pursuant to section 514 under this Act is in effect no State or political subdivision of a State shall have any authority either to establish or to continue in effect any provision of a standard or regulation which prescribes any requirements as to the performance, composition, contents, design, finish, construction, packaging, or labeling of such product which are designed to deal with the same device unless such requirements are identical to the requirements of the Federal requirements.

(b) Nothing in this section shall be construed to prevent the Federal Government or the government of any State or political subdivision thereof from establishing a safety requirement applicable to a device for its own use if such requirement imposes a higher standard of performance than that required to comply with the otherwise applicable Federal requirements.

(c) Upon application of State or political subdivision thereof, the Secretary may by rule, after notice and opportunity for oral presentation of views, exempt from the provisions of subsection (a) (under such conditions as he may impose) a proposed safety requirement described in such application, where the proposed requirement (1) imposes a higher level of performance than the Federal standard, (2) is required by compelling local conditions and (3) does not unduly burden interstate commerce.

SEC. 605. Section 301(j) of such Act is amended by inserting "513, 514" after "512."

SEC. 606. Section 201 of such Act is amended by striking subsection (h) and inserting in lieu thereof the following new subsection:

(h) The term "device" (except when used in paragraph (n) of this section and in sections 301(i), 403(f), 502(c), and 602(c) means instruments, apparatus, implements, machines, contrivances, implants, *in vitro* reagents, and other similar or related articles, including their components, parts, and accessories (1) recognized in the official United States Pharmacopeia or official National Formulary, or any supplement to them; or (2) intended for use in the diagnosis of disease or other conditions or in the cure, mitigation, treatment, or prevention of disease in man or other animals; or (3) intended to affect the structure or any function of the body of man or other animals; and (4) which do not achieve any of their principal intended purposes through chemical action within or on the body of man or other animals and which are not dependent upon being metabolized for the achievement of any of its principal intended purposes."

On p. 51, lines 23 and 24, change "1971" and "1972" to "1973" and "1974" respectively.

Mr. SCHWEIKER. Mr. President, the administration has again transmitted a draft bill to amend the Federal Food, Drug, and Cosmetic Act to assure the safety and effectiveness of medical devices. The bill is a revised version of the bill introduced on this subject during the last Congress—H.R. 12316, 92d Congress—and has the short title of the Medical Device Safety Act.

The bill would authorize the Secretary of Health, Education, and Welfare, operating through the Food and Drug Administration, to establish safety standards for medical devices, and to require unreasonably hazardous medical devices used in life-threatening situations to undergo a scientific review for safety and efficacy prior to commercial marketing.

The need for more effective legislation to regulate medical devices can best be illustrated by the legal limitations in the law that now governs these health instruments. These limitations rest upon an "ex post facto" control authority; the lack of adequate standards for the immense number of devices presently on the market; and the absence of a comprehensive reporting system of adverse effects related to devices. This law, the 1938 Food and Drug Act, allows the regulation of devices only as to misbranding or adulteration after they have been offered into interstate commerce. New drug manufacturers on the other hand, must first present substantial evidence of the safety and effectiveness of their products for review before marketing.

In 1938, when the Food and Drug Act was passed, the device industry was relatively small and basically represented simple designs. The opinion of medical professionals was almost all that was necessary to designate a device as misbranded or adulterated.

Today's devices however, are far more complex and sophisticatel; taking advantage of recent technological innovation in the fields of metallurgy, electronics, plastics, and ceramic chemistry. Both quack devices and legitimate medical devices could no longer be easily classified and the advice of engineering, metallurgy, plastics, and medical specialists are all needed to assess whether or not a device was misbranded and legal cases are more and more difficult to build.

There are many glaring shortcomings of the present enforcement tools, specifically seizure and injunction actions; primarily the cost and the time loss incurred in awaiting final judicial decisions. If a seizure or enjoinder action is initiated by the FDA, the manufacturer has the right to appeal. The courts have traditionally stayed the enforcement of the injunction until a review of all of the facts, unless there is a clear health hazard. Some examples of how this may be hazardous to the public health might be helpful.

One of the most notorious of quack devices was the "Micro-dynameter" a simple string galvanometer encased in an expensive looking box, which sold for $875. It was distributed to the benefactors of the "quack" device field who bilk the gullible and more naive elements of society. It purportedly could diagnose any ailment or disease known to man. The patient was connected to the galvanometer which registered the patient's static electricity, and this electrical current then moved a dial which would stop at one of a number of listed diseases. Such devices present direct health hazards to seriously ill persons who through a false sense of security may terminally delay medical attention.

The FDA initiated the first seizure of the device in 1954. The manufacturer appealed. Two hundred and fifty subsequent actions were initiated. In a 12-month period 1,200 of the devices were seized, or voluntarily destroyed by their owners. The devices continued to be marketed and in 1960 the FDA moved to enjoin the further manufacture of the device.

This was appealed by the manufacturer and in 1962 the court ruled in favor of the Government. This decision was appealed, and the company continued to manufacture the device until 1969. Fifteen years elapsed between the initial FDA action and the final withdrawal of the device from the market.

Other devices which fall within a twilight zone between "quack" and legitimate medical devices also serve as examples. Weight reducing devices best ex-

emplify this type of device. One such device, the "Relax-a-cisor," first appeared on the market in 1949. It transmitted an electrical current to the muscles through contact pads strapped to the user's body. This caused the muscles to go through spasms of tightening and relaxing. This process purportedly led to a reduction in weight.

It was not until early in 1960 that the device was first reported to the FDA. After an initial investigation, the FDA notified the manufacturer to delete the weight reduction claim. The manufacturer complied by changing its weight reduction claim to a girth reduction claim. The FDA then ordered the manufacturer to delete the girth reduction claim and the manufacturer complied by changing that claim to another claim that the device would "tone up" muscles.

In 1966, FDA moved to enjoin the further production of the device due to misbranding. The manufacturer appealed and the court stayed the enjoinder until a hearing on the merits. In 1967, new evidence as to the device's potential to aggravate existing physical disorders was reported and in early 1970, a decision was handed down upholding the Government. This was appealed by the manufacturer, and a final decision in November of 1970 the court of appeals upholding the lower court's decision finally stopped production. The lower court had found that the device could aggravate existing physical ailments such as gastrointestinal, neurological, orthopedic, muscular, vascular, dermatological, kidney, gynecological, and pelvic disorders.

Yet another device, the "Res-Q-Aire," was first marketed in the mid-1960's. It was a plastic accordion shaped resuscitator which the manufacturer claimed would provide enough oxygen in emergency situations to revive a stricken person. In November of 1966, the FDA received reports from physicians that the device did not perform as per its labeled claims. A testing firm reported in May 1969 that the the device was a direct hazard to health in that it gave off only 6 cycles of air per minute whereas adults required 12 and children as much as 30 in emergency situations.

The device further lacked an exhalation valve, which required the device to be removed after each inhalation. And the mouthpiece was so formed as to force the lower jaw down which left the tongue free to block the air passage. Shortly after receipt of this report the agency declared the device a danger to health. The manufacturer still refused to withdraw the device from the market. The agency began initiating multiple seizures, and was forced in some instances to pay $12.50 per device in order to take it off the market.

These examples however, involved devices which represent a distinct minority of the total device field. Legitimate devices comprise the vast majority and can be even more difficult to regulate. Since World War II, we have witnessed such breakthroughs as: cardiac pacemakers; artificial heart valves; artificial veins; heart, lung, and kidney machines; and intensive care electronic monitoring stations, to name but a few. Regulation of these devices has led to the same problems of after the fact authority. The "Diapulse" affair is a prime example. This device is a highly sophisticated pulse diathermy machine. In 1965, the FDA initiated its first seizure. Eighteen research studies had to be conducted by the FDA and other Government agencies to establish that the device did not meet the standards set on its label. The seizure action was contested by the manufacturer and the court allowed the manufacturer to continue marketing.

A subsequent decision in 1967 was in favor of the Government but as the judge had submitted to the jury the question of the truth or falsity of 112 claims, and the jury found for 40, the manufacturer appealed the original seizure on those points decided in its favor. In 1971, the appeal was denied, and an injunction was brought against any labeling of a curative nature. This was appealed, with a decision in May of 1972 in the Government's favor. A permanent injunction was filed in July 1972.

The need for standards and premarket scientific review for medical devices thus seems apparent. Today there are approximately 1,500 manufacturers who produce over 12,000 medical devices. The industry's gross sales for 1972 is estimated to top $6 billion.

The general trend of development in this industry has been through a liaison process between specialists in technological fields and medical professionals who by pooling their respective knowledge have managed to develop functional devices for specific medical problems.

Because many of these devices are of a totally new design, there are usually no existing standards by which minimum safety and efficacy requirements can be set. The only test is of the device's actual effect on the patient.

Other devices do have standards which have been set by a number of independent agencies, such as: the American Heart Association; the American National Standards Institute; the American Society for Testing and Materials; and so forth. But these agencies have no power to enforce these standards. Manufacturers are under no legal obligation to adhere to these standards. Self-regulation may be acceptable to the industry but what of the patient who encounters a defective device which further aggravates his condition, or actually kills him. And not only the patient but also the technician, the nurse, or the doctor are subjected to such hazards as: poorly marked terminal sockets, which when reversed lead to electrocution; improperly or poorly insulated or grounded power sources which leak electrical currents; exposed wiring; and defective pressure valves which explode.

The patient as well as his doctor, or the hospital where he has gone to be treated, is virtually at the mercy of the sales pitch of a device manufacturer's salesman. Most hospitals do not have the resources to set up a preclearance department such as the one at the Downstate Medical Center in Brooklyn, N.Y. In its first 2 years of operation, the center discovered that 40 percent of the devices it tested were defective. Some manufacturers when informed of defects by physicians or hospital technicians have flatly refused to correct the defect. FDA attempts to control this situation have been further hampered by the lack of a precise, uniform medical device adverse effects reporting system. Physicians and hospitals have a tendency to avoid directly attributing or reporting injuries or deaths related to medical device malfunctions for fear of malpractice suits.

The statistics that have been compiled by a Secretary's task force which examined the problem, have been gleaned from a number of different sources; such as: a review of the death certificates; a review of leading medical journal articles which include physicians reports on experiences with various medical devices; and the hospital discharge experience data reported by the Commission on Professional and Hospital Activities. Resultant statistics are by no means comprehensive. They are merely a fractional representation of the actual number, which is definitely far greater. The literature search itself reveals 27,000 untoward effects from devices between 1961 and 1971.

An appreciable number of injuries and even deaths can also be attributed not merely to a specific medical device's defect itself, but rather to the negligent maintenance of the device. More specific labeling as to use, and a more detailed explanation of proper maintenance procedures by the manufacturer could aid in eliminating these hazards. Also hospitals must improve the quality of their maintenance personnel and technicians, and initiate adequate device training programs. Hospitals must also correct hazards such as faulty or antiquated electrical wiring and outlets, which when burdened by the high voltage capacities of many of the new medical devices, often short-circuit causing electrical shocks and fires.

A 1972 article in the Journal of the Association for the Advancement of Medical Instrumentation, by Dr. John N. R. Brewer, illustrates this problem. In a study of a 1,100-bed hospital over a 42-month period, from September 1967 to March 1971, a total of 110 injuries occurred which were directly related to improper wiring and inadequate grounding outlets.

A recent incident involving the device "Super Coil" was described in testimony before the Health Subcommittee on March 7 of this year. A witness told of 20 women undergoing abortions by use of the untested super coil which resulted in 60 percent receiving serious injury and at least one requiring a hysterectomy. This incident could have been avoided by the legislation advanced by the administration.

In conclusion, legislation in this area is clearly needed to eliminate the present limitations on HEW's regulatory authority over the medical devices. But in arriving at an effective scientific review procedure, careful consideration must be given to the great diversity in the types, functions, and the present state of the art of various devices. Scientific review of toxic, faulty, or patently hazardous devices is a clear necessity. Standards may be appropriate even for those devices that have been on the market for a number of years and are well known

in order to assure reliability. New, or experimental devices must be given a regulatory procedure through peer review whereby the device can be placed quickly on the market, if approved, but whereby the patients are protected to the fullest extent possible. This is needed to encourage the continued technological growth of new devices.

The Medical Device Safety Act recognizes these necessary elements for workable legislation in this field. The bill would also subject all to the general controls of requisite defect notification; adherence to quality manufacturing practices; record and report keeping; and factory inspection and registration of establishments.

The legislation is based on a thorough investigation of medical device legislation by a Secretary of HEW's task force undertaken at the specific direction of the President. The legislation reflects the task force recommendations and thus fully recognizes the inherent differences between drugs and devices, yet provides real protection.

I urge the speedy consideration and enactment of legislation to control the safety of health devices which has been recommended by Presidents Kennedy, Johnson, and Nixon.

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

S. 1449. A bill to eliminate racketeering in the sale and distribution of cigarettes, and for other purposes. Referred to the Committee on Commerce.

Mr. JAVITS. Mr. President, I introduce and send to the desk for appropriate reference on behalf of myself and my colleague, the junior Senator from New York (Mr. BUCKLEY), a bill dealing with the problem of contraband in the shape of cigarettes moving from one State to another on which the required State tax is not paid.

This is a very major problem for many States. It involves great losses of revenue.

I introduced this bill in the last Congress as well, also with the junior Senator from New York (Mr. BUCKLEY).

I hope that we may get early action on the bill. I understand that New York alone loses $85 million a year. I feel it is a very serious situation.

Mr. President, the need for this bill was dramatically illustrated recently when Maryland police seized a truckload of bootleg cigarettes on its way to New York City from North Carolina.

I note that Maryland officials estimate that this shipment alone—consisting of nearly 16,000 cartons of cigarettes—would have represented a tax loss to the city and State of New York of over $30,000.

It is estimated that the city and State of New York annually lose over $85,000,000 in total tax revenues because of cigarette smuggling. New York is not the only victim; consider the estimates: Connecticut, an annual loss of $21,000,000 in taxes; Pennsylvania, annual tax loss of between $35 and $50 million; for New Jersey, the annual tax loss is estimated at between $3 and $5 million.

Organized crime began to find cigarette smuggling attractive in the mid-1960's when a number of State and local governments, feeling the revenue pinch, started increasing cigarette taxes. The resulting disparities in cigarette costs from one State to another provided profitable opportunities for smuggling. For example, North Carolina has the Nation's lowest tax—2 cents per pack—while New York City and State taxes can total as much as 23 cents per pack. The difference of over $2 per carton allows smugglers to sell North Carolina cigarettes in New York City well below local prices and still make a handsome profit.

This bill, similar to one I and Senator BUCKLEY offered last year, has three major objectives: first, to help eliminate racketeering in the sale and distribution of cigarettes; second, to afford greater protection to legitimate cigarette dealers from this unlawful and ruinous competition; and third, to reduce a serious drain on needed State and local revenues by providing more effective enforcement of cigarette tax laws.

The bill would further these purposes by prohibiting transportation of "contraband cigarettes" in interstate commerce. "Contraband cigarettes" are defined as quantities of greater than 20,000 cigarettes, lacking appropriate State tax stamps, in the possession of anyone except those who can properly possess such cigarettes; namely, a cigarette manufacturer, a licensed distributor, an officer or agent of the U.S. Government, or a common or contract carrier. A violation of the provisions of the bill would be a felony under Federal law and would carry a fine of up to $10,000 and/or imprisonment up to 2 years.

A 1972 New York State Commission of Investigation report on cigarette smuggling made the following major findings:

Cigarette smuggling is a national problem, involving many States other than just New York;

Huge amounts of money are involved in cigarette smuggling. As noted above, the city and State of New York are believed to lose over $85,000,000 in sales and excise taxes alone; and

Organized crime elements are extensively engaged in, and account for a major portion of, cigarette smuggling.

This bill offers Congress the chance to provide a timely solution to a serious organized crime problem, to help honest businessmen, and to increase substantially tax revenues of many fiscally distressed cities and States at relatively little cost to the Federal Government.

I ask unanimous consent that an article of March 12, 1973, in the New York Times and March 2, 1973 in the Washington Post discussing this situation be printed in the RECORD together with a text of the bill.

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

HARTFORD TAX LOSS ON CIGARETTES CITED

HARTFORD, March 12.—State Tax Commissioner F. George Brown said today that 87 million packs of illegal cigarettes were smuggled into Connecticut each year for a tax loss of $21-million.

Despite a stepped-up campaign to slow this smuggling, Mr. Brown said, the state has confiscated only 36,000 packs since last Nov. 1.

In a speech to the Hartford Rotary Club Mr. Brown said a special post office box and 24-hour telephone had been established to take confidential information on smuggled cigarettes. The numbers have been printed on stickers on cigarette machines throughout the state. Mr. Brown also has organized a smuggling unit in the tax department.

Mr. Brown said Connecticut and New York State were both victims of an underground trade in untaxed cigarettes, with New York losing $85-million a year in tax revenues.

He said organized crime had become deeply involved in cigarette smuggling.

TRUCKLOAD OF CIGARETTES SEIZED ON BELTWAY IN MARYLAND

(By Philip A. McCombs)

Maryland State Police, acting on a tip, yesterday stopped a truck on the Capitol Beltway and seized 15,426 cartons and nine packs of untaxed cigarettes that police said were being illegally transported from North Carolina to New York City.

It was the largest untaxed cigarette seizure in recent years in the state.

State tax authorities said the allegedly illegal shipment had probably cost about $40,000 in North Carolina and would bring about $75,000 if sold illegally on the streets of New York.

The difference between the two figures would represent a $35,000 tax loss to New York State on this shipment alone, according to John F. Deinlein of Maryland's tobacco tax enforcement division.

Deinlien said the stream of illegal cigarettes coming out of the South along highways in the Washington area to New York, Pennsylvania and the New England states for illegal sale represent multi-million dollar tax losses annually for these states.

New York state osses $85 million a year in cigarette taxes because of the illegal trade, Connecticut $22 million, Pennsylvania between $35 and $50 million and New Jersey between $3 and $5 million, according to Deinlein.

Maryland, on the other hand, makes a small annual net profit from the illegal cigarette trade because the state can sell the cigarettes it seizes. Under state alcohol and tobacco laws, it can also seize and sell the vehicles in which alcohol and tobacco's being illegally transported.

Tax losses in Maryland, Virginia and the District of Columbia from illegal cigarette sales tend to be negligible because taxes in these jurisdictions are low, according to Deinlein. He said illegal shippers seldom stop here to sell their cigarettes, preferring to go to the states where high taxes drive cigarette prices up and create a market for the tax free cigarettes.

Shortly after midnight, State Police arrested a man they identified as John Edward Pavlik of New York and charged him with illegally possessing and transporting untaxed cigarettes. He was being held on a $10,000 bond. The charge upon conviction carries penalties of up to two years in prison and $350,000 fines.

Police seized the rented tractor-trailer truck Pavlik was driving and said they would sell it. They said the cigarettes seized from it would be sold in the state's hospitals. They said virtually every brand of commercial cigarette was represented in the seizure.

The seizure was one of the largest in recent Maryland history, police said. Less than 60,000 cartons of illegal cigarettes had been seized in Maryland during the previous 18 months, according to Deinlein.

S. 1449

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

STATEMENT OF FINDINGS AND PURPOSE

SECTION 1. (a) The Congress finds that (1) smuggling of cigarettes in interstate com-

merce has dramatically increased in recent years with organized crime playing a large role in the situation; (2) present Federal law pertaining to cigarette smuggling is ineffective because it covers only smuggling through use of the mails and does not reach smuggling using trucks and similar means which account for the main part of the problem; (3) a sharply expanded Federal role in the fight against cigarette smuggling is essential if there is to be an effective law enforcement effort against cigarette smuggling since the interstate nature of the crime places individual States at too great a disadvantage to handle these problems effectively.

(b) It is the purpose of this Act to provide a timely solution to a serious organized crime problem and to help provide relief to many cities and States at a small cost to the Federal Government.

SEC. 2. For the purposes of this Act—

(1) the term "cigarette" means—

(a) any roll of tobacco wrapped in paper or in any substance not containing tobacco, and

(b) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph (a),

(2) the term "contraband cigarettes" means a quantity in excess of twenty thousand cigarettes, bearing no evidence of the payment of applicable State cigarette taxes in the State where they are found and which are, in the possession of any person other than (a) a person holding a permit issued pursuant to chapter 52 of title 26, United States Code, as a manfacturer of tobacco products or as an export warehouse proprietor or his agent; (b) a common or contract carrier: *Provided, however,* That the cigarettes are designated as such on the bill of lading or freight bill; (c) a person licensed or otherwise authorized by the State where the cigarettes are found, to deal in cigarettes and to account for and pay applicable cigarette taxes imposed by such State; or (d) an officer, employee, or other agent of the United States, or its departments and wholly owned instrumentalities.

(3) the term "common or contract carrier" means a carrier holding a certificate of convenience or necessity or equivalent operating authority from a regulatory agency of the United States or of any State or the District of Columbia.

(4) the term "State" includes a political subdivision thereof and the District of Columbia.

SEC. 3. The transportation of contraband cigarettes in interstate commerce is prohibited.

SEC. 4. Nothing in this Act shall be construed to affect the concurrent jurisdiction of a State to enact and enforce State cigarette tax laws, to provide for the confiscation of and to provide penalties for the violation of such laws.

SEC. 5. Whoever violates any provision of this Act shall be sentenced to pay a fine of not more than $10,000, or to be imprisoned for not more than two years, or both.

SEC. 6. Any contraband cigarettes transported in interstate commerce in violation of the laws of any State and any vehicle or other means of transportation used for the transportation of contraband cigarettes in interstate commerce may be seized and shall be forfeited to the United States.

SEC. 7. The United States district courts shall have jurisdiction to prevent and restrain violations of this Act.

SEC. 8. This Act shall take effect ninety days after its enactment.

By Mr. JAVITS (by request):

S. 1450. A bill to consolidate and extend the authorizations for appropriations for assistance to medical libraries, to repeal provisions for assistance for construction of facilities and for grants for training in medical library sciences, and for other purposes. Referred to the Committee on Labor and Public Welfare.

Mr. JAVITS. Mr. President, I introduce today on behalf of the administration, by request, a bill to extend assistance for medical libraries.

I am sympathetic to the bill's proposed consolidation of the seven separate statutory purposes authorizations into a single authorization. I will carefully follow the hearings on this bill to determine from the experts in the field; for example, the Medical Library Association, the Association of Research Libraries, the Association for Hospital Medical Education, if the proposed consolidation will meet the magnitude of the problems involved in disseminating cumulative health sciences knowledge to health professionals, research scientists, educators, and students.

I have serious reservations about the bill's repealing the training grants and fellowship program—which supports innovative graduate and postgraduate curriculum for the education and training of medical librarians, biomedical communications specialists, professional personnel required for health science communication research and services, and other individuals in preparation for careers of independent research in librarianship and other information and communication specialties related to the health sciences.

Also, I am concerned about the bill's repeal of construction grant assistance for medical library facilities. Although no funds have been appropriated for such authorized purpose since 1968, I am not convinced, having reviewed the testimony during hearings on the 92d Congress Senate passed Medical Libraries Act of 1972—S. 3752—of which I was a cosponsor—which emphasized the need for adequate funding to achieve the program objectives—that medical libraries should not have the opportunity to argue before the Congress for funding support despite scarce health resources funding.

The focal point for the collection, analysis, and dissemination of biomedical information is the National Library of Medicine. Through the authority of the Medical Library Assistance Act it has been instrumental in the creation of an effective system of regional libraries. I feel that this record of excellence will be continued.

Mr. President, I ask unanimous consent that a letter to the President of the Senate be printed in the RECORD.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the material will be printed in the RECORD.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
March 20, 1973.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: We enclose for the consideration of the Congress a draft bill "To consolidate and extend the authorizations for appropriations for assistance to medical libraries, to repeal provisions for assistance for construction of facilities and for grants for training in medical library sciences, and for other purposes."

In its present form, the program of assistance to medical libraries, contained in part J of title III of the Public Health Service Act, contains separate authorizations for each of the seven statutory purposes served by the part. Many of these purposes overlap and cannot properly be regarded as independent programs. The pertinent appropriation Acts, in fact, provide a single amount as budget authority to the National Library of Medicine, which administers the part, for all of the Library's activities. (See, for example, the Department of Health, Education, and Welfare Appropriation Act, 1972, 85 Stat. 293.) The draft bill, by consolidating the appropriations authorizations of part J into a single provision, would give formal recognition to these considerations and somewhat simplify the Department's task in administering the part as a unitary program.

The draft bill would also repeal the authority in part J to assist in the construction of medical library facilities and regional medical libraries (as contained in sections 393 and 397(b)(6) of the PHS Act). In order to support, as broadly as possible, activities that serve to promote the collection and dissemination of the ever-increasing volume of knowledge in the health information field, the Federal role should be limited to the development of medical library resource materials. Program resources should not be diverted from this primary purpose in order to aid construction. Such a diversion would concentrate available funds on a relatively small number of low priority projects and would thereby confer disproportionately large benefits on a small fraction of potential grant recipients. For these reasons, the Department, in the budget justifications submitted to the Congress in support of part J in recent years, has not proposed the making of construction grants. The draft bill would amend the part to reflect more clearly the policies that govern its administration.

Finally, the draft bill would repeal the authority in part J to make grants for training in medical library sciences (section 394 of the PHS Act). Assistance to individuals who seek training as medical librarians or other health information specialists is available under title IV–B of the Higher Education Act of 1965, which now makes available Federal, State, and private low-interest insured loans to students for study in institutions of higher education. Additional categorical support is unwarranted.

We would appreciate it if you would refer the enclosed draft bill to the appropriate Committee for its consideration.

We are advised by the Office of Management and Budget that enactment of this draft bill would be in accord with the program of the President.

Sincerely,

FRANK C. CARLUCCI,
Acting Secretary.

By Mr. JAVITS (for himself, Mr. SCOTT of Pennsylvania, and Mr. DOMINICK):

S. 1451. A bill to amend the Federal Food, Drug, and Cosmetic Act to require the disclosure of ingredients on the labels of all foods. Referred to the Committee on Labor and Public Welfare.

Mr. JAVITS. Mr. President, I introduce for the administration the Truth in Food Labeling Act.

Mr. President, in his 1971 consumer message, President Nixon set forth his "Buyer's Bill of Rights." A fundamental of this bill of rights is the consumer's right to accurate information on which to base a sound and informed choice between competing projects in the marketplace. The administration bill I am in-

troducing today on behalf of myself and Senators SCOTT of Pennsylvania and DOMINICK would help in achieving this goal by requiring full and honest labeling of ingredients for all foods.

The major deficiency in the present food labeling provisions of law is that some food labels do not disclose their ingredients. Foods for which a definition and standard of identity have been established pursuant to the Food and Drug Act need not list mandatory ingredients on the label. In other words, the ingredients that must be in the food if it is to comply with the standard are not required to be listed on the label. There are approximately 300 standards covering such categories of foods as: Cocoa products, wheat products, cheeses, desserts, canned foods, seafoods, mayonnaise, and ice cream. Optional ingredients—those that may be in the food but need not be—are listed at the option of the FDA. Only foods for which there is no standard of identity must disclose their ingredients.

These distinctions do not make sense and the bill would simply require all foods to disclose their ingredients on the label on an equal basis. In effect, it is an antidiscrimination measure. I ask unanimous consent that the letter of transmittal, an explanation of the bill and the bill be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. JAVITS. A group of enterprising young law students also did not see the sense of these distinctions especially in view of the fact that the Food and Drug Act states that standards are intended to "promote honesty and fair dealing in the interest of consumers" and these law students filed a petition with FDA under the acronym LABEL, Inc.

FDA published the proposal in the Federal Register and in a rather unusual action requested comments on whether the food and drug law included sufficient legal authority to require labeling of mandatory ingredients as requested in this petition. After giving the proposal serious and in-depth consideration and reviewing all the comments, FDA denied the petition as not providing sufficient legal grounds to uphold such a labeling regulation in court. The then Commissioner of FDA, Dr. Charles Edwards, did, however, agree that food labels should list their complete ingredients. Toward this end, he issued a statement of policy that FDA intends to amend the existing standards and definitions of identity so as to require disclosure of all optional ingredients. One might say FDA was going to exercise their option in the interest of consumers. The statement of policy also attempted to foster the voluntary listing of mandatory ingredients by providing that a requirement included in some standards which specified that certain ingredients had to be designated in a particular manner could be waived if a complete listing was put on the label. This kind of waiver on a quid pro quo basis can hardly be described as satisfactory.

Therefore, after denying the petition, the administration followed through with its expressed determination that all the ingredients should be listed and the bill I introduce today seeks to correct the legal deficiency. I urge its prompt consideration.

During hearings last year before the House Health Subcommittee, Commissioner Edwards testified on the rationale of this legislation:

A more informed consumer is an important step. As you know, Mr. Chairman, mandatory ingredients in a food for which a standard of identity has been established need not be declared on the label. The rationale for the exemption for mandatory ingredients from the labeling provisions of the Act was that consumers would be familiar with the mandatory ingredients of a standardized product. This legislative assumption, which was made in 1938 when the Federal Food, Drug, and Cosmetic Act became law, has since proven invalid, especially as a result of the many new and complex variations of standardized foods which have been introduced into the market.

Basically the bill requires: Mandatory ingredients in standardized foods to be listed in the same manner as other ingredients; requires ingredients to be listed in the order of their predominance in the food; and, of course, would provide an appropriate transitional period for the industry to prepare for the necessary relabeling.

Mr. President, while the bill I introduce today is a most important step forward in consumer protection—to assure more complete labeling of food products—I am concerned that the bill does not require that every ingredient of a food product appear on the label. Moreover, it does not require disclosure of spices, flavoring, and color additives. I am confident that the Committee on Labor and Public Welfare—of which I am ranking minority member—will examine this bill with objectivity to determine how, if it is necessary to amend the bill in this regard, we can most effectively protect the American consumer.

EXHIBIT 1

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
March 12, 1973.

HON. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed for the consideration of the Congress is a draft bill "To amend the Federal Food, Drug, and Cosmetic Act to require the disclosure of ingredients on the labels of all foods."

The draft bill would require mandatory ingredients in foods for which a standard and definition of identity has been established pursuant to the Federal Food, Drug, and Cosmetic Act to be declared on the label of such foods. Present law exempts such ingredients from the requirement that ingredients be identified on the label. In effect, the draft bill would put standardized and nonstandardized foods on an equal footing regarding the disclosure of ingredients. A more detailed explanation of the bill is appended.

The legislation would fulfill a recommendation of the White House Conference on Food, Nutrition and Health that the exemption for mandatory ingredients be deleted.

We believe the consumer has a right to know, to the extent practicable, the ingredients in the food that he consumes.

We ask that the draft bill receive favorable consideration.

We are advised by the Office of Management and Budget that enactment of this draft bill would be consistent with the Administration's objectives.

Sincerely,

CASPAR W. WEINBERGER,
Secretary.

EXPLANATION OF HEW DRAFT BILL TO AMEND THE FEDERAL FOOD, DRUG, AND COSMETIC ACT TO REQUIRE THE DISCLOSURE OF INGREDIENTS ON THE LABELS OF ALL FOODS

OVERVIEW

The purpose of the draft bill is to require the label of a food subject to a standard of identity under the Federal Food, Drug, and Cosmetic Act to bear a listing of the food's ingredients in the order of their predominance.

EXISTING LAW

Section 401 of the Federal Food, Drug, and Cosmetic Act authorizes the Secretary to "promulgate regulations fixing and establishing for any food . . . a reasonable definition and standard of identity . . . ." The section also provides that "the Secretary shall . . . designate the optional ingredients which shall be named on the label." Section 403(g) of the Act would deem a food to be misbranded "if it purports to be . . . a food for which a definition and standard of identity has been prescribed . . . unless . . . its label bears the name of the food specified in the definition and standard, and, insofar as may required by [regulations under section 401], the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food."

The sum of these provisions is that the Secretary is without authority to find a standardized food to be misbranded even though its label fails to list its ingredients (other than optional ingredients). Subject to exemptions in certain circumstances, the labeling of foods which are not standardized must list the food's ingredients (except that spices, flavorings, and colorings may be designated as such). (§ 403(i)).

THE DRAFT BILL

Section 1(a) of the draft bill would delete the provision of section 401 of the Federal Food, Drug, and Cosmetic Act which, as partially quoted above, authorizes the Secretary to require the designation of optional ingredients on the labeling of standardized foods. This provision would no longer be necessary upon the enactment of the other sections of the bill, because the same listing of ingredients, including optional ingredients, would be required for standardized foods as for other foods.

Section 1(b) of the draft bill would revise section 403(g) of the Act, partially quoted above, in order to repeal the exemption of a standardized food, the label of which merely bears the name of the food and a listing of optional ingredients, from being found misbranded because of the failure of the label to list all of the food's ingredients.

Section 1(c)(1) of the draft bill would repeal the exemption of standardized foods from the general requirement applicable to other foods that, subject to certain exemptions, the labeling of such other foods bear a listing of their ingredients.

Section 1(c)(2) of the draft bill would require that any food, whether a standardized food or otherwise, list its ingredients on its label in the order of their predominance.

Section 1(d) of the draft bill is a conforming technical amendment.

Section 2 of the draft bill provides for the bill to take effect 12 months after the month of its enactment, except that the Secretary would be authorized to postpone the effective date for good cause for up to an additional year with respect to any specific food product, provided that the label of such food had not been printed more than 3 months after the month of the bill's enactment.

S. 1451

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

DISCLOSURE OF INGREDIENTS IN FOODS

SECTION 1. (a) Section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341) is amended by striking out the fourth sentence.

(b) Section 403(g) of such Act (21 U.S.C. 343(g)) is amended to read as follows:

"(g) If it purports to be or is represented as a food for which a definition and standard of identity has been prescribed by regulations as provided by section 401, unless (1) it conforms to such definition and standard, and (2) its label bears the name of the food specified in the definition and standard."

(c)(1) Section 403(i) of such Act (21 U.S.C. 343(i)) is amended by striking out "If it is not subject to the provisions of paragraph (g) of this section unless its label bears" and inserting in lieu thereof "If its label fails to bear".

(2) Section 403(i) of such Act (21 U.S.C. 343(i)) is further amended by inserting "(in the order of their predominance)" immediately after "each such ingredient".

(d) Section 403(k) of such Act (21 U.S.C. 343(k)) is amended by striking out "paragraphs (g) and (i)" and inserting in lieu thereof "paragraph (i)".

EFFECTIVE DATE

SEC. 2. The amendments made by this Act shall take effect on the first day of the thirteenth month beginning after the date of their enactment, except that such effective date shall be postponed, if the Secretary of Health, Education, and Welfare determines that there is good cause therefor, for a period of not to exceed an additional twelve months with respect to any specific food product not in compliance with such amendments, other than a product bearing a label printed after the first day of the fourth month beginning after the date of such enactment.

Mr. SCOTT of Pennsylvania. Mr. President, I am delighted to join the distinguished Senator from New York (Mr. JAVITS) in sponsoring this legislation to require the full labeling of ingredients on certain food products which are now exempted from Federal labeling requirements.

Under existing law, "standardized" food products must include Food and Drug Administration specified ingredients, but the FDA does not have the authority to require that these ingredients be listed on the product's label. I commend the Food and Drug Administration for recommending the legislation being introduced today.

The ordinary consumer cannot be expected to memorize the ingredients of the more than 100 food products in the "standardized" category. This category includes foods such as ice cream, macaroni and noodle products, bread, wheat and corn flour, cheese, certain canned fruits and vegetables, tomato products, and fruit pies. These foods are staple items in many households and the nonlabeling of their ingredients poses a constant hazard to individuals on special or restricted diets.

I urge early consideration of this much needed legislation.

By Mr. HARRY F. BYRD, JR.:

S. 1452. A bill to prohibit Department of Defense funds from being used for the purpose of providing assistance to or on behalf of North Vietnam. Referred to the Committee on Armed Services.

Mr. HARRY F. BYRD, JR. Mr. President, I send to the desk a bill and ask unanimous consent that it be printed in the RECORD and appropriately referred.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD, as requested by the Senator from Virginia.

The bill is as follows:

S. 1452

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no funds made available by the Congress to the Department of Defense may be obligated or expended for the purpose of providing assistance of any kind, directly or indirectly, to or on behalf of North Vietnam.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 136

At the request of Mr. SCHWEIKER, the Senator from Kansas (Mr. DOLE), the Senator from Oregon (Mr. HATFIELD), and the Senator from Missouri (Mr. EAGLETON) were added as cosponsors of S. 136, a bill to authorize financial assistance for opportunities industrialization centers.

S. 330

At the request of Mr. THURMOND, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 330, to amend chapter 67 (relating to retired pay for nonregular service) of title 10, United States Code, to authorize payment of retired pay actuarily computed to persons, otherwise eligible, at age 50, and for other purposes.

S. 897

At the request of Mr. STEVENS, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 897, to authorize the removal of debris and obsolete buildings in the Aleutian Islands, Alaska.

S. 980

At the request of Mr. JAVITS, the Senator from Alaska, (Mr. GRAVEL), the Senator from Washington (Mr. MAGNUSON), the Senator from Maine (Mr. MUSKIE), and the Senator from Connecticut (Mr. WEICKER) were added as cosponsors of S. 980, the extended unemployment compensation bill.

S. 1003

At the request of Mr. PACKWOOD, the Senator from Oklahoma (Mr. BARTLETT) was added as a cosponsor of S. 1003, the Transportation Crisis Prevention Act of 1973.

S. 1304

At the request of Mr. STEVENS, the Senator from Kentucky (Mr. COOK) was added as a cosponsor of S. 1304, to amend certain provisions of title XI of the Organized Crime Control Act of 1970 relating to explosives.

S. 1418

At the request of Mr. HATFIELD, the Senator from New York (Mr. BUCKLEY) and the Senator from Kansas (Mr. DOLE) were added as cosponsors of S. 1418, a bill to commemorate the 100th anniversary of the birth of Herbert Hoover by providing grants to the Hoover Institution on War, Revolution and Peace.

S. 1431

Mr. HELMS. Mr. President, I ask unanimous consent that 18 of my distinguished colleagues be added to the original list of cosponsors to my bill, S. 1431, introduced yesterday, to provide for the continuation of programs authorized under the Vocational Rehabilitation Act, and for other purposes. The additional cosponsors are:

Senators BAKER, BELLMON, BENNETT, BROCK, BUCKLEY, COOK, CURTIS, DOMENICI, DOMINICK, FONG, GRIFFIN, GURNEY, HANSEN, ROTH, SCOTT of Pennsylvania, THURMOND, TOWER, and YOUNG.

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

S. 513

At the request of Mr. Moss, the Senator from Ohio (Mr. TAFT) was added as a cosponsor of S. 513, to amend section 232 of the National Housing Act to authorize insured loans to provide fire safety equipment for nursing homes.

SENATE JOINT RESOLUTION 2

At the request of Mr. NELSON, the following Senators were added as cosponsors of Senate Joint Resolution 2, designating April 9 through April 15 as "Earth Week, 1973":

LIST OF COSPONSORS

Sen. James S. Abourezk (S. Dak.).
Sen. Howard H. Baker (Tenn.).
Sen. Birch Bayh (Ind.).
Sen. J. Glenn Beall, Jr. (Md.).
Sen. Lloyd Bentsen (Tex.).
Sen. Alan Bible (Nev.).
Sen. Joseph R. Biden, Jr. (Del.).
Sen. Bill Brock (Tenn.).
Sen. Edward W. Brooke (Mass.).
Sen. Quentin N. Burdick (N. Dak.).
Sen. Howard W. Cannon (Nev.).
Sen. Clifford P. Case (N.J.).
Sen. Lawton Chiles (Fla.).
Sen. Frank Church (Idaho).
Sen. Marlow W. Cook (Ky.).
Sen. Norris Cotton (N.H.).
Sen. Alan Cranston (Calif.).
Sen. Robert Dole (Kan.).
Sen. Pete V. Domenici (N. Mex.).
Sen. Peter H. Dominick (Colo.).
Sen. Thomas F. Eagleton (Mo.).
Sen. Hiram L. Fong (Hawaii).
Sen. Mike Gravel (Alaska).
Sen. Edward J. Gurney (Fla.).
Sen. Clifford P. Hansen (Wyo.).
Sen. Philip A. Hart (Mich.).
Sen. Floyd K. Haskell (Colo.).
Sen William D. Hathaway (Maine).
Sen. Ernest F. Hollings (S.C.).
Sen. Walter D. Huddleston (Ky.).
Sen. Harold E. Hughes (Iowa).
Sen. Hubert Humphrey (Minn.).
Sen. Daniel Inouye (Hawaii).
Sen. Henry M. Jackson (Wash.).
Sen. Jacob K. Javits (N.Y.).
Sen. Edward M. Kennedy (Mass.).
Sen. Warren Magnuson (Wash.).
Sen. Mike Mansfield (Mont.).
Sen. Gale W. McGee (Wyo.).
Sen. George McGovern (S. Dak.).
Sen. Thomas J. McIntyre (N.H.).
Sen. Walter F. Mondale (Minn.).
Sen. Frank E. Moss (Utah).
Sen. Edmund S. Muskie (Maine).
Sen. Sam Nunn (Ga.).
Sen. Bob Packwood (Oreg.).
Sen. John O. Pastore (R.I.).
Sen. Claiborne Pell (R.I.).
Sen. William Proxmire (Wis.).
Sen. Jennings Randolph (W.Va.).
Sen. Abraham Ribicoff (Conn.).
Sen. William V. Roth, Jr. (Del.).
Sen. Richard S. Schweiker (Pa.).

Sen. Ted Stevens (Alaska).
Sen. Adlai E. Stevenson, III (Ill.).
Sen. Stuart Symington (Mo.).
Sen. Robert Taft, Jr (Ohio).
Sen. Herman E. Talmadge (Ga.).
Sen. Strom Thurmond (S.C.).
Sen. John Tower (Tex.).
Sen. John V. Tunney (Calif.).
Sen. Harrison A. Williams, Jr. (N.J.).

SENATE JOINT RESOLUTION 24

At the request of Mr. McINTYRE, the Senator from Idaho (Mr. CHURCH), and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of Senate Joint Resolution 24, to declare the fourth Saturday of each September as "National Hunting and Fishing Day."

SENATE JOINT RESOLUTION 84

At the request of Mr. SCHWEIKER, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of Senate Joint Resolution 84, the school prayer amendment.

SENATE CONCURRENT RESOLUTION 20—SUBMISSION OF A CONCURRENT RESOLUTION COMMENDING THE PRESIDENT FOR TERMINATING THE INVOLVEMENT OF THE UNITED STATES IN HOSTILITIES IN VIETNAM

(Referred to the Committee on Foreign Relations.)

Mr. THURMOND. Mr. President, last week was, indeed, a historic week for the United States of America with the return of the last contingent of ground troops and POW's. For the first time in in more than a decade, no American men are involved in combat activities of any sort in Vietnam.

The entire Nation is breathing a collective sigh of relief as this country's direct involvement in the war has ended. In the midst of our relief, however, I would add one word of caution. We have been assured by the North Vietnamese that a complete and accurate accounting of all those missing in action would be promptly provided. So far, this has not been done. We must demand that this be carried out since it is an integral part of the agreements.

The statistics relating to the war are familiar by now: More than 45,000 Americans killed in hostile action; more than 300,000 wounded; it was the longest war in our history, lasting more than 11 years at a cost of more than $140 billion.

President Nixon has fulfilled the pledge he made to the American people. He has obtained and complied with an agreement which gives the United States true peace with honor.

Mr. President, during this long and costly war, our country faced an unprecedented barrage of criticism and debate over the propriety of the war. Members of this august body, echoing the differences of opinions across the Nation, often disagreed on the execution of our policy in Vietnam.

Debate may continue over the position this country assumes in other parts of Indochina. That aside, however, one fact is clear: President Nixon has ended direct U.S. involvement in Vietnam, and he has obtained the release of all known American prisoners of war. He has further made it clear that we will accept nothing less than a complete and accurate accounting of all missing Americans.

For this, I believe the President should be commended by the Congress of the United States. In this regard, I am introducing a concurrent resolution with 23 coauthors.

My colleagues who join me in submitting this concurrent resolution are the Senator from Florida (Mr. GURNEY), the Senator from Alabama (Mr. ALLEN), the Senator from Kansas (Mr. DOLE), the Senator from Idaho (Mr. McCLURE), the Senator from Ohio (Mr. TAFT), the Senator from Arizona (Mr. FANNIN), the Senator from Utah (Mr. BENNETT), the Senator from Oklahoma (Mr. BELLMON), the Senator from Oklahoma (Mr. BARTLETT), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nebraska (Mr. CURTIS), the Senator from New York (Mr. BUCKLEY), the Senator from Pennsylvania (Mr. SCOTT), the Senator from Delaware (Mr. ROTH), the Senator from Texas (Mr. TOWER), the Senator from Nebraska (Mr. HRUSKA), the Senator from Tennessee (Mr. BROCK), the Senator from Connecticut (Mr. WEICKER), the Senator from Kentucky (Mr. COOK), the Senator from Ohio (Mr. SAXBE), the Senator from Hawaii (Mr. FONG), the Senator from Tennessee (Mr. BAKER), and the Senator from Michigan (Mr. GRIFFIN).

I send the concurrent resolution to the desk for appropriate reference.

The PRESIDING OFFICER. The concurrent resolution will be received and appropriately referred.

Mr. THURMOND. The concurrent resolution reads as follows:

S. CON. RES. 20

Whereas, in January of 1969 when Richard M. Nixon assumed the Office of President of the United States there were 542,400 members of the armed forces of the United States serving in South Vietnam; and

Whereas, at that time hundreds of American servicemen were being killed and wounded each week and many others were being captured by enemy forces; and

Whereas, the involvement of the United States in the Vietnam conflict was controversial at home and abroad and resulted in discord among some segments of this Nation's society; and

Whereas, despite major obstacles, the President was able to obtain, through skillful negotiations, a peace agreement acceptable to the Governments of North and South Vietnam and the National Liberation Front; and

Whereas, such agreement has resulted in the withdrawal of all combat forces of the United States from Vietnam, the return of all prisoners of war, and the promise of an accurate and complete accounting by the North Vietnamese Government of all Americans missing in action of which that Government has knowledge: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress expresses its gratitude to, and commends the President for, attaining an honorable termination of the involvement of the United States in hostilities in Vietnam.

Mr. President, now I wish to turn to a postwar problem.

Although our direct involvement in the Vietnam war is history, we are still confronted with many problems in the post-Vietnam era. Of primary concern are the veterans who served this country so faithfully in Vietnam. For them, the war in a foreign country is over, but the fight as they make a transition to civilian life is just beginning.

Mr. President, the debt this country owes these brave men cannot be measured in dollars and cents. A small but vocal minority criticized President Nixon for doing his duty, and also criticized our military men for doing their duty. All too often, deserters and draft dodgers were held up before society as men of high moral courage while the man in the rice paddies was regarded as a pawn for the Military Establishment.

Mr. President, I am proud to stand here today and tell our young military men that they did their job and they did it well. I know I am speaking for the majority of the United States when I say we are proud of our Vietnam veterans. Even though they are not receiving the fanfare past veterans received, I believe we have a definite obligation to express our gratitude in the only manner at our disposal: To help them adjust to civilian life as easily as possible.

Officials of the Veterans' Administration and Defense Department say that this transition will be easy for some, but very difficult for others. The reasons are many: The Vietnam veteran fought in a war which did not have the full support of the people; while they fought, our country was not feeling the effects of war as in past wars and, therefore, they felt forgotten; and as the veterans come back home, no hero's welcome awaits them.

Mr. President, more than 2.3 million veterans served in Vietnam and 6 million served in the Vietnam era from 1965 on. About one in eight of those who served in Vietnam was disabled to some degree and more than 23,000 were totally disabled. In many of these cases, the disability is psychiatric or neurological. The average Vietnam veteran is 23 years old. Many were just kids when they were sent to fight, but a war has a way of making a boy grow up fast.

The most important element as the veterans return to civilian life is finding a job or, for those who have not acquired a skill, training them so they can enter the labor force and make their own way. Although we are making definite progress in this area, much more has to be done.

Recognizing this, President Nixon initiated a massive undertaking and established "Jobs for Veterans," a national organization whose only concern is to find jobs for our men reentering civilian life. Thus far, this program has realized a great amount of success. The committee's annual report shows that 240,000 Vietnam era veterans were unemployed in December of 1972, compared with 335,000 a year earlier. Last month's unemployment rate for veterans between the ages of 20 to 29 was 5.7 percent compared to 7.6 percent a year earlier. This is progress, Mr. President, but we cannot afford to rest until every veteran of the Vietnam era has found a job to make him an integral productive member of society.

This is why every Member of the U.S. Congress must join President Nixon in urging the private business sector to hire the veteran. James F. Oates, Jr., the na-

tional chairman of Jobs for Veterans, recently pointed out that the veteran "has the edge in employment as compared to his nonveteran contemporary." During fiscal year 1972, over 4 million veterans were in the labor force although they represented less than 5 percent of the labor market. There are still 240,000 unemployed veterans, and more are returning to civilian life every month. The Federal Government should do all within its power to help these veterans, but we also must rely upon private enterprise to help us in this worthwhile endeavor.

Today's veteran is a special individual and would be a good asset to any company. He is a graduate of some of the most demanding, challenging, and scientifically designed training the Nation can offer. His experience, generally enriched by a blend of skills, maturity, leadership, and discipline, deserve special attention from educators and employers.

I would like to commend all of the veterans organizations for the vital role they are playing in this regard. They, more than anyone else, realize the necessity of such an undertaking and they are of invaluable assistance. I have had many occasions to meet with these groups and I can assure you that they stand ready to assist us in any way.

Before a veteran, or anyone else can find a job, he must have a skill that is suitable to the civilian economy. Therefore, it is our duty to help him find what he does best and then teach him how to develop that skill. In fiscal year 1972, more than 540,000 veterans took advantage of the many benefits under the GI bill; almost 150,000 participated in the various manpower training programs and about 85,000 participated in the Defense Department transition programs.

In this regard, Mr. President, I am proud to say that South Carolina is leading the Nation in the veteran education rate; 42 percent of eligible veterans in South Carolina are enrolled in some type of educational program. The national average is 39 percent. Of the 22,000 South Carolina veterans enrolled, 47 percent are in higher education, 44 percent at the high school level, and more than 8 percent are receiving on-the-job training. Of those enrolled in postsecondary programs, 39 percent are attending technical education centers. I believe this speaks very highly of our educational system and our concern for veterans in the Palmetto State.

We must continue this effort throughout the Nation. We must seek out the veteran, explain the benefits available to him and urge him to take advantage of these many fine programs.

So far, only 4 in 10 veterans—or 2.4 million—have taken advantage of GI education benefits. We must not rest until every GI who wants an education acquires one.

The most tragic aspect of our involvement in Vietnam is the thousands of men who suffered partial or permanent disability. For those who can no longer work, we must care for them. For those still able to produce, we must provide them with every assistance possible in adjusting to their handicaps.

The vocational rehabilitation program of the Veterans' Administration has realized much success in this endeavor. In fiscal year 1972, it provided training to 31,600 disabled veterans. In 1973, the VA will provide vocational rehabilitation for more than 35,000 disabled veterans, an 85 percent increase since 1969.

In addition to the other health care programs, I am convinced that the Veterans Health Care Expansion Act which I coauthored will be of great benefit. It would provide outpatient care for veterans if it alleviated the need for hospitalization. In addition, orphans and widows of veterans who died of service-connected disabilities and wives and children of totally disabled veterans would also be eligible for medical care.

Mr. President, time will not permit me to go into all of the programs concerning the veteran. A great deal is being done to help him adjust to civilian life and much more has to be done before we can truly claim success. But one thing is clear: The veteran should command top priority in the post-Vietnam era. No one has served his country more gallantly and no one has sacrificed more for freedom. We owe a debt to the veteran and we should not rest until it has been paid.

Mr. President, I have in my hand a "Hire the Veteran" bumper sticker. I have seen to it that one be sent to each Senator along with a "Hire the Veteran" lapel pin. I believe that the display of these items would be a good symbolic gesture of our support of these brave men.

SENATE RESOLUTION 89—SUBMISSION OF A RESOLUTION TO CREATE A SELECT COMMITTEE TO STUDY CERTAIN RULES OF THE SENATE

(Referred to the Committee on Rules and Administration.)

Mr. BROCK. Mr. President, congressional reform is one of the urgent priorities of this Congress.

I use the word "urgent" advisedly, because I believe that if we fail to bring the Congress up to date, we will lose the confidence of the people we serve, and if that happens, we will be faced with a crisis that could easily result in a drastic alteration, for the worse, of the American system of government.

This evening, I am participating in a forum for which the topic is "Is Congress Obsolete?" I shall argue that it is not, but the very fact that such a topic is chosen for discussion indicates that there is, indeed, a crisis.

Congress may become obsolete if we do not reform. Congress may lose its place as the people's branch of government if we do not become more responsive to the people.

It is in that spirit that I have introduced a comprehensive bill to reform the budgetmaking and priority establishment procedures of the Congress. Hearings on that, and other proposals in the budgetary area are now being conducted by the Committee on Government Operations, and I am cautiously optimistic that some genuine reform may result.

In addition to the budgetary process, however, other measures are needed, and it is to that point that I rise today. I am submitting, for myself and Mr. MATHIAS, for appropriate reference, a resolution to create a temporary select committee to study the committee structure of the Senate.

Such a committee is already in existence in the House of Representatives, and concurrent action by the Senate would yield both substantive and symbolic benefits.

The committee system is the crucial element in any serious effort to strengthen Congress, just as it is the crucial element in any serious effort to pass legislation. If, however, the committee system is to work, it must satisfy some basic criteria.

Identifying these criteria, and proposing such changes as may better satisfy them, is the charge of the temporary select committee which I propose to create by the mechanism of this resolution.

Among the possibilities which suggest themselves are these:

Reduction in the number of committees with broadened jurisdiction for each.

More effective use of special, select, and joint committees to focus on crucial problems for which no standing committee takes responsibility.

More flexible subcommittee arrangements.

Democratization of committee procedures, with open hearings whenever practicable.

Provision for better informational and analytical resources, including the upgrading of staffing arrangements.

Increased resources for minority and junior members of committees.

Assurance that membership on each committee fairly reflects the viewpoint of the entire Chamber.

The list is not exhaustive and it is not intended to be inclusive. It does, however, indicate that important and far-reaching questions need to be considered.

The assignment then, is not superficial; it is deep and it is real. In pursuing it, the select committee can perform a valuable public service, not only for the Senate, but for the people.

I ask unanimous consent that the text of the resolution be printed in the RECORD at this point.

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

S. RES. 89

Resolved, That there is hereby created a temporary select committee to be composed of ten Members of the Senate to be appointed by the President of the Senate; five from the majority party and five from the minority party, one of whom he shall designate as chairman.

The select committee is authorized and directed to conduct a thorough and complete study with respect to the operation and implementation of rules XXIV, XXV, and XXVI of the Standing Rules of the Senate, including committee structure of the Senate, the number and optimum size of committees, their jurisdiction, the number of subcommittees, committee rules and procedures, media coverage of meetings, staffing, space, equipment, other committee facilities and appointment of Senate conferees to committees of conference.

The select committee is authorized and directed to report to the Senate by bill, resolution, or otherwise, with respect to any matters covered by this resolution and shall make a report with respect to its study and investigation by January 30, 1974.

For the purposes of this resolution, the select committee or any subcommittee thereof is authorized to sit and act at any time and place during the session, recess, and adjournment periods of the Senate. The majority of the members of the committee shall constitute a quorum for the transaction of business, except that the committee may sit a lesser number as a quorum for the purposes of taking sworn testimony.

To assist the select committee in the conduct of its study under this resolution, the committee may employ personnel; and all expenses of the select committee, not to exceed $1,500,000 to be available one-half to the majority and one-half to the minority, shall be paid from the contingent fund of the Senate on vouchers approved by the chairman of the select committee.

The select committee shall cease to exist on January 2, 1975.

Mr. MATHIAS. Mr. President, today I consider it a privilege to join with my colleague the Senator from Tennessee (Mr. BROCK) in the introduction of a resolution for a temporary select committee to conduct a comprehensive study of the jurisdiction of committees in the Senate.

The House of Representatives has recently authorized a similar committee with Representatives RICHARD BOLLING and DAVE MARTIN serving as cochairmen. Our committee would be parallel to theirs, with authority to examine a whole range of committee matters—from the number and size of the present Senate committees and their jurisdictions, to committee rules and procedures, to media coverage of meetings, staffing, space, equipment, and the appointment of Senate conferees to conference committees. Ten Members of the Senate would sit on the committee, five from the majority and five from the minority party. A budget of $1,500,000 would match the House appropriation and would be shared equally by the Members of both parties. The committee's duration would be limited to the remainder of this Congress.

The prestige of the Congress is inextricably linked to its effectiveness as an institution. When public support for Congress has fallen to a low of 16 percent, the position accorded the Congress as a coequal branch under the Constitution has clearly diminished as well. Few concerns of mine are greater than the necessity for restoring the Congress to an equal role in the body politic. Perhaps the biggest stumbling block to achieving a government capable of winning the respect and faith of the people is Congress' inability to establish wise policy priorities and see that they are carried out. The committee structure no longer matches congressional needs.

The dominant message of the ad hoc reform hearings which I held along with Senator STEVENSON last December was that the public does not want an ineffective, archaic government which cannot respond efficiently to the will of the electorate. A whole laundry list of reform proposals were offered, none more important than the proposal that we look at our won ability or oversee the executive branch and determine sound national policy. But as we have all become enmeshed in our individual responsibilities, the healthy restorative spirit which I sensed at the start of the Congress needs to be renewed and refreshed.

This resolution would refocus the Senate upon its most important collective task, that of restoring the effectiveness of our branch of government.

At present, we each feel the frustration of the committee system in different ways. While we have a joint committee on atomic energy, there is no single committee to consider all of our energy needs. There are no committees to match the President's pragmatic staff structure of human resources, natural resources or community development. We have no committee which considers our national security policy as a whole.

When a Presidential adviser—like Henry Kissinger—is invited to the Hill, the invitation is not an easy one. If he speaks to the Foreign Relations Committee about diplomacy, he must speak to the Armed Services Committee as well, since they are responsible for sending troops and material abroad. And if he speaks to these committees, why should he not appear before the Appropriations Committee which, after all, pays the bills. No wonder Presidential assistants, executive officials, and the public as a whole, views Congress as an unending maze of separate and isolated fiefdoms.

As Abraham Lincoln said more than a hundred years ago about another Congress:

Fellow-citizens, we cannot escape history. We of this Congress and this administration will be remembered in spite of ourselves. No personal significance or insignificance can spare one or another of us. The fiery trial through which we pass will light us down, in honor or dishonor, to the last generation.

Our proposal for a select committee to thoroughly review the committee structure represents the "fiery trial" of this time through which the Congress must pass in order to restore the honor of the legislative branch. I have confidence that this path will reaffirm the wisdom of our Founding Fathers in writing a Constitution setting forth three equally powerful and effective branches within our democracy.

REVIEW OF COMMITTEE JURISDICTIONS

Mr. STEVENSON. Mr. President, on January 11 the majority leader established a Committee of the Majority Conference, which I am privileged to chair, to make recommendations on the improvement of Senate practices and procedures. The participating members of that committee—Senators HATHAWAY, INOUYE, METCALF, and myself—have concluded that a reexamination of Senate committee jurisdictions and related matters should be conducted during the 93d Congress, and that the task can best be performed by a temporary select committee of the Senate. A report to that effect is in preparation and will be presented to the majority conference at an early date.

The last major review of committee jurisdictions occurred nearly 30 years ago, during consideration of the Legislative Reorganization Act of 1946. When what was to become the Legislative Reorganization Act of 1970 was pending before the Congress, the decision was made not to get deeply into the question of committee jurisdictions because, in the words of Congressman BOLLING, "this was the meanest area." Be that as it may, the time has come to take on this difficult, delicate task in an even-handed and realistic way. Over the last 30 years America has changed, and the nature and scope of Federal activity has changed with it. That is not to say that this Senate must also change for the sake of change; it is to say that we must consider, as carefully and systematically as we can, whether the committee system is as effective as it can be.

The Senator from Tennessee (Mr. BROCK) has today introduced a resolution calling for the establishment of a select committee to study Senate committee jurisdictions. Earlier this session, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Oklahoma (Mr. BELLMON) made thoughtful proposals concerning committee jurisdictions. I commend these Senators for their vision and initiative and hope that, following consideration by the majority conference the issue will receive early attention in committee and on the floor.

IMPOUNDMENT AND BUDGETARY CONTROL—AMENDMENT

AMENDMENT NO. 74

(Ordered to be printed and to lie on the table.)

Mr. ROTH. Mr. President, I am submitting this afternoon a perfecting amendment which I understand Senator ERVIN will offer tomorrow.

His language speaks to the important issues of impoundment and budgetary control.

In legislation which the Government Operations Committee favorably approved this afternoon, future impoundments by the Executive would be subject to specific approval by the Congress within 60 days, or they would become null and void. My language seeks to put the burden of disapproval on the Congress, where I feel it fairly belongs.

My proposal mirrors legislation (H.R. 5193) which Chairman MAHON introduced on March 6 and which is currently before the House Rules Committee. Future Presidential impoundments would stand unless specifically disapproved by Congress within the 60-day period.

I would urge my colleagues to review carefully the provisions of Senator ERVIN's proposed amendment and I would hope that others will join me in modifying that legislation.

I ask unanimous consent that the text of my perfecting amendment be printed at this point in the RECORD.

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

AMENDMENT NO. 74

In section 3, line 8, delete all after the word "shall," and all through the end of section 3.

In its place, insert: "immediately cease the impounding of any budget authority set forth in each special message, or any portion thereof, if, within sixty calendar days of continuous session after the date on which the message is received by the Congress, the specific impoundment, or any portion thereof, shall have been disapproved by a majority vote of both the Senate and the House of Representatives in a joint resolution in accordance with the procedures set out in section 5 of this Act. The effect of such disapproval shall be to make the obligation of that specific budgetary authority mandatory, and shall preclude the President or any other Federal officer or employee from reimpounding the specific budget authority set forth in the special message which the Congress by its disapproval has thereby rejected."

AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PROCUREMENT—AMENDMENT

AMENDMENT NO. 75

(Ordered to be printed, and referred to the Committee on Armed Services.)

Mr. HARRY F. BYRD, JR. Mr. President, I send to the desk an amendment to S. 1263, the military authorization bill, and ask unanimous consent that it be printed in the RECORD.

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

AMENDMENT NO. 75

On page 7, between lines 11 and 12, insert the following:

SEC. 502. None of the funds made available to carry out the provisions of this or any other law may be obligated or expended for the purpose of providing assistance of any kind, directly or indirectly, to or on behalf of North Vietnam.

AMENDMENT OF PAR VALUE MODIFICATION ACT—AMENDMENTS

AMENDMENT NO. 76

(Ordered to be printed, and to lie on the table.)

Mr. HARRY F. BYRD, JR. submitted an amendment, intended to be proposed by him, to the bill (S. 929) to amend the Par Value Modification Act.

AMENDMENT NO. 77

(Ordered to be printed, and to lie on the table.)

Mr. ERVIN (for himself, Mr. MUSKIE, Mr. PERCY, Mr. JAVITS, Mr. CHILES, Mr. NUNN, Mr. HUDDLESTON, Mr. MONDALE, and Mr. BENTSEN) submitted an amendment, intended to be proposed by them, jointly, to Senate bill 929, supra.

NOTICE OF HEARINGS ON BILLS TO CODIFY, REVISE, AND REFORM TITLE 18 OF THE UNITED STATES CODE

Mr. MCCLELLAN. Mr. President, as chairman of the Subcommittee on Criminal Laws and Procedures, I would like to inform the Senate and other interested individuals that it is my intention to begin legislative hearings shortly on the two bills (S. 1 and S. 1400) to codify, revise and reform title 18 of the United States Code, along with other pending items relating to particular sections of title 18.

It is my intention to commence the hearings within the next 2 weeks and complete them before the summer recess of the Congress. We will try to give ample notice in the RECORD before each series is scheduled. Nevertheless, it may be necessary to set hearing dates on short notice and, therefore, persons interested in appearing as witnesses or submitting statements should contact the subcommittee as soon as practicable to allow time for the scheduling of their appearance.

In connection with the forthcoming hearings, I ask unanimous consent to have printed in the RECORD the memorandum we have mailed out to various individuals and organizations assisting in the revision of the Code. I insert this to give as wide a circulation as possible to this project, for, in revising the Code, it is our hope to get the views and to have the participation of all segments of the criminal justice system—judges, prosecutors, corrections and court officials, prosecutors, law professors, practicing attorneys and other interested citizens.

Copies of S. 1, S. 1400, and related material, or information on the hearings are available from the subcommittee in room 204, Dirksen Senate Office Building, Washington, D.C. 20510, telephone area code 202—225-3281.

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

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C., April 4, 1973.

To: Individuals and Organizations Assisting in the Revision of the Federal Criminal Code.

From: John L. McClellan, Chairman, Subcommittee on Criminal Laws and Procedures of the Senate Committee on the Judiciary.

Re Further Hearings on Reform of Federal Criminal Laws.

Public Law 89-801 (1966) created the National Commission on Reform of the Federal Criminal Laws. The Commission, under the Chairmanship of the Honorable Edmund G. Brown and on which Senators Ervin, Hruska and myself were privileged to serve, reported to the President and the Congress on January 7, 1972. Since that time, this Subcommittee has been considering the recommendations of that Commission. Contact has been made throughout the United States with State Attorneys General, local district attorneys, professors of criminal law, defense attorneys, numerous bar associations and other citizen groups, as well as relevant Government agencies. Thirteen days of public hearings have been held and a printed record of over 4,000 pages has been compiled. In all, 64 witnesses have given testimony and statements have been received from hundreds of others.

As a result of these two years of effort, on January 4, 1973, I introduced, for myself and Senators Ervin and Hruska, S. 1, the "Criminal Justice Codification, Revision and Reform Act of 1973." This, too, has been given wide circulation in anticipation of the legislative hearings to be conducted during this Session.

As I am sure you are aware, the Department of Justice has now submitted its own recommendations for the reform of the Federal criminal laws to implement the President's recent Message on the Federal System of Criminal Justice. These recommendations have been introduced as the enclosed bill. It is the Subcommittee's intention to process these recommendations, along with S. 1 and other related bills before the Subcommittee as soon as practicable.

Please inform the staff of the Subcommittee at Room 2204, Dirksen Senate Office Building, Washington, D.C. 20510 (Telephone 202-225-3281), of the earliest possible date by which you might be prepared to discuss in legislative hearings the recommendations of the Commission, S. 1, the Administration's bill, S. 1400, and such other proposals as are before the Subcommittee, or you might feel warrant consideration by the Subcommittee. Hearings should begin within three to four weeks and finish without unreasonable delay.

ANNOUNCEMENT OF HEARINGS CONCERNING INDIAN JUDGMENT FUNDS DISTRIBUTION ACT

Mr. ABOUREZK. Mr. President, I wish to announce for the information of the Members of the Senate, the Indian people, and other interested persons that the Subcommittee on Indian Affairs has scheduled an open hearing for April 13, 1973, on S. 1016, the Indian Judgment Funds Distribution Act of 1973.

The proposed measure offers an alternative method for the processing of numerous judgment awards made to Indian tribal groups by the Indian Claims Commission or the U.S. Court of Claims. These payments, for the most part, represent additional compensation to the tribal groups for land sold by them to the Federal Government in the past at prices considered to be grossly inequitable in relation to the value of the land.

Under current congressional policy, a tribal group receiving a judgment award is required to obtain authorizing legislation from Congress to specifically permit the distribution of the judgment funds to their duly enrolled members and to expend a portion of the funds for purposes which will benefit the tribal membership as a whole—education, community development, and so forth.

While this procedure served a useful purpose in the past, the procedure now places an undue legislative burden on the Senate Interior and Insular Affairs Committee, and limits the committee's capacity to address its energies and resources to the substantive issues related to the Indians' historical relationship with the Federal Government.

The Indian Judgment Funds Distribution Act would serve to accomplish the desired objective of freeing-up valuable committee time to be devoted to more substantive issues in the field; and to speed up the processing of Indian judgment awards and making the needed funds available to Indian people.

The subcommittee will receive testimony from administration and Indian witnesses on this measure. The hearing will commence at 9 a.m. in room 3110 of the Dirksen Senate Office Building.

NOTICE OF HEARINGS OF BILL S. 1423 TO AMEND THE LABOR-MANAGEMENT RELATIONS ACT, 1947

Mr. WILLIAMS. 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 Labor at 10 a.m. on April 10 and 11 and on April 16 at 11 a.m. in room

4232, Dirksen Senate Office Building, on 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.

All persons wishing to testify should contact Mr. Gerald Feder, room G-237, Dirksen Office Building, telephone 225-3674.

ANNOUNCEMENT OF OPEN HEARINGS BY SUBCOMMITTEE ON PARKS AND RECREATION

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 18, in room 3110, Dirksen Senate Office Building, on the following bill: S. 1201, to amend the act of October 15, 1966 (80 Stat. 915), as amended, establishing a program for the preservation of additional historic properties throughout the Nation, and for other purposes.

ADDITIONAL STATEMENTS

THE COMING OF PEACE IN VIETNAM AND THE RELEASE OF AMERICAN PRISONERS OF WAR

Mr. BELLMON. Mr. President, on behalf of myself and my distinguished colleague (Mr. BARTLETT), we have received copies of a concurrent resolution adopted by the Oklahoma State Legislature which, we believe, vividly expresses the views of the vast majority of Americans regarding the new peace in Vietnam and the debt of gratitude this Nation owes to the men who bore arms in Southeast Asia. The resolution singles out for special commendation those who were wounded, those who are permanently disabled, and those who gave up months and years of their lives as prisoners of war.

Mr. President, this resolution puts into words our deep feelings and the great pride we have in the returning prisoners of war for their inexhaustible loyalty to the United States and their unwavering belief in the cause of defending freedom wherever it may be threatened.

This resolution eloquently says what so many of us have felt, but for which we have not found adequate words; namely, that the attitude and spirit demonstrated by the returning prisoners represents the finest chapter of American involvement in Southeast Asia, and that the courage, loyalty, and patriotism they have shown places these men among the front ranks of brave fighting men throughout American history.

Mr. President, on behalf of the people of Oklahoma we ask unanimous consent that the full text of the Oklahoma State Legislature's Senate Concurrent Resolution No. 19 be printed in the RECORD.

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

SENATE CONCURRENT RESOLUTION No. 19

A concurrent resolution noting the coming of peace in Vietnam and the release of American prisoners of war; commending released American prisoners for their expressions of loyalty and dedication to country; commending all those who bore arms for the United States in Vietnam; expressing appreciation to those who were wounded or disabled during the war; expressing sympathy to the families of those who died in the war; extending sympathy and hope for reconciliation to families of Americans missing in action; registering strong objections to any policy of general amnesty for draft dodgers and deserters; and directing distribution

Whereas, a peace settlement has finally been achieved in Vietnam, allowing the release of over 500 loyal American Prisoners of War; and

Whereas, the United States has every reason to be extremely proud of these former prisoners, some of whom were held for a period of eight years, and many of whom suffered from serious injuries during the period of their captivity; and

Whereas, the attitudes and comments of those prisoners released thus far from North Vietnamese and Viet Cong prison camps constitute * * * Southeast Asia; and

Whereas, the returning prisoners have made it quite clear that they never wavered in their loyalty to the United States and in their belief in our mission of bringing peace from oppression to the people of South Vietnam; and

Whereas, the spontaneous expressions of loyalty exemplified by such statements as "God Bless America," and "We never lost faith in our country or in our President," place our returnees in the front rank of American military men and continue the proud tradition of courage and stamina seen in our previous wars; and

Whereas, all returning American Prisoners of War richly deserve the congratulations and commendations of the American people, and the citizens of Oklahoma; and

Whereas, the 2.3 million men who bore arms for this country during the nearly 12 years of the Vietnam Conflict are likewise deserving of commendation for their patriotism and dedication to duty; and

Whereas, the more than 300,000 wounded and 23,000 totally disabled who served so proudly in this war richly deserve our thanks and apppreciation for their sacrifices on behalf of freedom's call; and

Whereas, our sympathies and warmest regards should be extended to the families of the more than 46,000 Americans who gave their lives to insure the right of the people of South Vietnam to determine their own destiny; and

Whereas, our prayers of consolation and our hopes for an ultimate reconciliation should go to the families of Americans still listed as "Missing in Action" in Southeast Asia; and

Whereas, we should express our deepest and strongest objections to any policy of granting general amnesty to draft dodgers and deserters from the armed forces during the period of the Vietnam Conflict.

Now, therefore, be it resolved by the Senate of the 1st session of the 34th Oklahoma Legislature, the House of Representatives concurring therein:

Section 1. That all returning American Prisoners of War be and hereby are congratulated and commended for their exemplary expressions and attitudes of loyalty to the United States.

Section 2. That all Americans who served in Vietnam, and all those who were wounded and disabled there be and hereby are tendered our gratitude and appreciation for devotion to duty.

Section 3. That the families of Americans who gave their lives, and the families of those listed as "Missing in Action" be and hereby are extended our prayers and our sympathy.

Section 4. That we do hereby express our deepest and strongest objections to the granting of general amnesty to draft dodgers and deserters by the United States Government.

Section 5. That duly authenticated copies of this Concurrent Resolution, following consideration and enrollment, be prepared for and sent to:

1. The Honorable Richard M. Nixon, President of the United States; and

2. All members of the Oklahoma Congressional Delegation.

SO YOU WANT TO LIVE IN THE COUNTRY?

Mr. McINTYRE. Mr. President, a few months ago, Rene Jules Dubos spoke on "Humanizing the Earth" to the Washington conference of the American Association for the Advance of Science.

This noted humanist, ecologist, medical microbiologist, and perimental pathologist observed that now that the whole earth has been explored and occupied, the new problem is to manage its resources.

He said,

Careful management need not mean stagnation. In many places, the interplay between man and nature results in a creative symbiotic relationship that facilitates evolutionary changes. Man continuously tries to derive from nature new satisfactions that go beyond his elementary biological needs—and he thereby elicits the expresion of some of nature's potentialities that would remain unrecognized without his efforts.

Dr. Dubos then goes on to say:

Man has now succeeded in humanizing most of the earth's surface, but, paradoxically, he is developing simultaneously a cult for the wilderness. After having been for so long frightened by the primeval forest, he has come to realize that its eerie light evokes in him a mood of wonder.

What Dr. Dubos said applies in a very real sense to what is happening in my State of New Hampshire, Mr. President, and in other States across this land.

Americans everywhere are seeking relief from the tensions of the big cities through the peaceful esthetics of the countryside.

For many, this still means the annual vacation at the beach, the lake, or the forest. But for an increasing number it means a second home away from the city, a home to be used on weekends, on vacations, and at some future time for retirement years.

This phenomenon has grown by leaps and bounds, in part due to our increasing affluence, in part due to new interstate highways, in large part due to the accelerating realization of our people that nature is still the greatest healer and tranquilizer of all.

But in their desire to get back to nature through a country home, many Americans leap before they look and make mistakes in buying that are as heartbreaking as they are costly.

Today, Mr. President, I ask unanimous consent to put into the RECORD at the conclusion of my remarks an account of how one area in my own State is working to

manage resources wisely and to save people costs and heartbreak.

I refer to an article in the February, 1973, issue of Soil Conservation, a publication by the Soil Conservation Service of the U.S. Department of Agriculture. This article, titled, "So You Want To Live in the Country," was written by William R. Hauck, resource conservation and development project coordinator for the Soil Conservation Service at Littleton, N.H., and I am pleased to call my colleagues' attention to it.

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

SO YOU WANT TO LIVE IN THE COUNTRY?

(By William R. Hauck)

Rear Admiral James T. Brewer stopped issuing orders when he left the Navy 15 years ago. Now, retired and living in a small Connecticut River Valley town in northern New Hampshire, he issues advice to hundreds of city people looking for a country home.

"If you expect to escape the rate race of the city," cautions the Admiral, "the first thing to do is to slow down. If you don't, all your frustrations will come with you to the country. Don't transplant your urban habits in a new setting. If you're planning to buy, take your time.

"Many rural newcomers think they left water problems back in the city. Look for wet basements and soil slippage around the house. Investigate water supply, septic tank capacity, town ordinances, local real estate costs, and all the things that are going to make you a satisfied country resident."

The Admiral knows what he's talking about. He and his wife chose a farm home in New Hampshire's North Country for retirement. With 15 years of Yankee rural living, he has become a leader in helping protect the rich natural resources of the North Country. As a selectman for the town of Piermont and ex officio member of the town's planning board, he has been instrumental in getting approval of subdivision regulations and zoning ordinances that preserve the natural charm cherished by Piermont's 467 residents.

As chairman of the Executive Board of the North Country Resource Conservation and Development (RC&D) Project, he has extended his advice and concern for prudent use of nature's resources to the northern half of the state.

"RC&D gets government agencies working together," said Admiral Brewer. "There was a time when it appeared to many landowners that each agency went its own way. But thanks to RC&D, there isn't any worthwhile project now that lacks the coordinated assistance to get it done. I have found this to be true, and, as a matter of fact, I don't believe there is much that anyone wants to do that RC&D can't find someone, somewhere to help do it."

After executive board approval, the Soil Conservation Service helps round up the needed resources to help put action into requests received from local communities.

New Hampshire has long been popular for second homes, but new interstate highways are bringing more people than ever into the state. "Many of these people, from all walks of life, trying to escape big-city tensions, are so eager to buy a house that they pay any price for any land or any structure," said Admiral Brewer. "That's why I have worked hard to get land use ordinances approved in Piermont.

"One developer from down country, for example, was stopped from building in Piermont on wetland with no sewage facilities. Without our ordinances, there would have been a lot of unhappy landowners within the first year. In general, land speculators shy away from towns having such restrictions."

The Admiral believes that haphazard development creates rural slums, denudes the land, fills the streams with silt, and cheats many unsuspecting house buyers.

A little time spent checking property values helps everyone except the land speculator, according to the Admiral.

"The house buyer in a hurry also threatens the agricultural industry," he explained. "The high price he pays for property unbalances the tax structure. It's taxing the farmers out of business."

In Piermont, 52 percent of taxes are paid by nonresidents. Piermont is an agricultural town but has many second homes and cottages dotting the landscape.

Admiral Brewer considers the area's RC&D project, with its executive board of 20 members, a valuable asset, capable of influencing and helping to control growth.

"I do not despair at the changes we are undergoing," he said. "They can be handled with common sense. We should welcome with open arms the property motivated, prospective nonresident and the conscientious developer and help them to find a desirable site, priced fair and square, and taxed equitably.

"As for the despoiler, the in-and-outer, the fast-buck artist, we should reserve for him the cold shoulder, the frigid, wordless, baleful stare—commonly known in the North Country as Reaction No. 12."

A LETTER FROM MR. AND MRS. BEN MORSE THANKING SOUTH CAROLINIANS FOR THEIR GENEROSITY DURING A RECENT SNOW STORM

Mr. THURMOND. Mr. President, on March 20, 1973, Mr. and Mrs. Ben Morse of Columbus, Ga., wrote a letter to me expressing their thanks for the generosity and hospitality extended to them by South Carolinians, and particularly the people of Sumter, S.C., during the record snow and ice storm in my State last month.

South Carolina was struck by an unusually heavy snowfall of 22 inches last month that virtually paralyzed all transportation activity for days. It caused severe hardships for many people, including a sizable number of tourists and visitors from other States.

The people of South Carolina have always been noted for their kindness and hospitality, and during the recent storm their generosity was especially in evidence.

Mr. President, I ask unanimous consent that the letter from Mr. and Mrs. Morse dated March 20, 1973, be printed in the RECORD.

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

COLUMBUS, GA.
March 20, 1973.

HON. STROM THURMOND,
Senator of South Carolina, State Capital Building, Columbia, S.C.

DEAR SIR: I regret to say that it has been much longer than I anticipated or liked, in thanking the State of South Carolina and specifically the Chief of Police, the Mayor and all of the citizens of Sumter, S.C. for the generosity, courtesy and conveniences that were afforded my daughter, my grandson, my wife and myself.

In the many years that I had spent in the snow country I had never come upon a situation such as this, nor do I believe that any of the citizens of South Carolina expected such a freak of nature to cause such a hardship on so many people. Yet, my family and I marveled at the expedient techniques and methods with which your city officials and state authorities coped with such disagreeable hardship.

Never will I be able to thank the people of Sumter, S.C. enough for the hospitality afforded my family and I. And may I say once again, the officials are a great asset to any and all persons coming to the State of South Carolina and to the City of Sumter.

Thank you sincerely and may God bless all of you.

BEN and ANNA MORSE,
And my daughter and grandson Betty and Joshua Miller.

SAVING THE OLD POST OFFICE

Mr. HARTKE. Mr. President, almost 2 years ago, I spoke on the floor of the Senate to urge the preservation of the old post office here in the District. At that time, the General Services Administration had announced plans to destroy the building so that it could proceed with plans to complete the Federal Triangle.

GSA's plans took no cognizance of the historical and architectural value of the old post office—values which cannot be forgotten in a city which serves as the Nation's Capital.

Rcently, an article in the Washington Post announced the welcome news that GSA is now interested in preserving, rather than destroying, the old post office.

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

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

GSA MOVES TO SAVE OLD POST OFFICE

(By Kirk Scharfenberg)

The General Services Administration, once firmly committed to demolishing the old Post Office Building on Pennsylvania Avenue, is now interested in preserving it.

The turnabout resulted in part from last year's refusal by Congress to appropriate the funds necessary to demolish the 74-year-old Romanesque structure and replace it with a new IRS building.

In addition, Nancy Hanks, chairman of the National Endowment for the Arts and Humanities, is working in the executive branch to save the building for use partially as National Endowment offices.

In a recent interview in the Preservation News, published by the National Trust for Historic Preservation, Arthur F. Sampson, acting administrator of GSA, said:

"There is a strong move on, with support from the Congress, and the Executive Branch to take a new look at that building in terms of keeping it alive."

A major obstacle to preserving the building has been the cost of renovating and underpinning it to withstand Metro construction and operations in the area.

However, according to several sources, Metro has recently circulated to government agencies a draft environmental impact statement that concludes no underpinning will be necessary.

Sampson was quoted in Preservation News as saying it "would be a tough battle" to persuade Congress to finance the renovation of the structure at 12th Street and Pennsylvania Avenue NW.

He suggested, however, that it might be turned over to private interests for rehabilitation management. Such arrangements are permitted under legislation signed by President Nixon last summer. In the past, the Georgetown-Inland Corps., now planning a

redevelopment of the Georgetown waterfront, has expressed interest in such a project.

Urban planners in the city have advocated saving the structure and converting it into a commercial facility with shops, restaurants and possibly a hotel as a means of bringing street life into the Federal Triangle.

Preservation of the old Post Office Building has been in contention since the Mellon Board, in existence between 1920 and 1934, recommended its demolition.

In 1964, the Pennsylvania Avenue Commission recommended its demolition as part of a redevelopment of the avenue that would involve construction of various office buildings in federal-style architecture.

VOLUNTARY PRAYER IN PUBLIC SCHOOLS AND BUILDINGS

Mr. BAKER. Mr. President, the distinguished junior Senator from Pennsylvania (Mr. SCHWEIKER) has introduced a joint resolution proposing an amendment to the Constitution of the United States which reaffirms the right of voluntary prayer in public schools and buildings.

I am happy to join with Senator SCHWEIKER and Senators CANNON, EASTLAND, PASTORE, and SCOTT of Pennsylvania in sponsoring Senate Joint Resolution 84.

This measure offers a most encouraging opportunity for united legislative action to restore voluntary prayer. All the sponsors of this resolution have sponsored previous legislation with the same objective in mind. Though our goals were the same, the various proposed amendments were worded somewhat differently.

Earlier in this session, for example, I introduced Senate Joint Resolution 7, which speaks of the right to "participate in nondenominational prayer." I had included the word "nondenominational," because this is the language of the proposed prayer amendment I introduced which passed the Senate in 1970.

Similarly, Senate Joint Resolution 10, introduced by Senators SCHWEIKER and SCOTT of Pennsylvania made reference to "voluntary nondenominational prayer or meditation." Senators SCOTT of Virginia, and BARTLETT and others also put forth prayer resolutions in the Senate. In the House of Representatives, Congressman CHALMERS WYLIE of Ohio, offered a joint resolution favoring "voluntary prayer," one which is very similar to Senate Joint Resolution 84.

Senator SCHWEIKER has spent much time and effort in studying the various prayer amendments. He has carefully consulted with congressional sponsors of such amendments, constitutional experts in the academic world and the Library of Congress, and concerned citizens throughout the Nation.

The purpose of this intensive study has been to develop a single amendment, acceptable to all who seek to reaffirm the right of prayer, which can effectively be enacted into law. I believe Senate Joint Resolution 84 meets those criteria.

Earlier attempts to achieve the objective of voluntary prayer have been most frustrating. The political machinery has not been responsive to the wishes of an overwhelming majority of the people of this country.

I am most encouraged, however, by this latest development. I look forward to continuing to work with the other sponsors of Senate Joint Resolution 84, with Congressman WYLIE and other leaders in the House, and all others who support the right for voluntary prayer.

ENOUGH BLAME TO GO AROUND

Mr. ROBERT C. BYRD. Mr. President, the President is entitled to great credit for ending our active participation in the Vietnam war and for bringing the POW's home. I supported him in this difficult effort, and I support him now in opposing blanket amnesty. I supported him in his efforts to open constructive new relationships with China and the Soviet Union. However, while I shall oppose any meat axe cuts in our defense budget, I will support a unilateral reduction of military forces overseas. It is time that our European friends take on more of the cost of providing for their own defense.

Anent the President's imposition of a ceiling on meat prices, this does not go far enough. We should at least return to the phase II mandatory controls, and apply them on prices, wages, interest rates, et cetera. To deal with meat prices alone, only touches one area in rising living costs.

As to the President's reference to congressional spending, there is no question but that Congress has contributed its share to costly programs. But if one's comments stop here, the story is only half told. The overall net cuts made by Congress in the administration's budget during the past 4 years have amounted to $20 billion. Even so, the national debt has increased $104 billion during the 4 years of the present administration, and this constitutes almost a fourth of the total national debt. Additionally, it was the administration that recommended a $30 billion general revenue-sharing program over a 5-year period, which in many instances proved to be a handout to States that are far better off financially than is the Federal Government. Surely, some reference should be made to this expenditure, which I voted against and which Congress did not initiate. Furthermore, it was the Congress that enacted standby price and wage controls, which the President opposed but which, after too long a delay, the administration finally utilized in August 1971, in the fight against inflation. While the President seeks, therefore, to focus public attention on congressional spending, there is enough blame to go around. After all, it was the administration, not Congress, that lifted phase II controls prematurely, and the "stick in the closet" has not worked.

PAKISTANI PRISONERS OF WAR

Mr. SCOTT of Pennsylvania. Mr. President, yesterday afternoon I met with the wives of three Pakistani prisoners of war. It was a very moving and emotional meeting. This small group of compassionate women representing the loved ones of 92,000 prisoners still being held by India as a result of that short but dividing war, are here in Washington pleading their case. They want their men home. Their children want their fathers home. They speak of their POW relatives as we have spoken so often about the POW's from the 10-year Vietnam involvement now ended by President Nixon. And we have 588 prisoners of that war either home or on their way home. All are out of captivity. But so many of the POW's of the war involving Pakistan, India, and Bangladesh are still in captivity. Mr. President, the senior Senator from Illinois (Mr. PERCY) said yesterday he could see no reason for detaining these men. I agree. These men, who represented their belief in their country by fighting honorably for it in a time of war, should be released. The prisoners should rejoin their families in Pakistan. As Senator PERCY said, these prisoners constitute an unnecessary burden of expense to India and contribute nothing to better international relations for Bangladesh.

Mr. President, I trust the time will come very soon when these 92,000 prisoners will be returned to their families and that the people of these countries, and the governments representing these people, can live together and work together in the harmony of peace.

BARRIERS TO HEALTH CARE FOR OLDER AMERICANS

Mr. MUSKIE. Mr. President, genuine economic security in retirement will remain impossible unless immediate action is taken to help solve the grave medical cost problems which now place an unbearable strain on the limited incomes of older Americans. Lack of access to quality care and other major obstacles to adequate medical treatment cause an intolerable situation for senior citizens who seek to secure or maintain good health.

As chairman of the Subcommittee on Health of the Elderly, I intend to do all that I can to assure our elderly of the decent health care they need and deserve.

On March 5 and 6, I opened subcommittee hearings in Washington on "Barriers to Health Care for Older Americans." This first round in the series served two purposes.

First, our witnesses identified some of the key barriers to better health care for our elderly and suggested ways in which these might be removed or their bad effects reduced.

For example, Miss Alice Brophy, director of the New York City Office for the Aging, and Mrs. Marjorie Cantor, research director, told us of the problems encountered by older New Yorkers. Their testimony was based on their recent, excellent study, "The Health Crisis of Older New Yorkers."

IDENTIFYING THE BARRIERS

Miss Brophy singled out "five major barriers to adequate medical care for older people which desperately call for action." Her list included the following:

First, an incredibly rapid rise of medical costs in the last decade has virtually undermined Medicare and has outpriced all but the very rich from quality medical care.

Second, Medicare as presently constituted fails to cover important medical services, required by older people—drugs, dentistry, podiatry, appliances, mental health care and home health services—despite the fact that this lack of coverage too often results in far more expensive alternatives for city, state and federal governments.

Third, medical services are fragmented and hard to locate. There are serious gaps in both facilities and personnel in almost every community. These gaps and the fragmentation of the present health delivery system prevent an older person from receiving the broad and comprehensive medical care he requires.

Fourth, the older patient currently has little or no input into the policy of the health care delivery system. Too often, he has little recourse when he is unhappy about the care he receives and, in many cases, the whole process of health care delivery is thoroughly confusing and depersonalizing to him.

Fifth, we must face the fact honestly that, with few exceptions, the older person who seeks health care is the unwitting victim of society's prejudice against old age. Young doctors tend to be impatient with the elderly, find them difficult to treat, and have little interest in the illnesses of old age, since most of these hold no promise of reversibility.

Testimony by Dr. Leslie S. Libow, chief of geriatric medicine at Mount Sinai Hospital Services, City Hospital Center, at Elmhurst, N.Y., supported Miss Brophy's *fifth* "barrier" quoted above. In Dr. Libow's words—

There are very few physicians and nurses in this country trained even for one week with regard to particular skills and care for the elderly . . . people are not easily attracted to working in this area. I don't know what the motivations are to work with the elderly. We need more personnel who are trained in these areas.

Mrs. Mae Laufer, president of the Bronx River Senior Center, Bronx, N.Y., told us most effectively what the current health care crisis facing the elderly means in direct human terms. The experiences of Mrs. Laufer and her fellow senior citizens in attempting to secure decent health care at a reasonable price illustrate dramatically the shortcomings in our present health care system.

Mrs. Laufer, for example, shared with us the problem that faces many elderly in trying to pay for prescripiton drugs:

When a senior citizen of 74 goes into a drug store with a prescription the doctor gave her, and the drug is so expensive, $14, and she looks at the drug store man, and she says, "Can't you give me a little less? I only have $4 in change." But she does not get the drug, *unless* she pays $14.

As Mrs. Cantor told the subcommittee:

In spite of greatly increased public expenditures for health services for the elderly, the barriers to adequate and comprehensive care are still formidable.

The testimony cited above—and indeed all that we heard throughout our 2 days of hearings—supports Mrs. Cantor's conclusion.

We wanted to learn not only about the barriers to better health care for the elderly, but also some innovative and practical solutions to the problems they cause. Witnesses came forward with a number of interesting suggestions in this regard.

Prof. Charlotte Muller, of the Center for Social Research of the City University of New York, for example, urged "adaptation of the medicare benefit structure to support services and thus to redirect professional and technical manpower and institutional capital over a period of time into the work of health maintenance."

Professor Muller cited as an example of what she had in mind "outpatient drug coverage under medicare for important medications used by the elderly who are neither in hospitals nor nursing homes."

Another witness, Melvin Glasser, director of the Social Security Department of the United Automobile Workers, included among his recommendations the "abolition of the deductibles in part B—of medicare—and eventually of the present coinsurance and deductibles in part A—of medicare."

Certainly this proposal would help meet the problem of costs which Miss Brophy listed as her first "barrier" to health care for the elderly.

Our March hearings, then, provided us with valuable testimony for our overall study of "Barriers to Health Care for Older Americans." We received essential information on major problems. And we heard proposals for helping to solve these problems.

ADMINISTRATION MEDICARE PROPOSALS

A second purpose served by our March hearings was the opportunity to take an intensive look at the administration's proposals to increase the cost of coinsurance and deductibles under medicare. Specifically, the subcommittee wanted to know how and why the administration decided to make medicare patients pay for—

First. Actual hospital room and board charges for the first full day plus 10 percent of all subsequent charges, instead of—as at present—the $72 deductible and nothing else until the 61st day;

Second. The first $85 of doctor bills, instead of the current $60; and

Third. Twenty-five percent, as opposed to the existing 20 percent, for physician services after the part B deductible is met.

None of our witnesses, with the exception of Health, Education, and Welfare Secretary Weinberger, supported these proposed cutbacks. Instead, they declared that the elderly are already faced with a health care crisis of major proportions and that the cutbacks can only serve to make the situation more desperate and intolerable.

Testimony by Mrs. Cantor presented the human story of what these cutbacks would mean in two typical examples.

Mrs. Cantor's first example concerned the costs to an elderly person for 21 days in a New York hospital. That is about the average stay for an older person in that city's hospitals. The average daily cost of $110 for semiprivate room and board charges was used. Excluded were laboratory fees, drugs, nursing care, and other items whose costs are generally completely covered by medicare after the initial deductible is paid by the elderly patient. Today this patient would pay $72 out of his own pocket. Under the administration's medicare changes, the same patient would pay $330, a 358-percent increase in out-of-pocket costs.

The second example Mrs. Cantor cited involved a chronically ill, elderly woman with a common ailment of old age, congestive heart failure. In calculating this patient's doctor's bills, the standard fees in New York City were used. It was also assumed that the fees were within medicare reimbursement schedules and that the patient would not have to pay any additional costs beyond the 20-percent coinsurance. Today this patient would be required to pay $225 in doctor's fees for the year. If the administration's medicare cutbacks became law, her out-of-pocket payments for doctor's bills would increase to $285, or almost a one-third jump.

Mrs. Cantor's examples, it seems to me, state a compelling case against the administration's cutback proposals.

What was entirely lacking in our examination of the cutback recommendations was any satisfactory rationale for them. Although Secretary Weinberger and his colleagues from HEW were before us for over 2 hours, we heard not one convincing argument in favor of putting the burden of budget cutting on ill, elderly Americans.

The Secretary says that the cutbacks seek to encourage greater cost awareness by health consumers in order to minimize overutilization of medical services. But the fact is that most social security recipients need no further encouragement for cost consciousness. They are already struggling on low budgets. Furthermore, it is physicians—not patients—who decide when and how medical services should be utilized.

The Secretary says that increasing deductibles and copayments has a positive effect in moderating utilization. But the fact is that existing studies are equivocal on this point. And there is no evidence that the elderly "overutilize" the health care system relative to other groups.

The Secretary says that the long-term patient would benefit from the administration's proposal because patients are generally less able to afford costs of care after lengthy hospital stays. But the fact is that only after 92 days in the hospital would medicare beneficiaries pay less under the administration proposal than they do now. And only around 1 percent of the medicare population is likely to be hospitalized for 92 days or more. These figures, I might add, are based on conservative assumptions and have been provided by the Congressional Research Service at my request. What the administration proposes, then, boils down to this: increasing cost-sharing for about 99 percent of medicare hospital patients so as to lower costs for about 1 percent.

The Secretary says that the administration proposals would encourage the use of lower-cost alternatives to hospitals or nursing homes. But the fact is that in many cases such alternatives do not exist.

The Secretary says that recent social security increases make possible increased cost-sharing under medicare. But the fact is that reliable estimates indicate that the administration's proposed medicare changes likely would cut away half or more of the recent 20-percent social security increase in the case of older persons with any reasonable degree of illness.

So, the question which I asked in my opening statement still remains unanswered:

How can many of our elderly realistically expect to receive adequate medical care, in

the fact of these proposed Medicare cutbacks?

This question is even more significant in the light of these harsh facts:

Over 3 million older Americans live in poverty;

Most elderly single persons subsist on less than $40 weekly; and

Health care expenditures for the aged averaged $861 in 1971, well over three times that for those under 65.

Medicare is a vital program for the Nation's elderly. But the threat of high medical costs is still a grim reality for many millions of our elderly.

The fact is that medicare covers only about 42 percent of the total health bill for senior citizens. There are many serious gaps in protection, including essential out-of-hospital prescription drugs, and effective provisions for long-term care.

The shocking truth is that the elderly paid out-of-pocket in fiscal 1971 almost as much for health care as they did the year before medicare became law. It would seem obvious that today their situation is even worse.

In the face of this, Secretary Weinberger and the administration call for retrenchment.

I say that improvement—not retrenchment—should be our goal. We will do all in our power to mount public and congressional opposition to further dismantling of this program.

I wish to acknowledge with much appreciation the fine contributions of our witnesses. They gave us much to think about and set the stage for further hearings this year in Washington and the field, or in special reports that might be issued in connection with the hearings. We will, as I stated at the hearings, go elsewhere in the Nation in our effort to understand more fully the barriers to health care for the elderly and what can be done to remove them.

No task could be more worthy of our attention. We are committed to a better life for the Nation's elderly. This cannot be realized unless good health care is accessible to all older Americans and at a price within their reach.

INCREASING CONCERN OVER THE PRICE AND AVAILABILITY OF FOREST PRODUCTS

Mr. McCLURE. Mr. President, in recent weeks we have seen increasing concern over the price and availability of forest products in the Nation. Several of my colleagues in the Senate, and members of the House are contributing statements to the RECORD on this subject. The North Idaho Hoo-Hoo Club, a chapter of Fraternal Order of Lumbermen, recently sent the following resolution to my attention. I ask unanimous consent that it be entered into the RECORD, as it develops very well the scope of the problem.

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

RESOLUTION

Whereas, the members of the North Idaho Hoo-Hoo Club in a meeting on February 15, 1973, at Coeur d' Alene, Idaho discussed with deep concern the alarming reduction of available wood timber from all commercial timber lands; and

Whereas, the total commercial timber land base has been and is continually being reduced by withdrawals for single use purposes such as wilderness areas, power lines, reservoirs, transportation systems, urban sprawl, etc.; and

Whereas, the timber supply will fall short of the projected demand with increases in the price of timber products; i.e. it is estimated that demand will exceed supply by ten million board feet in 1980 and by as much as twenty billion board feet in the year 2000; and

Whereas, it has been suggested that greater use of nonwood materials would alleviate softwood shortage however, this is only a short term solution with undesirable environmental and economic impacts such as requiring up to eight times more energy to produce the finished non-renewable wood substitute product; and

Whereas, wood processing facilities are permanent installations, requiring a stable supply of timber to sustain their continuing operation and providing the economic stability for the forest dependent communities in which they are located;

Now, therefore, be it resolved, that the North Idaho Hoo-Hoo Club, goes on record on February 20, 1973 requesting that immediate action be taken to increase the softwood production by implementation of high yield forestry programs such as reforestation, timber stand improvement protection against fire, inserts and disease, on all commercial timber lands regardless of ownership; and

Be it further resolved, that increased funding be provided to assist the private timberland owner in the practice of intensive forest management which will increase the yield from his timber lands and also to provide a realistic tax program which will encourage forest land owners to retain commercial forest acres for that purpose, and

Be it further resolved, that more emphasis be directed toward increased funding for research utilize and market all available wood fiber grown on commercial timber lands, and

Be it further resolved, that funding be provided on a sustaining basis to improve and implement those forest land management techniques which will increase the timber output from all commercial timber lands, thus meeting present as well as future demands for wood products.

And be it further resolved, that copies of this resolution be sent to all members of the Idaho Congressional Delegation, the Secretary of Agriculture and the Chief of the U.S. Forest Service.

GENOCIDE CONVENTION DOES NOT USURP NATIONAL SOVEREIGNTY OF THE UNITED STATES

Mr. PROXMIRE. Mr. President, one of the major criticisms which has been advanced against the Genocide Convention is that it would subordinate the American Government to the World Court.

Article IX of the Genocide Convention provides that disputes between the parties to the Convention relating to the "interpretation, application, or fulfillment" of the Convention "shall be submitted to the International Court of Justice at the request of any of the parties to the dispute."

There is nothing inappropriate about such a provision. The United States has already ratified many treaties which refer such disputes to the World Court.

On March 6, 1973, the Senate Foreign Relations Committee reported favorably to the Senate on the Genocide Convention. The committee's discussion of article IX should serve to allay the fears of those who believe that our national sovereignty would be subordinated to the World Court:

SETTLEMENT OF DISPUTES
ARTICLE IX

Disputes between the Contracting Parties relating to the interpretation, application or fulfillment of the present Convention, including those relating to the responsibility of a State for genocide or for any of the other acts enumerated in article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute.

The jurisdiction of the Court will extend to disputes relating to the interpretation, application, or fulfillment of the convention, including those relating to the responsibility of a state for genocide. It must be noted that such cases will fall under article 36(1) of the Court's statute which provides:

1. The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in the Charter of the United Nations or *in treaties and conventions in force* [Emphasis added.]

Cases arising under the Genocide Convention will not be covered by the Connally amendment under which the United States reserves to itself the right to determine which cases it considers to be within its domestic jurisdiction and therefore outside the jurisdiction of the Court. The Connally amendment applies only to article 36(2)—the so-called compulsory jurisdiction clause.

Provisions similar to Article IX are included in many multilateral and bilateral conventions to which the United States is a party. A list of these appears on page 215 of the 1970 hearings. Prominent examples include the Japanese Peace Treaty, the Antarctic Treaty, and the Statute of the International Atomic Energy Agency.

It must also be noted that a number of countries, notably the Communist bloc, have ratified the treaty subject to the reservation that they do not consider themselves bound by article IX. Other countries have taken exception to this and other reservations. The United States is expected to do likewise. As a consequence, the United States could invoke the Communist bloc reservation in its own behalf in cases brought by members of the bloc.

The committee does not envisage any real difficulties resulting from article IX. No disputes arising from alleged violations of the Genocide Convention have been brought before the Court to date; moreover, hardly any disputes of any kind have been brought before the Court. This is not to say, of course, that the United States might not be someday charged with nonfulfillment of the treaty by another signatory and might even be found in default of its treaty obligation—though this is hard to conceive—but as a practical matter that is where it would end. The Court has no enforcement powers. It is also well to recall that only states party to the Statute can bring cases before the World Court—not individuals or groups. In the committee's view, the fears expressed about the role of a moribund court in genocide matters appear very far fetched.

Mr. President, I urge that the Senate ratify the Genocide Convention without further delay.

CATHOLIC UNIVERSITY AWARDS DEGREES TO ARTHUR BURNS AND NATHAN CUNNINGS

Mr. JAVITS. Mr. President, recently Catholic University conferred honorary degrees on two distinguished Americans—one a public servant in high au-

thority—Dr. Arthur F. Burns, Chairman of the Federal Reserve Board, and Nathan Cunnings of New York, a leader in business, art and philanthropy. As recipients of numerous past awards, both recognized the poignant symbolic significance for the Judeo-Christian heritage of the convocation at Catholic University. I ask unanimous consent that the very appropriate remarks of Dr. Burns on that occasion hereby be be printed in the RECORD.

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

REMARKS BY ARTHUR F. BURNS

In the course of my academic and governmental career, I have attended many university convocations. On some of these occasions, I or a member of my family was the object of some attention. I remember all these occasions with a sense of belonging and gratitude, and I am very happy indeed to be admitted to the fellowship of this university.

But today's event—my receiving a Roman degree from this distinguished university—is a truly unique experience. Indeed, it has a significance that goes far beyond any individual.

For through this convocation, this pontifical university has given dramatic expression to the ecumenical spirit which Pope John so nobly proclaimed to the entire world and which Pope Paul is now extending with zeal and energy.

Through this convocation, by honoring Mr. Cummings and me, this university is reminding all of us, and doing so with a pointed eloquence, of the Judeo-Christian heritage—the religious and moral culture—which we share in common.

In a larger sense still, through this convocation, this university is honoring the great multitude of Jews, both living and dead, who have observed God's commandments and taught piety to others.

Through this convocation, President Walton, you are also honoring the historic devotion of the Jewish people to study and scholarship.

You are honoring the countless Jewish mothers who have toiled and struggled across the centuries so that their children may become learned in the Torah or, in our own age, in the secular disciplines.

You are honoring Alexandria, the Queen of Judah, who had the wisdom to establish free and universal primary education before the dawn of the Christian era.

You are honoring Rabbi Jochanan ben Zakkai who, while Jerusalem was still burning and the Temple a ruin, had the courage to lay plans for his celebrated Academy at Jabneh.

You are honoring Rabbi Akiba's Rachel, who encouraged her husband—when he was still an illiterate shepherd of nearly forty—to learn how to read and take up Talmudic studies; the Rachel who scorned her father's riches, and gladly accepted toil and poverty during the twenty-four years that she waited, with a heart full of love, for the shepherd's return as an accomplished scholar.

You are honoring Rabbi Akiba himself who became the greatest sage in Israel and died a martyr to his faith.

And you are honoring also the millions of Jews whose last words have unfailingly been "Hear, O Israel, the Lord is our God, the Lord is One."

Today's convocation is therefore rich in meaning for all of us. It is a link to the future as well as to the past, a link to the living and those yet unborn as well as to those who have departed. For we have taken together today one more step, a measured and ennobling step, toward the universal brotherhood of man under God which the prophets of our common faith have assured us will in time be ours.

May God shower blessings on this Catholic University in its pursuit of truth and righteousness.

IN MEMORY OF WENDELL PIGMAN

Mr. CHURCH. Mr. President, one of the pleasures of serving in the Senate over these many years has been the opportunity to work with some of the brightest, most creative and dedicated men and women in the United States.

I rise today to pay tribute to one of these men—Wendell Holmes Pigman, who died earlier this month.

Wendell had served on my staff for 2 years, following earlier congressional service with the late Senator Robert Kennedy and Congressman Max McCarthy.

Many men and women serve Members of Congress for decades in total anonymity. Yet Wendell Pigman gained for himself, among those who follow the course of events, a rightful place in the course of legislative history.

As much as any other man, Wendell Pigman was responsible for the decision of the United States to renounce the use of chemical and biological warfare. While working for Congressman McCarthy, Wendell investigated, dug out and helped expose the dangers of CBW.

Martin Nolan, Washington bureau chief of the Boston Globe, has chronicled Wendell's career in a recent column. I ask unanimous consent that the text of that column be printed at the close of my remarks.

Finally, I would like, as a Senator, to say that it was a pleasure to work with Wendell Pigman. For all his years of service on Capitol Hill, he deserves our thanks. Indeed, the entire country owes him a vote of thanks.

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

A MAN WHO WORKED TO ALTER EVENTS

(By Martin F. Nolan)

WASHINGTON.—Wendell Pigman was a big, gruff man who won a Bronze Star in the Korean War after running away at age 15 to join the Marine Corps.

But he was also an intellectual who later won a Phi Beta Kappa key at Cornell and a master's degree at Princeton. Wendell Holmes Pigman later became one of the faceless horde of Congressional "aides", the legislative assistants who research, write speeches and otherwise make their bosses look statesmanlike.

Pigman worked for the Late Sen. Robert F. Kennedy, Sen. Frank Church of Idaho and ex-Rep. Max McCarthy of New York.

While working for McCarthy, Pigman was assigned to investigate a subject that interested his boss, the US Army's cavalier attitude towards a deadly arsenal of chemical and biological warfare.

Pigman helped make the poisonous monogram CBW into a genuine national concern. After 6400 sheep died mysteriously near a nerve-gas training site in Dugway, Utah, Pigman persisted by telephoning, writing, digging through files and other sources and otherwise pleading with the Pentagon to tell Congress what toxic substances the taxpayers were financing.

After he helped McCarthy write a book on CBW, "The Ultimate Folly", Pigman could take some satisfaction in the resultant publicity that led President Nixon to order the destruction of vast stores of deadly gases.

The President also declared that the United States renounced the use of poison gases in warfare and closed the Army's main CBW research center, Fort Dietrich in Maryland.

Last week, Wendell Pigman's friends could take satisfaction and thank him on behalf of all Americans as they attended his funeral at the Cleveland Park Congregational Church. His friends saluted him as they sang from the old hymn, "God of Our Fathers":

"From war's alarms, from deadly pestilence

"Be thy strong arm our ever sure defense."

He died at 42, after shuttling back and forth to a kidney machine in Veterans' Hospital here the last five years of his life. He never complained.

His wife, Nancy, had worked for Sen. Leverett Saltonstall of Massachusetts, when he had worked for Robert Kennedy. "Strange bedfellows," Wendell used to say. After work, they often attended the games of the late Washington Senators with their son, Geoffrey.

There are hundreds of people like Wendell Pigman on Capitol Hill, plugging away each day in the obliquely-reflected glory of their leaders. Few were more lighthearted, few more dedicated and determined than he was. And few were more effective.

His friend Wes Barthelmes, who worked with him for both Sens. Kennedy and Church, read at the funeral from a Robert Kennedy speech of 1966. Wendell Pigman had helped Kennedy prepare for a visit to South Africa, where the senator spoke to a university audience about hope:

"Great men moved the world, and so can we all. Few will have the greatness to bend history itself, but each of us can work to change a small portion of events, and in the total of all those acts will be written the history of this generation."

Mr. JAVITS. Mr. President, on March 18, a young man of great promise and courage lost his battle with serious kidney disease and died. Wendell Pigman, legislative assistant to FRANK CHURCH, and only 42 years of age was a valued aid and creative thinker. He first came to the Hill from NASA as a congressional fellow in the office of my late colleague, Senator Robert Kennedy. Because of his ability and dedication in that assignment, he was asked to join the Senator's staff full time, and served as legislative assistant to Senator Kennedy. After the Senator's death, he served in the same capacity with Congressman Max McCarthy of New York before joining Senator CHURCH in 1971. While working with Congressman McCarthy, he was instrumental in bringing to the attention of the public the vital issues concerned in chemical and biological warfare.

While it is always tragic when one so young dies, his family must take pride in the extraordinary service he rendered to his country during his short life. My wife joins me in extending our deepest sympathies to his wife Nancy, who was Senator Everett Saltonstall's legislative assistant, and to their son Geoffrey.

Mr. KENNEDY. Mr. President, Wendell Holmes Pigman, whose recent death has saddened his many friends in Congress, fought to live with the same courage that he fought life's causes in the service of the people of America. The cruel disease that claimed his life ended his career before its prime, but it can

never dim the brilliant contributions he made in the short time he had.

Congress functions in major part through the efforts of outstanding and dedicated staff members like Wendell Pigman. Last week, in a fine tribute, Martin Nolan of the Boston Globe put it this way:

There are hundreds of people like Wendell Pigman on Capitol Hill, plugging away each day in the obliquely-reflected glory of their leaders. Few were more light-hearted, few more dedicated and determined than he was. And few were more effective.

Wendell Pigman was no organization man. With his wise and lively intelligence, he expressed himself with a spirit and frankness reminiscent of the combat marine he once was. Articulate and perceptive, quick to unmask hypocrisy and cant, he called things as he saw them and let the chips fall where they may.

Predictably, in his legislative duties in the Senate, Wendell Pigman found himself at the cutting edge of his assigned issues, such as conservation, the environment, and chemical-biological warfare. His legislative career was an effective marriage of new ideas and vigorous accomplishment. And so, at his death, his young lifetime was already overflowing with landmarks of achievement in the many causes he had served so well.

Senator FRANK CHURCH, under whom Wendell had served most recently as legislative assistant, appreciated his extraordinary ability. Representative Max McCarthy, during his congressional service, knew him as a strong right arm. And I know myself how highly Robert Kennedy valued Wendell's skills and contributions.

At a recent memorial service, Wes Barthelmes spoke about his friend and the men for whom he worked:

As staff members on the Hill say—Wendell worked with good people—Senator Church, Congressman Max McCarthy and Senator Robert Kennedy.

Each man is unto himself in his inch of time, but Wendell Pigman shared certain qualities with the three able men for whom he worked. All four men were private men in a public profession. All four men shunned the private sunshine for the uncertainties of public affairs. All four men believed that the world into which they were born was not working fairly, that it could be made to work better. This knowledge was their strength—and their burden.

As Robert Kennedy told the students at the University of Capetown in South Africa on his visit there in 1966—

"Great men moved the world, and so can we all. Few will have the greatness to bend history itself, but each of us can work to change a small portion of events, and in the total of all those acts will be written the history of this generation. It is from numberless diverse acts of courage and belief that human history is shaped. Each time a man stands up for an ideal, or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope, and crossing each other from a million different centers of energy and daring, those ripples build a current that can sweep down the mightiest walls of oppression and resistance.

"Our future may lie beyond our vision, but it is not completely beyond our control. It is the shaping impulse of America that neither fate nor nature nor the irresistible tides of history, but the work of our hands, matched to reason and principle, will determine our distiny. There is pride in that, even arrogance, but there is also experience and truth. In any event, it is the only way we can live."

There can be no question that Wendell Pigman helped to write the history of this generation. Confronted with our mounting complex problems and controversial issues, Congress needs more, not fewer, able staff members like Wendell. How ironic it is that in the very week when the Senate was seeking newer and more effective ways to encourage medical science and research, kidney disease should claim one of our own ablest assistants.

Robert Kennedy was 42 when he died and so was Wendell Pigman. To his wife Nancy and his son Geoffrey, I extend my sympathy in their time of loss, as well as my respect for their own courage during his long illness. Perhaps it is some comfort for them now, to know how much Wendell meant to us in the Senate, and how much we feel that Congress and the country are the poorer for his loss.

In "Lycidas," one of his greatest poems, John Milton mourned the death of a college friend who had died too young:

"Yet once more, O ye laurels, and once more,
Ye myrtles brown, with ivy never sere,
I come to pluck your berries harsh and crude,
And with forced fingers rude
Shatter your leaves before the mellowing year.
Bitter constraint and sad occasion dear
Compels me to disturb your season due:
For Lycidas is dead, dead ere his prime,
Young Lycidas, and hath not left his peer."

As we celebrate Wendell Pigman's life and mourn his death, those who knew him as a friend and wise adviser know also that Wendell, like Lycidas, hath not left his peer.

Mr. President, I ask unanimous consent that Mr. Nolan's article of appreciation in the Boston Globe may be printed in the RECORD.

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

[From the Boston Globe, Mar. 26, 1973]

A MAN WHO WORKED TO ALTER EVENTS

(By Martin F. Nolan) *

WASHINGTON.—Wendell Pigman was a big, gruff man who won a Bronze Star in the Korean War after running away at age 15 to join the Marine Corps.

But he was also an intellectual who later won a Phi Beta Kappa key at Cornell and a master's degree at Princeton. Wendell Holmes Pigman later became one of the faceless horde of Congressional "aides", the legislative assistants who research, write speeches and otherwise make their bosses look statesmanlike.

Pigman worked for the Late Sen. Robert F. Kennedy, Sen. Frank Church of Idaho and ex-Rep. Max McCarthy of New York.

While working for McCarthy, Pigman was assigned to investigate a subject that interested his boss, the US Army's cavalier attitude towards a deadly arsenal of chemical and biological warfare.

Pigman helped make the poisonous monogram CBW into a genuine national concern. After 6400 sheep died mysteriously near a nerve-gas training site in Dugway, Utah, Pigman persisted by telephoning, writing, digging through files and other sources and otherwise pleading with the Pentagon to tell Congress what toxic substances the taxpayers were financing.

After he helped McCarthy write a book on CBW, "The Ultimate Folly", Pigman could take some satisfaction in the resultant publicity that led President Nixon to order the destruction of vast stores of deadly gases.

The President also declared that the United States renounced the use of poison gases in warfare and closed the Army's main CBW research center, Fort Dietrich in Maryland.

Last week, Wendell Pigman's friends could take satisfaction and thank him on behalf of all Americans as they attended his funeral at the Cleveland Park Congregational Church. His friends saluted him as they sang from the old hymn, "God of our Fathers":

"From war's alarms, from deadly pestilence
"Be thy strong arm our ever sure defense."

He died at 42, after shuttling back and forth to a kidney machine in Veterans' Hospital here the last five years of his life. He never complained.

His wife, Nancy, had worked for Sen. Leverett Saltonstall of Massachusetts, when he had worked for Robert Kennedy. "Strange bedfellows," Wendell used to say. After work, they often attended the games of the late Washington Senators with their son, Geoffrey.

There are hundreds of people like Wendell Pigman on Capitol Hill, plugging away each day in the obliquely-reflected glory of their leaders. Few were more light-hearted, few more dedicated and determined than he was. And few were more effective.

His friend Wes Barthelmes, who worked with him for both Sens. Kennedy and Church, read at the funeral from a Robert Kennedy speech of 1966. Wendell Pigman had helped Kennedy prepare for a visit to South Africa, where the senator spoke to a university audience about hope:

"Great men moved the world, and so can we all. Few will have the greatness to bend history itself, but each of us can work to change a small portion of events, and in the total of all those acts will be written the history of this generation."

Mr. PELL. Mr. President, the recent death of the congressional aide, Mr. Wendell Pigman, is a loss not only to his employer, Senator FRANK CHURCH, but a loss to all of us.

Mr. Pigman gained a national reputation in his drive to change the administration's policy on chemical and biological weapons while he was serving as a legislative assistant to former Congressman Richard D. McCarthy of New York. Although physically handicapped for the last 5 years, he worked hard and long, both in the Senate and the House, for the ideas in which he believed so strongly.

I should like to ask at this time unanimose consent to insert in the CONGRESSIONAL RECORD an obituary which was published in the New York Times. His untimely death at the age of 42 was greeted by much sadness by his many friends on Capitol Hill. All of those who knew him shared a special high regard for him. My sympathies go out to his wife Nancy and his son Geoffrey.

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

WENDELL PIGMAN, LEGISLATIVE AIDE—CONGRESS ASSISTANT DIES—OPPOSED CHEMICAL WAR

WASHINGTON, March 19.—Wendell H. Pigman, a Congressional aide who helped in reshaping the United States policy toward the use of chemical and biological warfare weapons, died yesterday in the Veterans Hos-

* Martin Nolan is chief of The Globe's Washington Bureau.

pital here. His age was 42. He had been using an artificial kidney machine for five years.

Mr. Pigman served as legislative assistant to Representative Richard D. (Max) McCarthy, Democrat of upstate New York from 1969 to 1971, and was instrumental in aiding Mr. McCarthy in his drive to change the policy on chemical and biological weapons. The White House renounced the first use of lethal chemical weapons in November, 1969, and also announced a unilateral abandonment of offensive biological warfare research.

After Mr. McCarthy's defeat in New York senatorial primary campaigns in 1970, Mr. Pigman joined the staff of Senator Frank Church, Democrat of Idaho, as a legislative assistant.

A native of New York City, Mr. Pigman attended the Bronx High School of Science before enlisting in the Marine Corps, where he won a Bronze Star and participated in the Inchon landing and the capture of Seoul during the Korean war.

Mr. Pigman graduated in 1955 from Cornell University, where he was elected to Phi Beta Kappa, and received a master's degree from the Woodrow Wilson School of Public and International Affairs at Princeton University. He worked for the Bureau of the Budget and the National Aeronautics and Space Administration until he won an American Political Science Association fellowship on Capitol Hill in 1964. He then joined the staff of Senator Robert F. Kennedy, Democrat of New York, as a legislative assistant, working there until Mr. Kennedy was assassinated in 1968.

Survivors include his widow, Nancy; a son, Geoffrey; his father, Augustus Pigman of New York, and two brothers, John D. and William A. Pigman.

NATIONAL FUTURE HOMEMAKERS OF AMERICA WEEK, APRIL 1 THROUGH 7

Mr. HRUSKA. Mr. President, this week the Future Homemakers of America, as part of their celebration of National FHA Week are exploring the multiple roles of the individual in family and community life. Special observances will include active involvement in home, civic and school projects, the development of individual leadership, team work experience, and vocational training.

For more than a quarter century, FHA has provided worthwhile experiences which have helped young men and women prepare for the important responsibilities of their future as parents and mature adults.

Future Homemakers of America has a national membership in all 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, and American schools overseas. Its national membership totals well over a half million girls and boys in 11,000 chapters. There are some 4,800 members of FHA in the State of Nebraska with 141 chapters in junior and senior high schools throughout the State.

Because FHA is integrated into the home economics classroom work of junior and senior high schools it plays an effective role in the educational system by keeping its members involved in activities that benefit not only individuals but also families and communities.

FHA members have many opportunities to make direct and positive contributions to our society. This Senator extends his good wishes to the FHA for a job well done.

One of my letters from active Future Homemakers of America—Mrs. Mary Ann Morgan, of Red Cloud, Nebr., an FHA adviser—puts it this way:

We observe National FHA Week because we are proud of our organization and wish to develop a public awareness of its value to young people. As a part of the home economics education program, FHA makes learning mean something tangible and affords us opportunities to make direct contributions to society. Belonging to the organization keeps us involved in activities which benefit us not only as individuals but as family and community members, serving as a bridge between the classroom, the home and the community.

YOUTH HELP THE ELDERLY

Mr. HUMPHREY. Mr. President, I want to bring to the attention of my Senate colleagues an outstanding program in New York where teenagers provide essential services for old people who are poor and who are limited by physical handicaps. Known as SCOPE II, an acronym for Seniors, Community Outreach to the Elderly, this program represents an important new dimension in the involvement of youth in services to people.

This is precisely the kind of program I had in mind in the comprehensive proposal I presented in the Senate last May on jobs and opportunities for youth, where I discussed the need for carefully planned programs of paid jobs for youth in vitally needed community services.

The teenagers in the SCOPE II program have been selected because they need the money, and they can earn $1.85 an hour for up to 18 hours per week doing marketing, laundering, and cleanup chores for homebound elderly persons and, perhaps most importantly, talking and visting with them.

In the process, the teenagers themselves are learning many vital lessons—about loneliness in old age, and about respect for human dignity. And they have been led to a serious reevaluation of their attitudes toward old age, and to a recognition of the serious problems of maintaining self-respect and trying to get along on a limited income. This is truly a program which effectively bridges the age gap, about which there has been increasing concern in our society as the population of those over age 65 has continued to expand.

Mr. President, I ask unanimous consent that the article by Virginia Lee Warren, entitled "Teenagers Who Help Look After the Elderly," and appearing in the February 13, 1973, issue of the New York Times, be included at this point in the RECORD.

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

[From the New York Times, Feb. 13, 1973]

TEENAGERS WHO HELP LOOK AFTER THE ELDERLY

(By Virginia Lee Warren)

It's hard to say who is being benefited more: (1) the old people who are alone, usually existing below the poverty level but often too proud to go on relief, and sometimes with physical handicaps severe enough to keep them from going outside their living-quarters, or (2) the teenagers who are helping to look after them.

While what the elderly are gaining is easy to see—they can have things like their marketing done, errands run, their places straightened up—what the young people are getting out of it is not quite so obvious.

True, they are getting paid $1.85 an hour and they may work as many as 18 hours a week. Furthermore, they have been selected because they need the money.

But they are also getting less tangible benefits and these may turn out to be just as valuable. At least that is the hope of sponsors of the program, which is bringing some of the old and a few of the young together on the middle East Side.

Anne Charnow, who used to be with the Youth Corps and is now in charge of the teenagers in this new program—SCOPE II it's called—says she is continually asking herself, "How much are these boys and girls learning about what it is like to be old and have very little means?"

MUCH WONDERING

She also wonders whether the experiences these young people are now having are leading them to consider what society is doing about the elderly—and what society is doing to help the young to understand the problems that come with old age.

"We like to think," Mrs. Charnow said, "that the young people are also being helped to think of their own old age and to understand their own parents' getting old and dying."

As Mrs. Charnow spoke she was getting ready to conduct the weekly session that the 11 girls and four boys in the program must attend in order to learn how to minister to their clients. The sessions are held at Lenox Hill Neighborhood Association; this is the organization that is sponsoring SCOPE, an acronym for Seniors, Community Outreach Program to the Elderly. It's divided into two parts and the teenagers come under the second part of it.

SCOPE I, through the New York State Office for the Aging, pays people who want to supplement their Social Security to visit and help the homebound elderly. Such workers are called Senior Aides.

At present only teen-agers who live or go to school in the Yorkville area are eligible to be in SCOPE II.

During this particular session the 15 carried on improvised dialogues—the kind called role-playing—with one of the young people pretending to be an old person and another young person pretending to be there to help. Through the dialogues, whose themes were suggested by Mrs. Charnow, the boys and girls learned the following:

They are not to gossip about their clients. ("This old woman has four sons and they don't do one thing for her.")

They are not to offer medical advice. ("My father had swelling in the legs like yours but his doctor got him well right away.")

They are not to apply pressure. ("After I do your shopping I'm going to clean your room because it looks pretty awful, and I'll put away a lot of this stuff for you.")

GAINING THEIR TRUST

In the playlet the girl impersonating an old woman said she didn't want her place cleaned and seemed hurt by the suggestion. "You came to do my shopping, so do that."

"There, you see," said Mrs. Charnow. "If someone doesn't want a room straightened up, leave it alone. Some old people like clutter. Besides, no one likes being told that his or her place is a mess."

"At first a lot of the clients won't let you do anything," complained 16-year-old Rosemarie DeRosa, who joined the program only last month.

"You have to gain their trust," put in Efraim Torres, 17, who has been in SCOPE II since September.

Efraim has had a harder time than most; in the Yorkville section his dark skin makes him suspect as he goes into the all-white buildings that characterize the neighborhood, but he's learned to handle the problem and says he now wants to be a social worker.

"Right now I'm going to an old lady for an hour five days a week," he said, "and I walk her dog and we talk. She has a wheelchair but doesn't use it; she likes crutches better. We have good talks. At first she was worried about my color but then one day she said someone had told her that some people were left in the oven a little longer and that made them darker." Efraim related this theory without rancor; indeed, there was an almost amused tolerance.

He was surprised when asked if the woman had objected to having a strapping 17-year-old assigned to her. "Oh, no," he said. "It was just the color that bothered her."

The fact is that girls usually have women for clients and boys have men, but it has been found that the boys get along unusually well with old women; since 75 per cent of the elderly persons in the program are women, each of the four boys has some of them for clients.

Jehan de Noue, for instance, who came here from France six years ago when he was 10, goes to a French-woman in her 80's for one hour twice a week. "She's sick but can be up around a little," is the way Jehan describes this client. He does her marketing, takes her laundry to the laundromat and then—what probably means most to the old woman—he writes letters for her in French. "And we sit and talk about France."

A WILLINGNESS TO LISTEN

A visit to 71-year-old James Gould found 18-year-old John Vasquez ready to take out the laundry. Mr. Gould lives on the top floor of a 5-story walkup and his room is barely big enough to hold a single bed, a bureau, a small chest, an even smaller table and a chair. Mr. Gould referred to the closest, but this turned out to be a small shelf with some hooks from which his clothes were suspended; there was not even a curtain around it.

Mr. Gould, who used to drive a taxi, broke his hip a year and a half ago and uses a cane. "Well, I don't really use it," he said. "I just carry it."

His manner was jaunty and he said he goes up and down the five flights two or three times a day to keep from getting stiff. "I don't like to go out on the sidewalk, though; too many people and the pavement's uneven. But I do go to the place next door to eat." He goes there once a day.

It is plain that what he values in the teen-ager who has been sent to him is his willingness to listen in addition to running errands. John confirmed, with a smile, that "Mr. Gould is a great talker."

One of the girls who is carrying a full 18-hour schedule is 17-year-old Mary McMonigle, who was hard at work mopping the linoleum-covered floors in the tiny first-floor apartment of Mr. and Mrs. Benjamin Augustine when a visitor walked in.

QUALIFICATIONS ARE MANY

The client is Mrs. Augustine, who is in her late 70's and had her right leg amputated a few years ago; later she broke her right hip and is now in a wheelchair. But when Mary takes out the laundry it is for both Mr. and Mrs. Augustine. He is 85 and recently returned from a long stay in a hospital. He used to be a chauffeur.

"We've been married 58 years," said Mrs. Augustine cheerfully. Then she added, "I'm a hairdresser," using the present tense although she has not worked for years. Recently she had cataracts removed.

How are the old people found who are to be helped by the teen-agers? Around 4,000 elderly are living below the poverty level in the SCOPE area, bordered by 59th Street, Third Avenue, 89th Street and the East River. Referrals are made by social workers, visiting nurses, clergymen or, fairly often, by neighbors.

Then SCOPE I sends a Senior Aide to call upon the man or woman to determine what can be done and whether a teen-ager should be assigned. At present the 15 young people in SCOPE II are helping to look after 50 old people. Their $1.85 an hour comes from a grant of $36,000 given by the Vincent Astor Foundation for 1973.

To qualify for SCOPE II the teen-agers must be at least 15 years old, have out-going personalities, a sense of responsibility, be conscientious and willing to take guidance. They are required to fill out detailed reports on all their activities.

"At first the elderly person is likely to be frightened at the thought of a teenager coming in," said Ellen Brown, project director for SCOPE. But while there may be apprehension at first, most of the old men and women come around quickly to the attitude of Eugene Weiss, 77, who describes himself as "about 90 per cent helpless."

Of his teen-ager, Jehan de Noue, Mr. Weiss said the other day, "I wondered in the beginning how it would work out; there's such a gap in our ages. But now I look forward to his visits; I don't know what I would do without him."

A NEW DECLARATION

Mr. BAKER. Mr. President, George W. Kelly, the distinguished editor of the Johnson City Press-Chronicle in my home State of Tennessee, was recently selected as the national first place winner in the editorial division of the annual Freedoms Foundation Awards.

Mr. Kelly's editorial, "A New Declaration," eloquently evaluates the relationship of the independence and the interdependence of the American people.

This thoughtful editorial was written as part of Mr. Kelly's daily responsibility as editor, with no thought of an award. It is typical of his fine journalistic work.

I believe that all our citizens can benefit from reflection on the essential truth of the message of "A New Declaration." I therefore ask unanimous consent that Mr. Kelly's editorial be entered in the RECORD.

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

[From the Johnson City (Tenn.) Press-Chronicle, July 4, 1972]

A NEW DECLARATION

Independence is at the heart of the American dream.

Independence and freedom.

Independence from tyranny, independence from subjugation, independence from control of thought, speech, press, religion, assembly, movement, work, play, association.

Since 1776 we have persevered proudly as a people dedicated to the proposition that "all men are created equal and that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness."

Today we honor the document that embodies these tenets—the Declaration of Independence. Four years from now, in glad ceremonies in the 50 states, we shall mark the Declaration's 200th birthday.

Two hundred years of independence!

How wonderful to contemplate! How glorious to have and to hold!

On this Independence Day, July 4, 1972, we recall the words and the solemn covenant that gave them birth, and swell with pride in the knowledge that we are free, independent citizens of the greatest nation the world has known. We can come, go, do and be as we choose, subject only to the laws enacted within the framework of freedom for the protection of us all.

Free people in a free country! Every one of us endowed with "unalienable rights" which we can invoke with certainty if some person, or our government, treads on us! Every one of us a free agent; every man a king!

Ah yes but ah no! There is such a fragile thread between freedom and license. There is such a tenuous demarcation between independence and abuse of independence. And there is such a broad gap, often, between the literal letter of the law and the spirit thereof.

At a time when so many Americans are insisting on "doing their own thing" in the name of freedom and "rights," even if the thing they are doing does grievous public harm, perhaps we need to re-evaluate our independence. If we carry independence so far that we place our interest, or our group's, above that of our nation, we court chaos. If we insist upon our individual rights to the point that we do violence to the rights of others, we destroy the meaning of all rights.

Independence is a cherished word. It inspires. Dependence is a word spoken apologetically; it does not inspire.

Yet perhaps, at this point in our national history we need to recognize all of us are dependent as well as independent. And maybe we should adopt some declaration or document saying so.

Such a document would start with the proposition that our government is dependent upon its citizens, not vice versa, and that positive unity of purpose must exist among those citizens if our nation is to be great. Diverse we surely are, being a land of many races, many creeds and many philosophies, but we are dependent upon one another in the things that count—the preservation of national purpose, national faith, national strength, national morality. Every person needs every other person. No man is an island unto himself; none can contribute to the overall good if he insists on "doing his own thing" to the extent that he ignores everybody else.

We are dependent in so many ways. We are dependent upon free speech and free press. If we insist upon having our say but try to silence those who have other views, we invite someone to silence us. If we cry out for control of the press because we think freedom of the press is being abused, we invite the shutting off of information that is vital to our own freedom.

If we carry independence to the point of advancing our own business, or cause, or politics, or even religion, without any regard to the businesses, causes or politics or religions of others, we may succeed for a while but we isolate ourselves from our fellow beings and they, in turn, isolate themselves from us. We lose the joy of association, of togetherness, or shared experiences, of wholesome competition, of positive dependency of one individual upon another.

If we insist doggedly upon our rights, even if these rights encroach upon the rights and interests of others, we violate the certain principle that the good of the whole is dependent upon the unselfish functioning of all its parts.

Thus when we move into the streets and block traffic . . .

When we organize a campus demonstration and interrupt classes . . .

When we interfere with a political gathering or convention, or a legislature or congress, in the name of freedom to do this or that . . .

When we use the right to strike, even though this may conflict with some other person's right to work . . .

When we shout down someone who is trying to say something because we do not like what he wants to say . . .

When we do any of these things—or many others that could be catalogued—we are carrying independence over the brink and giving no thought to the principle of de-

pendency on which the welfare of the nation and its people rests.

On this Independence Day, let us reflect upon the truth that independence and freedom, true independence and freedom, can not be sustained unless we are willing to undergird them with the practice of dependence—one group on another, one person on another—to the end that the brotherhood of man under the fatherhood of God shall prevail in all things.

SAFETY IN THE STREETS

Mr. HRUSKA. Mr. President, I wish to call the attention of the Senate to an article published in the March 21 issue of the Washington Star-News under the byline of Ruth Dean which reported that a conference of city criminal justice planners from 45 U.S. cities had concluded that the Nation's city streets are safer today than they were 5 years ago.

It was my pleasure to address these large city criminal justice administrators at their first meeting here in Washington, and to read of their support for the programs of the Law Enforcement Assistance Administration created by the Safe Streets Act of 1968—legislation which I had the privilege of consponsoring in the Senate. I read with special interest of the concern expressed by the city planners that LEAA funds to the cities might be substantially reduced through passage of the administration's law enforcement special revenue sharing bill—a bill I introduced into the 93d Congress.

I would like to address these remarks to that concern.

In my remarks to the National Association of Urban Criminal Justice Planners I stressed several points which deserve to be repeated here. I can appreciate their concern, and so does the administration. But, special revenue sharing for law enforcement will give the cities and States precisely what they have always wanted—the funds, the freedom, and the flexibility. With special revenue sharing for law enforcement, the cities will not have to go to their State officials with their hats in their hands. Because the administration's bill retains the variable passthrough formula that was so effective in the LEAA program, the cities will receive the funds they need.

Some have suggested that there be some sort of block grant directly to the cities. I do not agree with that contention. Cities are political subdivisions of a State—and they must be part of a statewide effort to reduce and prevent crime and delinquency. Effective anti-crime planning can be done only on a statewide level. It cannot be done in isolation in every city, town, hamlet, or State agency. Crime is different place to place—in both amount and kind. The administration's bill makes specific provision for substantial funding to those cities and urban areas that experience a high incidence of crime. It calls for an adequate allocation of funds to meet the respective needs of the cities and counties.

LEAA has in the past, and will continue in the future under special revenue sharing, to get the funds to the cities, and to assist in making the Nation's city streets safe for all their citizens.

Mr. President, I ask unanimous consent that the Washington Star-News article be printed in the RECORD.

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

[From the Washington Star-News, Mar. 21, 1973]

SAFETY IN THE STREETS

(By Ruth Dean)

Are the nation's city streets safer than they were five years ago?

A random survey of city criminal justice planners, who wound up a two-day meeting here yesterday, indicates that they think so.

With funding from the Federal Law Enforcement Assistance Agency Administration—created by the Safe Streets Act of 1968—the planners point out that:

The District of Columbia has cut serious crime from 200 reported daily arrests to less than 100.

Louisville is reducing crime by correcting juvenile delinquency at its source.

New York's institution of separate narcotics felony courts and treatment centers for heroin addicts is lowering incidence of street crime.

San Francisco law enforcement officers' 10-second access to sophisticated police information computers is facilitating immediate street arrests.

The planners, however, fear that this trend may be reversed if revenue sharing spreads LEAA funds so thinly that they are siphoned indiscriminately to small municipalities with low crime rates rather than to big cities where the greatest concentration of crime exists.

This concern brought administrators from 45 U.S. major cities for their first conference at the Sheraton Park Hotel.

They talked of the prospect of the 1968 Safe Streets Act running out in June, and introduction in its place of House and Senate legislation spelling out the administration's revenue-sharing goals for law enforcement.

The group presented position papers, and heard talks by Rep. James V. Stanton, D-Ohio, and Sen. Roman L. Hruska, R-Neb., chief architect of the 1968 Safe Streets Act who introduced the administration's new version of the act last week.

"We want to see the money go where the crime is," said conference chairman Stephen T. Porter of Louisville, summing up his fellow planners' key concern. Bluntly, he added: "Two-thirds of the serious crimes occur in the cities or their suburbs."

Porter described what LEAA funding has done in his own Louisville area.

"We decided to put the money into people programs," he said. "Our major objective was juvenile delinquency, and how to provide alternatives to detention."

The planners said that "something in between" had to be found to avoid the extremities of sending the child back to a broken home or to an institution where he would be labeled a "delinquent and do all he could to live up to it," Porter said.

The solution was "small group homes," housing 8-to-10 kids with a resident couple (husband and wife), one of whom is a professional social worker, who provide substitute parental care.

The LEAA funds also support "alternate schools" for children who have just finished six-month correctional institution sentences. The schools provide special counseling and refresher teaching, so the child can go back to his old school without being slapped again with the "delinquent" image.

William Van Dyke attributed the District's dramatically reduced crime rate to the infusion of LEAA funds, which enabled the mayor's office to put more police on the streets on overtime pay during the interim period until congressional authorization for more police hiring could be filled.

Treatment of heroin addicts with approximately $4 million of LEAA funds to date, also accounts for the lowered D.C. crime index, Van Dyke said.

For a city the size of New York, Federal funding for crime prevention is a minuscule portion of the city's crime budget.

"We get $25 million in LEAA funds," Henry Ruth said. "By comparison that's just 150th of the $35 million the city is spending on new street lighting alone."

"But you can't expect LEAA money itself to reduce crime; it has to be built in to the larger city's anti-crime policy," said Ruth, who is criminal justice planning director for New York.

Thus, the $25 million has been poured into effective anti-drug programs, including a reordering of the court system. The latter includes the setting of a "major offense bureau" in the district attorney's office to give priority to cases, Ruth said, and setting up of narcotics felony courts, "which has resulted in higher pleas of guilty to more serious crimes and getting more severe sentences."

That, coupled with the fact that 54,000 drug addicts are under treatment today compared with 12,000 two years ago, Ruth points out, has brought an 18 percent reduction in crime between 1971 and 1972. "We've had a big drop in larceny, burglary and auto theft crimes," he said.

William J. Mallen, former deputy district attorney of San Francisco, said: "Depending on what part of town, he would feel safe on the streets now in the residential areas; some other areas, no."

The Haight-Ashbury district—now deserted by the flower children of the 60s—"is coming back as a residential neighborhood," Mallen said. "Crime is on the decline and it's a nice neighborhood now. You can make a lot of money buying property there."

He said LEAA funds about one-fiftieth of what the city spends to combat the 6,000 serious crimes committed per 100,000 population—twice the California state average.

The money has been spent mainly, he says, to beef up the police force and to computerize the central police information data system. As a result, according to Mallen, a policeman on the beat can call into a central warrant bureau and get a 10-second readout on an arrest suspect. "It helps in quick apprehension," he said.

EARTH WEEK

Mr. NELSON. Mr. President, interest in Earth Week has been rapidly building around the Nation and signs of enthusiastic support for this annual environmental observance are apparent at all levels.

Recently, all Senators were invited to cosponsor Senate Joint Resolution 2, which designates April 9–15 as Earth Week. So far, 62 Senators, Democrats and Republicans alike, have joined as cosponsors. We welcome further support and once again invite Senators to add their names as cosponsors.

In addition, the President of the United States and 45 of the Nation's Governors have proclaimed Earth Week, and more proclamations are arriving every day. Twenty-one national educational and environmental organizations are once again supporting Earth Week.

This year, Earth Week will place a special educational emphasis on energy conservation, one of the most important environmental problems of this decade.

The Wisconsin city of Burlington will participate in a unique experiment that

will demonstrate to the Nation and the world the need for energy conservation, and the importance of citizen involvement in that area. It is worthwhile to describe that experiment here.

From April 10 to 11, Burlington citizens will take part in an energy slowdown. All members of the community will be asked by the mayor, John H. Thate, to reduce their consumption of all types of energy to the 1950's level—or 50 percent of their current consumption. They will use their ingenuity in demonstrating their involvement.

Commercial establishments in this city of 8,000 south of Milwaukee will participate by reducing their electrical lighting and heating. Some retailers plan to hold sales on items which require no energy or which help to conserve energy.

While it would not be practical for industries to shut down or slow down production, they will encourage employees to limit the use of automobiles driven to work and to walk, cycle or use car pools instead.

A key feature of the city's experiment will involve 12 Burlington families who will participate in a controlled demonstration on energy use.

For 2 weeks prior to Earth Week, these families will keep daily records of their normal energy consumption, which will be averaged on a daily basis.

For a 24-hour period during Earth Week, beginning at 6 a.m. on the morning of April 10, the 12 families will be rationed three major types of fuel—electricity, natural gas, and gasoline. The ration will be based on 1950 consumption levels, or 50 percent of current consumption.

Five of the 12 families will be given their rations and told how to conserve the energy available. Another 5 families will be given their rations, but will not be instructed on energy conservation. They will be expected to devise their own program for conservation.

The two remaining families will have the toughest assignment. They will be put on an energy ration based on the world's average consumption of energy, which is six to eight times less than the average energy consumption in the United States.

The last two families will use only one-sixth of the energy they would normally use—or one-twelfth of the 1950 consumption level that has been established as the measure for the experiment.

Devices will be placed on the lawn of each demonstration home to record on an hour-by-hour basis how the family is getting along on its allotted fuel ration. If, and when, a family runs out of an allotment, that hour will be noted.

The Burlington experiment should make two things very clear. The first is that we face an impending energy crisis in this country. If we keep using energy at present rates, we will double our consumption by 1987—just 14 years away. Yet we already face the prospect of shortages and in some cases complete depletion of energy supplies. Our domestic supplies of oil are estimated to be 10 years at current levels of consumption. This country's supply of natural gas may last only 11 years.

We can, of course, as in the past, draw from foreign reserves. But that is at best a short-term answer, since the demands of the rest of the world will limit availability.

As supplies grow shorter, the costs to the consumer will rise. Some experts are predicting gasoline prices in this country will reach the European level of 80 cents to $1 per gallon in the next few years. The price of natural gas may double in the next 2 years. Predictions are that fuel oil costs could increase 20 percent in the next 3 years. And the cost of electricity could go up a third in the next 5 years.

In view of predicted future fuel shortages and cost escalations, the energy problem is everyone's problem. For this reason, the Burlington demonstration is both timely and meaningful.

The second thing we can learn from the Burlington experiment is that the average citizen can take meaningful and effective steps to conserve energy.

Households in this country use fully one-fifth of all the energy consumed, yet some 30 to 35 percent of that energy is wasted. Automobiles use one-eighth of the energy consumed in this country.

By making environmentally sound choices in heating their homes and buying their automobiles, Americans can make major reductions in the amounts of energy used.

If the Burlington experiment makes the average person think about the energy problem and what he can do to help solve it, it will have accomplished a great deal.

Today, I ask unanimous consent that, at the next printing of Senate Joint Resolution 2, the following 62 Senators be added as cosponsors:

LIST OF ADDITIONAL COSPONSORS

Sen. James S. Abourezk (S. Dak.), Sen. Howard H. Baker, Jr. (Tenn.), Sen. Birch Bayh (Ind.), Sen. J. Glenn Beall Jr., (Md.), Sen. Lloyd Bentsen (Tex.), Sen. Alan Bible (Nev.), Sen. Joseph R. Biden, Jr. (Del.), Sen. Bill Brock (Tenn.), Sen. Edward W. Brooke (Mass.), Sen. Quentin N. Burdick (N. Dak.), Sen. Howard W. Cannon (Nev.), Sen. Clifford P. Case (N.J.).

Sen. Lawton Chiles (Fla.), Sen. Frank Church (Idaho), Sen. Marlow W. Cook (Ky.), Sen. Norris Cotton (N.H.), Sen. Alan Cranston (Calif.), Sen. Robert Dole (Kans.), Sen. Pete V. Domenici (N. Mex.), Sen. Peter H. Dominick (Colo.), Sen. Thomas F. Eagleton (Mo.), Sen. Hiram L. Fong (Hawaii), Sen. Mike Gravel (Alaska), Sen. Edward J. Gurney (Fla.).

Sen. Clifford P. Hansen (Wyo.), Sen. Philip A. Hart (Mich.), Sen. Floyd K. Haskell (Colo.), Sen. William D. Hathaway (Maine), Sen. Ernest F. Hollings (S.C.), Sen. Walter D. Huddleston (Ky.), Sen. Harold E. Hughes (Iowa), Sen. Hubert Humphrey (Minn.), Sen. Daniel Inouye (Hawaii), Sen. Henry M. Jackson (Wash.), Sen. Jacob K. Javits (N.Y.), Sen. Edward M. Kennedy (Mass.).

Sen. Warren Magnuson (Wash.), Sen. Mike Mansfield (Mont.), Sen. Gale W. McGee (Wyo.), Sen. George McGovern (S. Dak.), Sen. Thomas J. McIntyre (N.H.), Sen. Walter F. Mondale (Minn.), Sen. Frank E. Moss (Utah), Sen. Edmund S. Muskie (Maine), Sen. Sam Nunn (Ga.), Sen. Bob Packwood (Oreg.), Sen. John O. Pastore (R.I.), Sen. Claiborne Pell (R.I.).

Sen. William Proxmire (Wis.), Sen. Jennings Randolph (W. Va.), Sen. Abraham Ribicoff (Conn.), Sen. William V. Roth, Jr., (Del.), Sen. Richard S. Schweiker (Pa.), Sen. Ted Stevens (Alaska), Sen. Adlai E. Stevenson III (Ill.), Sen. Stuart Symington (Mo.), Sen. Robert Taft, Jr. (Ohio), Sen. Herman E. Talmadge (Ga.), Sen. Strom Thurmond (S.C.), Sen. John Tower (Tex.), Sen. John V. Tunney (Calif.), Sen. Harrison A. Williams, Jr. (N.J.).

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

Mr. NELSON. Mr. President, in addition, the following environmental and educational organizations support Earth Week:

LIST OF SUPPORTING ORGANIZATIONS

David Selden, President, American Federation of Teachers, 1012 14th Street, NW., Washington, D.C. 20005.

Dr. Spencer Smith, Secretary, Citizens Committee on Natural Resources, 1346 Connecticut Avenue, NW., Washington, D.C. 20036.

Sydney Howe, President, The Conservation Foundation, 1717 Massachusetts Avenue, NW., Washington, D.C. 20036.

Mary H. Harris, Executive Director, Defenders of Wildlife, 200 N Street NW., Washington, D.C. 20036.

George Coling, Director, Ecology Center Communications Council, 2000 P Street, NW., Washington, D.C. 20036.

Sam Love, Coordinator, Environmental Action, Inc., 1346 Connecticut Avenue, NW., Washington, D.C. 20036.

Joseph Browder, Executive Vice President, Environmental Policy Center, 324 C Street, SE., Washington, D.C. 20003.

David Brower, President, Friends of the Earth, 529 Commercial Street, San Francisco, Calif., 94111.

Raymond Hubley, Jr., Executive Director, The Izaak Walton League of America, 1800 North Kent Street, Arlington, Va. 22205.

Marion Edey, The League of Conservation Voters, 324 C Street SE., Washington, D.C. 20003.

Peggy Lampl, President, League of Women Voters of the U.S., 1730 M Street, NW., Washington, D.C.

Dr. Elvis Stahr, President, National Audubon Society, 950 Third Avenue, New York, New York 10022.

Mrs. Catherine Barrett, President, National Education Association, 1201 16th Street, NW., Washington, D.C.

Anthony W. Smith, President, National Parks and Conservation Association, 1701 18th Street, NW., Washington, D.C. 20009.

Dwight Rettie, Executive Director, National Recreation and Parks Association, 1601 N. Kent Street, Arlington, Va. 22209.

Thomas Kimball, Executive Vice President, National Wildlife Federation, 1412 16th Street, NW., Washington, D.C. 20036.

Rodney Shaw, President, The Population Institute, 110 Maryland Avenue, NE., Washington, D.C. 20002.

Michael McCloskey, Executive Director, The Sierra Club, 1050 Mills Tower, San Francisco, Calif. 94104.

William Painter, Director, Washington Ecology Center, 2000 P Street, NW., Washington, D.C. 20036.

Stewart Brandborg, Executive Director, The Wilderness Society, 729 15th Street, NW., Washington, D.C. 20005.

Carl Pope, Zero Population Growth, 620 C Street, SE., Washington, D.C. 20003.

THE RISING COST OF FOOD

Mr. BEALL. Mr. President, all of us are deeply concerned over the rising cost of food, particularly in the area of red meats. To dramatize this situation, many Americans are boycotting meat this week in an effort to lower the price of that increasingly precious commodity.

But, Mr. President, I have a suggestion which will not only allow the housewife

to leave less of her paycheck at the grocery store every week, but will also enable her to maintain, or even improve, the protein intake of her family. All she has to do is to make better use of nutritious poultry and seafood products, of which my State just so happens to be a prime producer.

Mr. Gordon P. Hallock, director of the Seafood Marketing Authority of the Maryland Department of Economic and Community Development, has developed a 7-day menu for a family of four that will expand the family budget and, at the same time, reduce the waistline. The plan makes use of Maryland's seafood and poultry products, which are ample in supply, as a substitute for more expensive foods, without a loss in food value. Additionally, the menu offers an extra bonus in that it is composed of low calorie items.

Mr. President, I ask unanimous consent that this 7-day menu be included in the RECORD so that all my colleagues might have the opportunity to make use of this moneysaving yet nutritious plan.

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

THE 7-DAY MEAL PLAN

SUNDAY

Breakfast

Fruit Cup
Broiled perch
Cornbread
Beverage

Dinner

Roast Chicken
Oven-browned potatoes
Peas and carrots
Tossed salad
Cranberry frappe
Beverage

Supper

Oyster-corn fritters
Apple-celery-raisin salad
Beverage

MONDAY

Breakfast

Grapefruit juice
Enriched cereal with bananas
Beverage

Lunch

Grilled shad roe
Sliced raw vegetables (tomatoes, cucumbers, celery, carrots, etc.)
Beverage

Dinner

Baked sweet & sour rockfish (striped bass)
Rice
Frozen mixed Chinese vegetables
Broccoli
Oatmeal cookies
Beverages

TUESDAY

Breakfast

Orange juice
Scrambled eggs
Toast
Beverage

Lunch

Crab-burgers
Coleslaw
Sliced tomatoes
Fresh fruit
Beverage

Dinner

Chicken and egg casserole
Green beans
Tossed salad
Fruit gelatin
Beverage

WEDNESDAY

Breakfast

Grapefruit juice
Enriched raisin cereal
Beverage

Lunch

Maryland Clam Chowder
Oatmeal bread
Vegetable-relish tray
Beverage

Dinner

Baked stuffed rockfish (striped bass)
Baked zucchini squash
Crisp green salad
Lemon sherbet
Beverage

THURSDAY

Breakfast

Orange and grapefruit juice
Cheese omelet
Toast
Beverage

Lunch

Oyster stew
Egg salad sandwiches
Beverage

Dinner

Oven fried chicken
Baked sweet potatoes
Cauliflower
Minted carrots
Ice milk
Beverage

FRIDAY

Breakfast

Tomato juice
Enriched cereal with fruit
Beverage

Lunch

Chicken salad plate garnished with raw vegetables
Deviled eggs
Beverage

Dinner

Spicy broiled rockfish (striped bass)
Broiled tomatoes
Lima beans
Frozen mixed fruit
Beverage

SATURDAY

Breakfast

Orange juice
Waffles with frozen blueberries
Beverage

Lunch

Chicken vegetable soup
Cheese sandwiches
Beverage

Dinner

Hangtown Fry (oyster omelet w/seasonings)
Home fried potatoes
Scalloped tomatoes
Baked apple
Beverage

The fish recipes listed on this Poster can be substituted with several varieties of Chesapeake Bay Fish Species including: rock, shad, perch, trout, carp, croaker, crappie, flounder, whiting and others.

For further information on Chesapeake Bay Seafood Products or Recipes, write: Seafood Marketing Authority, 2525 Riva Road, Annapolis, Maryland 21401.

OEO LEGAL SERVICES

Mr. McGOVERN. Mr. President. I ask unanimous consent to have printed in the RECORD the controversial "Boarman memo" outlining the OEO plan for phasing out the OEO legal services backup centers. This memo which was prepared by Marshall Boarman, Acting Director of Program Evaluation for the Office of Legal Services, dated February 13, 1973, is a "rationale for phasing out" the backup centers, prepared at the request of Howard Phillips. These centers, which specialize in different aspects of poverty law, provide assistance and expertise to the various legal aid offices throughout the country and are an integral part of the legal services network.

I would also like at this time, Mr. President, to draw attention to the recent report on legal services issued by the GAO which was based on a study made over several months last year, and certainly seems to lay to rest the charges that have been made by various individuals that legal services lawyers spend more time on causes and test cases than they do representing individual clients.

The clients interviewed expressed satisfaction with the services received, and the judges interviewed felt that the legal services attorneys that appeared before them were generally well prepared. No basis was found for the spurious allegations that antipoverty lawyers neglect individual clients, and I would, therefore, again urge my colleagues to pass the legislation required to create an independent National Legal Services Corporation.

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

BACKUP CENTERS

The problem of what to do about OEO's 13 Legal Services backup centers is most urgent. Howard Phillips asked me to prepare a rationale for phasing them out and replacing them with an in-house unit. The attached is the rationale in three tiers: (1) a one-page summary of, (2) a 6-page summary of, (3) a 22-page study. The bulky first draft is enclosed because, although it is somewhat repetitious and disorganized, it does contain rather detailed excerpts from CSC letters, an OMB circular and HEW guidelines on grants vs. contracts which support the categorical assertions in the one page memo. It was my understanding that Ted Tetzlaff was to prepare a defense of several less drastic alternatives.

Also attached in very rough form is a breakdown of the backup center staffing and some thoughts on the shape of the new in-house unit, if the decision is made to establish one.

THE PROBLEM OF THE BACKUP CENTERS

1. The Administration is committed to equal access to justice for all, and is further committed to a Federal role in ensuring such access for the poor. Exemplifying this concern is the Legal Services Program: a federally-funded network of 900 neighborhood law offices scattered throughout the country, supported by 13 "backup centers", each specializing in a different area of poverty law. What is in dispute is not the need for a backup effort but its structure, functions and location.

2. Structure: The backup network is (a) duplicative (13 overlapping areas of poverty law in 13 physically separate centers); (b) unwieldy (the overcompartmentalization and geographical dispersal impedes collaboration among specialists and confuses field attorneys) and (c) overextended, (the substantive thinness of the 13 specialized areas of poverty law causes the centers to get involved in problems having little or nothing to do directly with poverty).

3. Functions: Of the two basic functions backup centers are now perfforming, the first—supportive research and technical assistance for field attorneys—is acceptable, while the second—advocacy—is not. For one thing, formal intervention by backup attor-

neys, in a co-counsel or amicus role, in litigation being conducted by LSP field attorneys or others is not authorized by the EOA. Backup centers are "research" projects and in any case advocacy is not compatible with research. Secondly, that portion of advocacy which consists of the drafting of legislative proposals and administrative rules is non-client-initiated and mostly irrelevant to the needs of field attorneys involved in specific cases. Thirdly, the drafting activity, particularly when it is associated with such overt forms of advocacy as lobbying, is clearly improper on constitutional and public policy grounds and is probably illegal. It violates both the principle of non-delegation (a narrower form of the principle of public accountability which was reaffirmed most recently by CSC and OMB) and the principle of neutrality (the church/state principle generalized, reflected in Federal statutes against lobbying with public funds and against lobbying by tax-exempt organizations). Finally, to the extent backup centers have been engaged in advocacy, they have been functioning in effect as public interest law firms. The idea of a Federally funded public interest law firm is novel, extremely controversial and in any case not yet sanctioned by Congress. Even the prototype Consumer Protection Agency which, unlike the backup centers would be quasi-public and therefore subject to a degree of public control, has not yet been approved. There is statutory authority at best for backup centers of either the library-clearinghouse or the think tank variety.

4. Location: Elimination of the advocacy functions of backup centers would not remove the risk, inherent in the delegation of advocacy-oriented research, of violating the two principles described above. The risk could, in theory, be lessened by writing and enforcing strict guidelines for grantees, but OEO/OLS would inevitably became entangled in a thicket of censorship problems, complaints of infringement of first amendment rights and of the prerogatives of private attorneys under the Canons of Ethics, etc. This grey area should be avoided if possible. The problem would be reduced to manageable proportions if backup research, instead of being farmed out to private and independent grantees, were to be conducted directly by the government, with occasional research projects of limited scope and duration delegated by way of contracts instead of grants.

5. Conclusion: The backup center operation, on grounds of economy, efficient, accountability and immunity from outside political interference, should be (1) consolidated and centralized both geographically and administratively and (2) located within OEO/OLS.

PRESENT CONFIGURATION

Specialized area	Number of attorneys	Number of non-attorney professionals	Number of consultants	Number of nonprofessionals
Health law, UCLA	6⅔	1	55,500	10
Economic development law, University of California	4	2	8,222	11½
Housing law, University of California	8	1	10,818	19
Consumer law, Boston College	9	0	8,250	19
Youth law, San Francisco	2	0	11,700	8
Juvenile law, St. Louis University	6	0	1,000	12
Senior citizens law, University of Southern California	9	4	5,000	11
Migrants, District of Columbia	5	0	2,000	8
Indians, University of Colorado	2	0	13,000	2
Education, Harvard	10	⅔		7
Employment, New York	4	0	$2,685	0
Welfare, Columbia University	9	2	5,000	12
Correctional, District of Columbia	3	0	42,250	3
Social/science, District of Columbia	1	4	6,700	4
Clearinghouse review, Northwestern University	3	4	15,200	16
Poverty law reporter				
Total	81	18	187,325	144

There are 81 attorneys manning the present program. Assuming the program is not undermanned or overmanned (i.e. that the number of attorneys now on board is necessary and sufficient to cope with the existing demand) and assuming there is no duplication among the centers, the new center would need presumbably 81 attorneys. Obviously these assumptions must be carefully examined, before any decision is made as to the minimal/optimal number of attorneys the new center would require. Another important consideration is the fact that the attorneys in the new center would have a greatly reduced clientele. The Office of Legal Services is now preparing a breakdown which will show the percentage of request for services that emanate from project attorneys and the percentage that comes from other sources. In addition, the elimination of the legislative drafting and advocacy function could be expected to reduce the number of attorneys required, although the relocation of this function in a new advocacy unit in OEO would push the figure up again. Since it is the needs of the project attorneys which are the most urgent, I would suggest that the problems of staffing an OEO advocacy unit be set aside for the time being. I would further recommend (1) that youth law and juvenile law be considered one field, (2) that the social unit be dropped from consideration as a separate area of expertise and (3) that the organizational problem of a revamped *Clearinghouse Review* be considered separately later. There is clearly not enough hard data on hand to project an optimal figure for the number of attorneys who will eventually be needed in the research unit, and the staffing process should in any case begin modestly and proceed gradually, as we feel out the real demand. Since there are twelve fields of poverty law left after the trimming suggested above, why not start with a target of 20–25 lawyers for the initial phase of the build-up? This would provide at least one lawyer per each specialized area with the excess placed in those areas which have a proportionately larger staff now, or whose programs in the field are being phased out earliest. (See figures at extreme right of chart.) The staff of lawyers could initially be supplemented by 5 or so non-attorney professionals (there are 18 on board now) and a support staff of around 10 secretarial/administrative personnel.

THE PROBLEM OF THE BACKUP CENTERS

The Administration is committed to the ideal of equal access to justice for all citizens and to the mechanism for realizing this network of neighborhood law offices backed up by a second echelon team of legal experts to whom the poverty lawyers in the field can turn for advice and technical assistance. What is in dispute is not the need for a backup center effort, but the structure, functions and location of the organization required to carry on this effort. To suggest that the Administration's plans for restructuring the backup centers is simply a device for gutting the Legal Services Program is both unfair and demagogic. The purpose of the new approach is, in fact, quite the opposite: to expand the volume and improve the quality of services to individual clients, and to render the Legal Services Program as a whole less vulnerable to outside political pressures.

Regarding the organizational structure of the backup centers, a growing number of disinterested observers are convinced that the present nationwide network of 15 backup centers is duplicative and unwieldy. The fundamental assumption on which the network is based—that there are 13 separate and distinct areas of poverty law—is highly questionable. Where is one supposed to draw the line between youth law and juvenile law, between juvenile law and education law, between health law and senior citizens law etc. And is there another line to be drawn between youth law in general and youth law for the poor etc.? The substantive thinness of the subdivisions of poverty law is no doubt at least part of the reason for the tendency of backup centers to get involved in the problems of the non-poor (e.g. student rights). Whatever the merits of such involvement, it diverts limited resources away from the essential task for which backup center funds were granted: to help the field attorneys provide legal aid to individual *poor* clients and not to every youth, Indian or oldster who comes down the pike.

Even if it were granted that each of the 13 subdivisions of poverty law is so specialized and substantive that anywhere from 2 to 10 legal experts are required per subdivision does it make sense to scatter them all over the country? Not only does this impede cooperation and cross-fertilization among the lawyers working in areas that do admittedly overlap, but it confuses the field attorneys who frequently take cases involving a number of areas of poverty law. Consider for example the hypothetical case of a poverty-stricken young Indian who needs psychiatric help, is expelled from school for some infraction, gets into trouble and is sent to a correctional institution. Where will his attorney go for specialized advice? To the youth law center? The Indian law center? The education law center? The health law center? The correctional law center? Could not the field attorney be serviced more quickly and effectively if specialists in these areas of poverty law were concentrated in one place?

In short, the above considerations lend credence to the suspicion that the whole field of poverty law has become something esoteric and vastly overblown, producing an overcompartmentalization which, combined with the geographical dispersal, is hindering rather than helping the delivery of legal services to the poor.

Another factor which weakens the effort to serve project attorneys in the field is the backup centers' preoccupation with the needs of persons and organizations that have nothing directly to do with the problems of the field attorneys. These outside beneficiaries of backup center activity include the Congress (i.e. individual representatives and senators as well as Congressional committees), Federal agencies other than OEO, State and local administrators and legislators, academics and professionals—both attorneys and non-attorneys—who are not affiliated with the Legal Services Program, and finally

private organizations and institutions of all types. Frequently, by the way, the concerns of the individuals and groups just enumerated are not with poverty, but with broader social problems such as education in general, housing law in general etc. In any event, no matter how genuine their needs and how laudable the effort to meet these needs, neither the budget nor the mission of the Legal Services Program would seem to justify the diversion of backup center resources for such "extracurricular" purposes. By analogy, what would happen to the volume and quality of services provided to members of Congress if the Congressional Research Division of the Library of Congress should suddenly start honoring requests for help from all and sundry. If the above considerations are valid, then the restructuring of the backup center program should include a drastic reduction in the clientele now being served.

The restructuring of the backup center program is not only a problem of organization, but of function. At the present time, there are at least three functions being performed by backup centers which are either redundant, irrelevant or improper on public policy grounds. The three functions are (1) *formal intervention*, either as co-counsel or by way of amicus briefs, in litigation being conducted by project attorneys; (2) involvement in *non-client-initiated* activities which border on advocacy, such as drafting model statutes and (3) involvement in overt forms of *non-client-initiated advocacy* such as lobbying. Since these three functions are characteristic of the public interest law firm, one can couch the proposal for overhauling the backup center program in terms of the particular model, of the several available, to which the backup center should conform of the *library* or *clearinghouse model*, the *think tank model* or the *public interest law firm model*.

In the case of the library model, the "research" is retrospective, i.e. the researcher in response to a specific request from a client collates and analyzes existing material and transmits the results to the client. A research facility which corresponds to this model is the Congressional Research Division of the Library of Congress, which as above responds *only* to requests from members of Congress and does not go off on advocacy tangents of its own. The think tank model on the other hand calls for innovative research, brainstorming etc. aimed at the generation of new knowledge and new solutions to the problems of their clients. In the case of a legal think tank, research of this kind could, but need not, culminate in the production of new legislative and administrative proposals (including model statutes and rules) drafted by members of the think tank. And finally there is the public interest law firm model whose relevant functions have been described above.

In respect to the first of these functions, formal participation by backup center attorneys in litigation being conducted by field attorneys, such participation is not only not essential for field attorneys to do their job, but it would appear to be incompatible with the research mission of the backup centers. There are a number of legal scholars, including the Dean of the UCLA Law School where the health law backup center is located, who feel that the litigative and the research functions should not be mixed. Besides backup centers are authorized and funded under Section 232(a) of the EOA as "research" projects, and it is difficult to see how "research" can be stretched to include actual litigation.

The second of the three functions in question, the drafting of legislation and administrative rules, is, in 99 cases out of 100, not associated with client-initiated advocacy. It is not only not needed or requested by the vast majority of clients seeking redress of individual grievances but is rarely if ever linked by the backup center which initiates it to any specific litigation or other activity being conducted by project attorneys. It is, in short, irrelevant to the basic mission of the backup center which is to help individual attorneys wrestling with specific cases involving individual clients. Secondly legislative drafting has a pronounced advocacy aspect, even where the backup center does not actively lobby for the adoption of legislation drafted by its staff. The legislative proposal is imprinted with the values and point of view of the drafter and is made available, supposedly "on request," to a multitude of private and public individuals and institutions. This means that the function of drafting legislative and administrative proposals is improper on the same grounds as those used to fault the third function referred to above—overt legislative advocacy.

For one thing, the drafting of legislation and the subsequent advocacy of it, though proper and often even laudable in the abstract, are, in the context of publicly funded activities, violative of the constitutional *principle of non-delegation*. This principle, which was given its most recent formulations by the Civil Service Commission and the Office of Management and Budget, can be paraphrased as follows:

"An executive agency ought on the grounds of preserving accountability, to refrain from delegation to a private grantee or contractor responsibility for *policy-setting* (including the planning of programs and the the establishing of goals and priorities). On the other hand, an executive agency ought, on the grounds of furthering private enterprise, to farm out wherever possible the *execution of policy, so long as such delegation entails no serious risk of abdication by the government or usurpation by the grantee or contractor in respect to any non-delegable functions.*"

If the testimony of such close observers of OEO's Legal Services Program as Hannon and Blumenthal can be trusted, the Office of Legal Services has from its inception violated the non-delegation doctrine through its failure to clearly articulate policies and guidelines for the Program. The most conspicuous example of such delegation is found in the range of choice conceded to backup centers in respect to legislative advocacy. The delegation to backup centers of the power to determine whether to lobby, what to lobby, where to lobby and when to lobby is beyond question a delegation of the power to establish goals and priorities i.e., to set policies. As such it is more than an unwise grant of discretionary power, it is abdication.

To make matters worse, the delegation of legislative drafting and lobbying authority to backup centers infringes on another basic constitutional principle: the principle of *neutrality or nonpartisanship*. This principle, which is a generalized version of the principle of the separation of church and state, can be formulated as follows:

"The Government ought not furnish support, through subsidies or otherwise, to private parties for the purpose of enabling them to propagate a creed, ideology, point of view or value-system, whether the value-system be religious or secular, whether it be a prescription for spiritual ills or for political or social ills, or whether it be aiming, in the judgment of the Government, at something salutary for society or something inimical to society."

The principle of neutrality is reflected not only in formulae relating to the separation of church and state but also in the (Federal) statute against the use of Treasury funds for lobbying and in the statute which denies eligibility for tax benefits to organizations which lobby. The principle has also been confirmed number of times by court decisions.

If the criticisms made thus far of the organizational structure and functions of the present backup center program are valid, then a decision to consolidate them would seem to be in order Take away from the centers the function of client-initiated advocacy (co-counsel and amicus activity), take away the function of non-client-initiated legislative and administrative advocacy, shift the focus of the centers from law in general to law as it affects the poor, severely curtail the clientele served and eliminate duplication, and one has a persuasive rationale for dismantling the present backup network and replacing it with a smaller and more integrated structure, ideally a single unit geographically and administratively centralized. Not only would the new unit be more efficient but the cost of the program would be reduced by at least one third, with the savings coming mostly from a reduction in overhead and non-professional personnel costs.

The argument for consolidating the present backup center network does not by itself entail the relocation of the backup mechanism within a government agency. One obvious alternative would be to publish new guidelines imposing restrictions on the categories of clientele to be served, and on advocacy activities, and then to refund either one or more of the existing centers or an entirely new grantee. A strong argument can be made however against redelegating the backup center function.

The kind of social science research and poverty law research conducted by back-up centers is inevitably advocacy-oriented, since the whole reason for being of the back-up centers is to serve project attorneys engaged in client-generated advocacy. The momentum of such research can easily, even if unintentionally, carry the research activity across the line which separates policy-execution from policy setting. This problem is present in some degree in all government-funded research in the social sciences as opposed to the hard sciences, but it is extraordinarily acute where there is an immediate and necessary link to advocacy, as is the case in backup center research. Furthermore, non-client initiated or public interest advocacy even of the legislative variety can almost always be tied in to advocacy on behalf of some particular client, if there are pressures strong enough to push it in this direction.

To cope with this difficulty, the writing of new guidelines would not be sufficient. There would have to be a continuous and vigorous effort to enforce compliance with the guidelines. This effort would be open to constant challenge on grounds drawn from both the First Amendment and the ABA's Canons of Ethics. One may not agree that restrictions on a grantee's advocacy activities are precluded by the Constitution or the lawyer's Code, nonetheless, as the history of Hatch Act enforcement illustrates, there is a gray area here which should be avoided if possible. Additionally, it would be repugnant for an agency of the government to probe motives in order to determine whether a lawyer involved, for example, in giving advice on a test case, was trying to advance his own personal ideology at government expense, or whether on the contrary he was putting the interests of his client in first place. In short the delegation of the advocacy research function to a private entity would pose the same dilemma as it has in the past: either a loss of control or a costly, time-consuming and sometimes questionable watchdog effort by the funding agency to prevent this from happening. The history of the Legal Services Program confirms this. On the one hand there has been an enormous reluctance by OLS to provide clear restrictions. This abdication has been well documented by both friends and foes of the Program. On the other hand, whenever there has been an attempt to impose restrictions, it has been met with bitter re-

sistance and evasion, tantamount, if our position on the non-delegation doctrine is correct, to usurpation.

There are of course ways of cutting the risks, so that in the future some research projects could be farmed out to supplement the government's efforts. But this presupposes the existence of a strong in-house research capability in the poverty law area, something which has never existed in the past. The entire research function has been delegated, so it is little wonder that insufficient know-how was generated in-house to set up an effective system of control. Had a poverty law research center been set up within OEO from the beginning, a network of non-government centers to supplement the government's effort might well have been viable.

If the above analysis is valid, the principle of non-delegation can be invoked to justify the establishment of an in-house poverty law research unit, to replace the existing grantee network. The paraphrase of the OMB formula (p. 4 above) seems to fit the present case. According to the formula, an executive agency ought not to delegate to a private grantee or contractor any function when there is a serious risk of abdication by the government, or usurpation by the grantee or contractor, of non-delegable powers.

THE PROBLEM OF THE BACKUP CENTERS

INTRODUCTION

1. The legal services program

The problem of the back-up centers is best viewed in the context of the larger problem of the entire Legal Services Program. For the back-up centers, chameleon-like, take on the coloration of the overall goals set for legal services projects. OEO's Legal Services Program, as it presently operates, comprises roughly 2000 project attorneys working in some 900 neighborhood law offices administered directly by approximately 265 legal services projects and indirectly by the national Office of Legal Services at OEO Headquarters in Washington, D.C. The legal services projects receive technical assistance from 15 national back-up centers scattered throughout the country and 5 State back-up centers. The national back-up centers are for the most part affiliated with university law schools and each specializes in a different aspect of poverty law (e.g. housing law as it affects the poor, consumer law as it affects the poor etc.). The annual cost of the overall Legal Services Program projected for the current fiscal year is around $61 million. Approximately $4 million of this amount goes to the back-up centers in the form of "research" grants, which includes the salaries of some 100 "professionals" (80 attorneys and 20 non-attorneys and around 145 non-professionals not including consultants).

The Legal Services Program as is presently constituted has five main goals:

(1) Law reform.
(2) Quality individual services.
(3) Community education.
(4) Group representation.
(5) Economic development.

(NOTE.—Here will be inserted a paragraph or two defining each goal and in particular the goal of law reform as contrasted with individual services. The point will be made that historically it is the goal of law reform which has received the most emphasis in the rhetoric of the directors of the national program, the national guidelines for evaluating legal services projects and back-up centers etc. A distinction will be made a la Agnew between acceptable and unacceptable law reform, so OEO's position will not be misrepresented . . .)

2. The proposed overhaul of the legal services program

It is taken for granted that in the thinking of the Administration OEO's Legal Services Program should be redesigned so that social law reform (in the unacceptable sense) will no longer be a goal of the program much less a primary goal. To accomplish this it is suggested that the overriding purpose of the new program be:

(1) To stimulate lawyers and legal institutions located both at the State and local governmental level and within the private sector to provide more ordinary legal aid to indigent individuals (this goal, mentioned in the EOA, is part of the overall "mobilization of local resources" goal of OEO, construed in a way consistent with the Administration's concept of localism), and

(2) To supplement this effort through a network of Federally-funded neighborhood law offices.

"Legal services to individuals" would include legal advice, legal representation, legal counseling, education in legal matters and "other appropriate legal services", in particular services aimed at promoting among the poor a greater degree of economic self-help and development. Project attorneys would be prohibited from engaging in any advocacy activity which was not generated by and addressed to the limited legal needs of a specific client in a particular case.

Under no conditions would project attorneys involve themselves in organizing poor persons into pressure groups for the purpose of promoting political and legislative causes. All of this will be spelled out in much greater detail in a separate paper proposing precise new guidelines for the Program.

The redesign of the Legal Services Program just described is perfectly compatible with the statutory authorization for the program found in Section 222(a) (2) of the EOA. The operative sentence in this section reads as follows:

"(Programs under this section shall include . . .) a Legal Services Program to further the cause of justice among persons living in poverty by (1) mobilizing the assistance of lawyers and legal institutions and (2) by providing legal advice, legal representation, legal counsel, education in legal matters, and other appropriate legal services."

As mentioned above, there is no reason why the expression "mobilization" cannot be interpreted (as the reference in the Rumsfeld-era-CAP mission statement to "mobilization of local resources" can be interpreted) in a way that coheres with the Administration's emphasis on decentralization, reprivatization, etc. It could also be used as an opening wedge provided by the statute for a movement toward judicare, prepaid insurance, etc.)

3. Why no social law reform

(NOTE.—Since the proposal to eliminate back-up centers is premised largely on the unacceptability of social law reform (including legislative advocacy) as a goal of the overall program, some rationale should be offered to support our objection. It should be pointed out that the Adminitsration is not opposed to social law reform *per se*, whether such activity be conducted by lawyers or non-lawyers. The approval or rejection of a particular proposal for social law reform falls quite properly within the purview of legislators, while lawful effort to promote the passage or defeat of such legislation is the traditional prerogative of the private citizen. It is the (1) *use of Federal funds* to support the law reform activities of (2) *non-elected, private individuals* which the present Administration and the Director of OEO opposes. Lest the Administration's position on law reform be misunderstood, several additional distinctions need to be made in respect to limitations on the use by OEO lawyers of the three principal instruments of law reform: litigative or judicial advocacy, legislative advocacy and administrative advocacy.

(Here include a ref. to putting causes over cases; quote Agnew article & Code of Ethics. Quote Hazard on use of judicial forum to bring out social justice and civil justice; concede that in a sense it's not the lawyers' fault but the judges' fault but still OEO should not encourage—on the contrary, should discourage—efforts by its lawyers to exploit this trend, where it exists . . .); in re legislative advocacy, quote Hazard—cite basic principle on which objection rests & which underlies church-state principle, tax code, etc.—Finally reduce administrative advocacy either to litigative (where it employs a suit against an administrative or executive agency) or legislative (where it employs lobbying techniques against administrators.)

(a) Authorization for OEO's Backup Centers

There is no explicit mention of the back-up center concept in the EOA either in the passage which deals with the Legal Services Program or elsewhere. The authority which is routinely cited to justify the funding of backup centers is the unspecific sentence in Section 232(a) of the EOA which reads: "The Director . . . may also contract or provide financial assistance for research pertaining to the purposes of this Title." All backup center grants are "research" grants in support of one of the "purposes" of Title II, viz. the Legal Services Program.

(b) The Justification for OEO's Backup Centers

Are the 15 Federally-subsidized national back-up centers really needed?

Are they really essential for the 900 neighborhood law offices to do their job? It would seem it, if one considers the fact that traditional legal-aid programs were able to carry on without them. On the other hand, there is a growing body of specialized legal knowledge besides a growing body of research in the other social sciences, which is pertinent in one way or another to the legal problems of the poor. At the very least one can say that a backup center resource enables Federally-paid poverty lawyers to do their job *better*, and so enables the Federal government to maximize the gain from the funds incested in the Legal Services Program. Let us concede then that OEO's project attorneys need the help provided by a "centralized national source of legal expertise" in the various compartments of poverty law, "through an interdisciplinary approach using the skills and knowledge of lawyers, economists and other social scientists". This general concession does not, by itself, entail a commitment to any particular model, among the several available, for a back-up program. Furthermore it leaves quite open the question of whether the poverty law research function should be located within or outside the government.

(c) Three Models for a Legal Services Backup Center

(1) The Library Model: The backup center is conceived as a national knowledge data bank specializing in poverty law manned by specialists (poverty lawyers, social scientists, economists, librarians etc.) whose sole function is to furnish, when requested, information and guidance to attorneys employed in the neighborhood law offices of the Legal Services Program. The backup center resembles the Congressional Research Service of the Library of Congress, not only because it caters to a limited professional clientele rather than to the general public, but because its "research" is the retrospective or "digging" variety rather than the innovative kind associated with the expression "R&D".

(2) The Think Tank Model:

Version A: Here the backup center combines all of the characteristics of the library model with another feature: that of creative research leading to new solutions to the legal problems of the poor.

Version B: Another function is added to the backup center described in Version A: that of utilizing research results to produce legislative proposals (including model statutes) and new administrative regulations. Since project attorneys in a service-oriented

legal aid program would rarely have need for model statutes and regulations, it would appear that this latter activity of a backup center could be justified only by extending its clientele to include public administrators and legislators.

(3) The Public Interest Law Firm Model: Here the backup center would have all the functions of Version B of the think tank model, but would in addition engage in advocacy of both the client-generated and non-client-generated variety. An example of involvement by a backup center in client-generated advocacy would be its intervention in a case being conducted by a project attorney, either by acting as co-counsel or by filing an amicus brief. An example of non-client-generated advocacy would be the backup center's intervention, under its own name, in pending litigation, or lobbying by the backup center for or against a legislative proposal.

I take it that in the overhaul of the Legal Services Program, the backup center to be established in-house (in the Office of Legal Services) to replace the existing 14 backup centers, will conform either to Model 1 or Model 2A above.

(d) What Model do the Backup Centers Now Conform To?

An analysis of OEO's grant packages for back-up centers and of OEO's standard criteria for evaluating back-up centers as well as a review of the articles regularly appearing in the OEO-funded *Clearinghouse Review* and in law journals supports the conclusion that by and large the typical OEO-funded back-up center conforms to the third model described above: the public interest law firm model. That is to say, the activity of a typical back-up center is a blend of retrospective research, innovative research and advocacy (both the client-initiated and non-client-initiated variety).

Activities of OEO backup centers which, on their face at least, are not advocacy activities (though they provide a ready springboard for advocacy) include the following:

(1) Preparing practice for project attorneys practice materials which deal with common problems in various fields of poverty law problems in the areas of health, employment, housing, and welfare, etc.

(2) Responding to requests for training materials prepared by the backup centers and others.

(3) Providing assistance in the conduct of training programs for present attorneys.

(4) Providing technical assistance (legal briefs, memoranda etc.) in support of litigation being conducted by project attorneys.

(5) Relaying to project attorneys information on legislation and administrative regulations which affect the poor.

(6) Conducting research aimed at identifying and documenting recurring patterns found among the legal problems of the poor and at devising new solutions to these problems, where needed.

(7) Contributing articles on poverty law to the Clearinghouse Review, to law journals and other publications.

A second major group of activities conducted by back-up centers includes those which, though they do not by themselves constitute advocacy (taking advocacy in its strictest sense), nonetheless border on and easily pass into advocacy. The activities in question are the drafting of administrative regulations and legislative proposals. One can plausibly argue that the mere drafting of a piece of legislation is a form of advocacy since the product is imprinted with the values and points of view of the drafter—to the extent that he stands by what he has written, is committed to it and endorses it, he advocates it. Whether the drafting of a legislative proposal is considered to be part of a full-blown advocacy effort of the kind we recommend be prohibited in the Legal Services Program depends on (a) the identity of the person or agency to whom the legislative product is supplied (presumably there would be no objection if the sole recipient were OEO) and (b) on the extent to which the researchers-drafters lobby for the adoption of their product.

The following quotation from a special condition inserted in a backup center grant is a typical illustration of the encouragement given to the borderline activity just described:

"Many of the problems which cause or aggravate poverty can be most effectively alleviated by the passage of new legislation. Appropriate reform in statutes, regulations and administrative practices is a part of the traditional role of the lawyer and may be among the services afforded and assisted by the grantee. This may include research into the conflicting or discriminating applications of laws or administrative rules, *and proposals for administrative and legislative change*" (emphasis added).

The above passage is ambiguous enough to be taken as referring not only to technical or procedural law reform or to substantive law reform in the non-controversial sense but to the kind of substantive law reform discussed earlier under "social law reform." Be that as it may, a review of the actual practice of the backup centers confirms the fact that they have assumed a major legislative advisory role in the area of social reform at all levels, Federal, State and local.

Thirdly, there is little doubt that a significant part of the activities of the backup centers as they are presently constituted consists of overt advocacy of both the client-generated and non-client-generated variety. Lawyers assigned to backup centers regularly serve as co-counsel and file amicus briefs in support of major litigation brought by project attorneys. They also formally intervene (in supportive roles) in the administrative process in an effort to modify the regulations of administrative agencies. In addition, they actively engage in advocacy aimed at the passage or defeat of particular pieces of legislation before city councils, State legislatures and the U.S. Congress, whether the legislative proposal in question be one drafted by the backup center or by someone else. In sum, the OEO-funded backup centers have become, to all intents and purposes, Federally-subsidized public interest law firms.

In respect to the clientele of the backup centers, the record clearly shows that the backup centers serve on a regular basis the following persons and organizations: (1) legal services project attorneys; (2) OEO; (3) other Federal agencies; (4) State and local administrators; (5) the U.S. Congress; (6) State and local legislators; (7) professionals and academics not only in law but other fields and (8) various private groups who claim to represent the poor or who are involved in one way or another with the problems of the poor.

Finally, the primary thrust of backup center activity, the goal which animates much of the research and advocacy of the centers even when they are consulted on so-called routine legal matters, is social law reform. Presumably project attorneys are competent to handle most of the routine cases familiar to traditional legal aid programs. It is in moving towards the new and "challenging" goal of social law reform and overcoming the many forces which quite understandably resist such reform, that the project attorney most needs the help of the sophisticated and high-powered talent on the back-up center staffs. The need for this kind of support has predictably become the controlling factor in the operations of the back-up center network.

(f) Curtailment of the backup centers

The principal justification for the existence of the back-up centers is the need on the part of the field attorneys for expert guidance and technical assistance to enable them to provide effective legal representation to individuals living in poverty. But this perfectly non-controversial and common-sensical purpose of the back-up center network has (to repeat the point made earlier) been enormously extended so that back-up centers are now engaging at Federal expense in a whole range of activities and serving a whole range of persons and institutions never envisioned by the authorizing passage in the EOA, much less mandated by any part of the EOA.

For one thing, the Act authorizes "research" and it is a rather blatant perversion of this term to construe it to include not only such dubious activities (in the context of federal funding) as the drafting of legislative proposals for the use of every and anyone interested who might share the drafter's point of view, but also the vigorous lobbying which the centers regularly engage in on behalf of their proposals. Advocacy is by definition a partisan activity and could not be further removed from the customary notion of "research".

Secondly, not only is the legislative advocacy activity of the back-up centers largely irrelevant to the original and legitimate purpose of the centers—which was to back up project attorney involved in specific cases—but it is also for the reasons already mentioned highly questionable on public policy and constitutional grounds.

Thirdly, there are good reasons for prohibiting a research-oriented organization from engaging directly in client-centered advocacy, i.e., serving as co-counsel and filing amicus briefs in court cases.

For one thing, research is best carried in a dispassionate, objective atmosphere. Research that is slanted toward winning cases is not good research (we are here talking of basic or innovative research and not the kind of "research" which consists in the organizing of existing information for the benefit of a project attorney involved in a case). Besides, why would not the project attorneys suffice for courtroom advocacy, particularly if the Legal Services Program is reoriented away from law reform? Legal services available to moderate income persons with legal problems generally don't include a battery of lawyers acting as co-counsel.

Fourthly, there is nothing in the EOA which either requires or encourages attorneys employed in the Legal Services Program to be at the beck and call of every public and private entity in the U.S. interested in social problems. The basic purpose of the backup centers is to backup project attorneys, not governors, legislators, other social researchers, public interest advocates and so on. Fifthly, much of the activity of the university-based backup centers has little to do with poverty law but much to do with consumer law in general, housing law in general, youth law in general etc. It is beyond the mission responsibilities of either OEO or the Office of Legal Services to fund innovative research, much less advocacy, in the field of law in general. Sixthly, the proliferation of backup centers has reached a stage where there are bound to be serious problems of coordination and duplication. Where is one supposed to draw the line between youth law and juvenile law, or between juvenile law and education law or juvenile law and health law? How are centers geographically remote from each other to figure out what each is doing so that needless and expensive duplication can be avoided?

All of the above considerations point to an inescapable conclusion: the elaborate network of 15 national and 5 State back-up centers simply isn't needed. Take away the function of client-centered advocacy (co-counsel and amicus activity), take away the function of non-client centered legislative advocacy, narrow the concern of the centers from law in general to law as it affects the *poor*, drastically restrict the categories of clientele served and eliminate duplication

and you have a powerful rationale for consolidating the back-up center operation. Not only would a consolidation render the program more amenable to control by those who are the elected and appointed stewards of the funds used to pay for the program, but the cost of the program could be considerably reduced. For one thing the overhead costs (not including the cost of non-professional personnel) in the back-up center programs average 45% of the total cost of the programs. There are alternative solutions under which this cost could be cut to around 25%. Secondly, consolidation would not only make possible *some* savings in costs for professional staff (based on the assumption that there is now a degree of duplication) but it should result in substantial savings in cost for non-professional or support staff. At the present time, the staff breakdown in the 15 national back-up centers is roughly 100 professionals (80 lawyers and 20 non-lawyers) and 140–150 non-professionals. The present cost of the back-up programs is running around $4,000,000. If overhead is reduced from the current 46% to 24%, the total cost would be reduced to around $3,000,000. Personnel reductions would further shave this amount to provide an overall estimated saving of around a million and a half dollars. (This of course is a very rough guess, but a conservative one. A more precise estimate would have to be worked out by the manpower and controller people.) In the process of redefining the functions and consolidating the operations of the back-up centers in a manner consistent with the redefinition of the mission the Legal Services Program in general, the Agency, it is clear, would be substituting either the library model or the weaker version of the think tank model for the public interest model on which the current back-up center program is based (see p. 6). The question which remains is: should the reorganized and consolidated back-up center(s) be located in-house, i.e. within OEO headquarters, whether as a separate unit or as a subordinate element of the Office of Legal Services, or should the back-up center tasks, redefined as suggested above be delegated once more either to independent grantees, as in the past, or to independent contractors?

PART II: THE PROBLEM OF ACCOUNTABILITY

The problem of delegation—what to delegate and what not to delegate, and to whom—is part of a larger problem: the problem of accountability. Elected officials are accountable to the electorate. Elected or appointed officials, when they spend *tax* monies, are accountable to the *taxpaying* electorate. There are times when the governmental subsidy of the activities of a private individual or organization is proper and there are times when such subsidy, to the extent that it signifies relinquishment of control over a non-delegable function, is irresponsible, violative of the constitutional requirement of accountability. Although there is disagreement sometimes as to where the line should be drawn between what is delegable and what is not, there is general agreement that there is such a line, and that it is entailed by the principle of accountability. This principle, which under the name of the "non-delegation doctrine" figures prominently in administrative law, was given one of its most recent formulations by the Civil Service Commission. The case involved contract personnel at the Goddard Space Flight Center who were working alongside government employees, performing similar tasks and being supervised by other Government employees. The Commission, involving among other things the Biblical principle that no man can serve two masters, ruled that the Space Center should either stop supervising the contract personnel or hire them as Federal employees.

The ramifications of this ruling spelled out in several Federal Personnel Manual Letters are extremely relevant to the problem of the back-up centers whose employees, although they are not being supervised in the sense in which the contract personnel at Goddard were being supervised creating facto employer-employee relationship, are nonetheless doing things some of which under the Commission's critera (which is to say under the principle of accountability) ought to be supervised and therefore ought not to be delegated, whether by grant or by contract. (It should be noted by the way that although the Commission's interpretation deals with delegation by contract, it would apply with equal force to the case of the back-up centers where there is delegation by grant. Authority for this latter statement is found in the literature focusing on the differences and similarities between grants and contracts). The basis for the Commission's ruling is cited in FPM Letter No. 300–12 dated Aug. 20, 1968 as follows:

"The touchstone of legality under the personnel laws is whether the contract creates what is tantamount to an employer-employee relationship between the Government and the employee of the contractor. The basic criteria by which this relationship is judged are those set forth in 5 USC 2105(a), namely whether an employee is:

(1) appointed in the civil service by a Federal officer or employee;

"(2) engaged in the performance of a Federal function under authority of law or an Executive act (emphasis added); and

'(3) subject to the supervision of a Federal officer or employee while engaged in the performance of the duties of his position."

It is fairly obvious that of the three statutory criteria listed, the second is germane to the back-up center problem. But it is the Commission's elucidation of the third criterion in FPM Letter No. 300–8 dated Dec. 12, 19–67 which interests us most. The Commission breaks down the third criterion into six 'elements," the presence of any one of which can cast a shade over the legality of a contract. The six elements are described in the letter as follows:

1. Performance of services on-site.

2. Principal tools and equipment furnished by the Government.

3. Services are applied directly to integral effort of agencies or an organizational subpart in furtherance of assigned function or mission.

4. Comparable services, meeting comparable needs, are performed in the same or similar agencies using civil service personnel.

5. *The need for type of service provided can reasonably be expected to last beyond one year.*

6. The inherent nature of the service, or the manner in which *it is provided reasonably requires directly or indirectly, Government direction or supervision of contractor employees in order:*

To adequately protect the Governments interest, or

To retain control of the function involved, or

To retain full personal responsibility for the function supported in a duly authorized Federal officer or employee (Emphasis added.)

The presence of element 1 through 4 in situations where services are being performed under contract all facilitate de facto supervision by Government employees and the only question to be determined then is whether such supervision actually occurs. If it does, the legality of the contract is thrown into doubt. It is elements 5 and 6 however which are really pertinent to the problem of back-up centers. In respect to element 5, the need for the services provided by back-up centers is a continuing need which has been filled now for a number of years and which shows no signs of abating. One could make an argument based on this criterion alone that, all things being equal, where the services are such that they can be provided indifferently by either the government or by a private supplier, the government should provide them. But all things are seldom equal, and in any case there are stronger reasons which can be urged in support of locating the back-up center activity in-house, than the fact that there is a continuing need for such services. These reasons are suggested by the 6th element listed above. If the "inherent nature" of the service being performed by a contractor (or the manner in which the service is being performed) is such that the Government ought to retain control to the point of supervising the performance, then we have an example of a service whose performance ought not to be delegated to a non-governmental entity, whether by way of grant or contract. The principle is reiterated a number of times in FFM Letter No. 300–8, as follows:

"The thrust of the Comptroller General" interest is of course fiscal accountability, whereas that of the Civil Service Commission is the overall integrity of the personnel system. . . . Both however are true to the principle inherent in our constitutional form of government that the essential functions of Government and the employment of individuals required to perform these functions are a responsibility which cannot be delegated to private interests".

"In a government of delegated powers, where public office is a public trust, the authority to discharge official responsibilities reposes only in those persons duly appointed and vested by law with an office or employment. It is axiomatic that official authority can be delegated only to those properly appointed to exercise it. The Federal civilian service of the executive branch is in this aspect the personification of government by law; it is through the exercise of the powers of public office by Federal employees that the process of self-government is executed. The personnel systems prescribed by Congressional and Presidential authority constitute the exclusive methods of staffing this civilian service; of investing private persons with public authority. . . . *To the extent the exercise of official authority and responsibility is in actual practice delegated to private persons or corporations (outside the civil service and personnel system), there is an unlawful delegation or an abdication."* (Appendix A. Emphasis added.)

The principle of the non-delegability of certain governmental functions which was enunciated by the Civil Service Commission and concurred in by the Comptroller General, also finds expression in OMB Circular A–76 dated August 30, 1967. The Circular, in discussing the contracting out by the Government of certain activities, affirms that:

"Executive agencies will *perform for themselves* those basic functions of management which they must perform in order *to retain essential control* over the conduct of their programs."

The implication, of course, is that there are certain functions and activities which *may* be properly delegated to grantees and contractors, and in fact the OMB Circular just quoted holds that there are some which *ought* to be so delegated. According to the Circular:

"The guidelines of this Circular are in furtherance of the Government's general policy of relying on the private enterprise system to supply its needs."

In other words, all things being equal and where the principle of accountability is not a factor, if products and services can be provided directly by either the Government or by private suppliers, the Government ought to resort to private suppliers. This means that there are in fact two broad policy injunctions which, though they may complement one another in theory, breed conflicts in practice due to disagreement over where to draw the line between what is delegable

and what is non-delegable. The injunctions addressed to Government administrators are:

(1) You ought to delegate a function to a non-governmental entity when such delegation will further the private enterprise system.

(2) You ought not to delegate a function to a non-governmental entity when such delegation violates the principle of accountability.

In practice these two injunctions can be reconciled only if one has worked out fairly clear criteria for distinguishing between delegations which affront the principle of accountability and those which do not. In the search for such criteria, a clue is furnished by the OMB circular quoted above. According to the circular, functions which an executive agency must perform for itself in order to retain essential control over the conduct of a program include:

(a) The "selection and direction of Government employees."

(b) The "assignment of organizational responsibilities."

(c) The "planning of programs."

(d) The "establishment of goals and priorities."

(e) The "evaluation of performance."

It is (c) and (d) which are the most pertinent, but a brief digression on (e) might be useful, as it bears on a problem analogous to the delegation of authority to back-up centers. Has not OEO (and OLS) been consistently violating the OMB rule that the evaluation of performance is a non-delegable function which should not be assigned to a grantee or contractor? If it turns out that much of the delegation to back-up centers in the past was abdication, would it not be abdication compounded to have assigned to a private entity the responsibility for evaluating activities some of which were improperly delegated in the first place? OLS might counter, of course, that the "evaluation" of back-up centers now being conducted by the American Technical Assistance Corporation, for example, is merely fact-finding, the gathering of information to be used by OLS in making its own evaluation. But this is not the case. The evaluations submitted by ATAC are not mere compilations of facts (in the manner of inspection reports) from which OLS might draw its own conclusions, but fairly reek with value-judgments. It would be interesting to know incidentally how many times in the past OLS, in evaluating third party evaluations of back-up centers, has drawn other conclusions than those turned in by the evaluator, and has relayed these conclusions to the back-up centers. In rebuttal, OLS might make the point (which contradicts the fact-finding thesis) that ATAC was furnished with "evaluation guidelines" drawn up by OLS. But the OMB circular's ban on the delegation of the evaluative function isn't conditioned by any reference to guidelines. In any event, it would appear that a more sharply defined policy in evaluation is needed and that, consistent with the OMB circular, a much stronger in-house capability should be developed for evaluating OLS' field operations.

Returning to (c) and (d), the "planning of programs" and the "establishment of goals and priorities" corresponds to a common understanding of the term *"policy-setting"*. According to former OEO staffer Richard Blumenthal:

"Policy-setting may be defined as a concept of management consisting of five elements: (1) *the definition of goals and priorities;* (2) the articulation of those goals and priorities through coherent *standards and guidelines;* (3) the reporting of performance data so that the program may be *evaluated* in terms of its stated goals and priorities; (4) *enforcement* of standards and guidelines where projects do not comply voluntarily and (5) the precise delineation of responsibility for each of these tasks" (81 Yale LJ 231)

The purely ministerial function of implementing goals and priorities, and carrying out plans in accordance with well-defined guidelines can be designated, symmetrically, as *"policy-execution."* The OMB formulas on delegation might then be rephrased to read as follows:

"An executive agency ought, on the grounds of preserving accountability, to refrain from delegating to a private grantee or contractor responsibility for policy-setting (planning programs or establishing goals and priorities). On the other hand, an executive agency ought, on the grounds of furthering private enterprise, to farm out wherever possible the execution of policy, so long as such delegation entails no serious risk of abdication by the Government or usurpation by the grantee or contractor in respect to any non-delegable functions."

A review of the "guidelines," evaluation criteria and grant conditions used in connection with the Legal Services Program provide ample evidence, some of which will be examined below, that the back-up centers have from their inception been setting their own goals and priorities. This violation of the non-delegation doctrine is attributable not so much to non-compliance by the centers with policies set by OLS as to OLS' failure to set any policies. Richard Blumenthal, in the article cited above, in effect charges OLS with abdication. He writes:

"A major contributing cause of the program's current vulnerability . . . has been a failure of policysetting. . . . There has been no clear articulation of policies for projects and personnel to follow. . . . The failure of policysetting in legal services has been evident in the vagueness of policy guidelines and standards, their silence on many issues and the uneven nature of their enforcement. . . . There was a failure of policy-setting with respect to the issue of services—the question of what distinction was to be drawn between permissible and impermissible services, and what priorities would be established among different types of permissible services. . . . Policies pertaining to lobbying were equally uncertain. . . . The Instruction (on lobbying) failed to clearly determine the propriety of the most common and important lobbying activities of projects, largely because of an ambiguous proviso that restrictions were not to be interpreted to forbid 'purely informational or educational activities.' "

This is pretty strong testimony from an OEO insider who was known to be a staunch defender of the concept of legal aid for the poor. Whether lobbying is proper or improper or whether Blumenthal considers lobbying to be a proper or improper function for legal services projects and back-up centers is not at issue here. (Blumenthal happens to think it is a proper function). The point is that *the determination as to the propriety or impropriety of lobbying ought not to have been delegated to non-government employees.* But it is also true that the back-up centers, in exercising the prerogative of making their own policy decisions on such matters as the propriety of lobbying at public expense, have in fact decided that such lobbying is proper, and in so doing have, in the opinion of a goodly number of legal scholars, violated another constitutional principle which for want of a better name can be styled "the principle of neutrality or non-partisanship". The principle is reflected in formulae relating to the separation of church and state, in the Federal statute against the use of Treasury funds for lobbying (5 USC 1913) and in the statute which denies eligibility for tax benefits to organizations which lobby (501c3). The principle has also been confirmed a number of times by court decisions (see pp — "Issues Concerning Legal Services").

If it is granted that the intangible reality signified by the term "religion" is, when contrasted with the world of physical things, akin to the intangible reality signified by such terms as "ethical", "philosophical", social" and "political", using all these terms to refer to value-systems rather than to observable processes; then the Constitutional principle of the separation of church and state can be generalized to read as follows:

"The Government ought not to furnish support, through subsidies or otherwise, to private parties for the purpose of enabling them to propagate a creed, ideology, point of view or value-system (or any particular belief which reflects a value-system), whether the creed or value-system be religious or secular, whether it be a prescription for spiritual ills or for political and social ills, or whether it be aiming, in the judgment of the Government, at something salutary for society or something inimical to society."

The point that it is irrelevant whether the ideology or point of view of a private party is deemed socially beneficial or socially harmful, is particularly crucial. As John Roche put it recently in a column on the Public Broadcasting Corporation entitled "Keep the Government out of the News Business": "I don't want the United States public affairs program on television whether its content be liberal, conservative, Maoist or vegetarian." Not unsurprisingly William Buckley Jr. whose program "The Firing Line" was discontinued by the Corporation for Public Broadcasting, tends to agree with Roche. He wrote: "If the decision is that tax money should not be spent to subsidize the distribution of points of view, then it is consistent that the Firing Line, along with the other programs scheduled for elimination should be dropped," adding, in answer to the question "Do you sympathize with the no-public-activity resolution of the Corporation?"—"In a way I do. When you sit down to think about it, you ask yourself: What is the Congress of the United States doing, putting up taxpayer's money for Firing Line?" According to the principle of nonpartisanship, the government, in respect to ideological "churches" in the private domain, is neutral. The Voltairian maxim: "I may disagree with what you say but I will fight to the death for your right to say it" still holds but should be balanced by another: "I may agree with what you say but I will fight to the death (well, let's say I'll fight) to stop you from saying it at public expense." Curiously these two seemingly antithetical maxims rest on a common premise: the First Amendment.

It is important to keep clear the distinction between the non-delegation doctrine and the neutrality thesis. The spheres of activities covered by the two doctrines overlap but they do not coincide. For example, it would be an overdelegation for the Government to concede to Lockheed Aircraft Company the right to decide what kind of fighter plane the Navy should have, but this would hardly contravene the principle of neutrality in the sense in which it has been defined above. Likewise, the latter principle would be violated if a government employee were assigned the duty of instructing his fellow-workers in the tenets of the Catholic Church or budgeting funds for the construction of a synagogue, but it would not be a case of overdelegation (although the Government could be charged with usurping a power not delegated to it by the people). The principle of neutrality applies differently of course to religious activities and to political activities. While decision-making in respect to religion is a power which resides in the people and which they have not surrendered to government religion being a purely private matter, decision-making in respect to political issues is a power which has been delegated by the people, via the Constitution, to the Government on the grounds that such issues are not only private but public matters. The exercise by the Government of the power to set social and political policies is not per se a violation of either the principle of neutrality or the

principle of nondelegation. The principle of non-delegation is honored so long as the persons who are promoting, at public expense, a political value-system or a particular belief which form a part of such a value-system, are public officials who are employed in one of the three branches of government and who are ultimately accountable in one way or another to the electorate. The principle of neutrality is honored so long as these officials, in seeking to make their views prevail in legislation, administrative rules and judicial decisions or whatever, adhere strictly to procedures prescribed by law and by the Constitution.

Although the spheres of activity to which the principles of neutrality and non-delegation apply do not coincide there are occasions when they overlap, as illustrated by the example of lobbying, specifically by lobbying conducted by non-governmental entities at public expense. To the extent that such lobbying is initiated and controlled by the non-government entity, it constitutes an improper delegation of the policy-setting power. To the extent that the government, by the very fact that it is committing funds for this activity, puts its seal of approval on the particular views being lobbied, there is an improper departure from neutrality. Lobbying of this sort, whether it be viewed as one kind of violation or another, is both unfair and dangerous. The unfairness was emphasized by Justice Harlan in 1959 when he wrote:

"As early as 1934 Congress amended the Code expressly to provide that no tax exemption should be given to organizations, otherwise qualifying, a substantial part of the activities of which 'is carrying on propaganda, or otherwise attempting to influence legislation,' and that deductibility should be denied to contributions by individuals to such organizations. And a year thereafter, when the Code was for the first time amended to permit corporations to deduct certain contributions not qualifying as 'ordinary and necessary' business expenses, an identical limitation was imposed. These limitations, carried over into the 1939 and 1954 Codes, made explicit the conclusion derived by Judge Learned Hand in 1930 that *'political agitation as such is outside the statute, however innocent the air . . . (Controversies of that sort must be conducted without public subvention; the Treasury* * * * are not being denied a tax deduction because they * * * constitutionally protected activities, *but are simply being required to pay for those activities out of their own pockets* * * * *as everyone else* * * * *similar activities is required to do under the provisions of the Internal Revenue Code.* Nondiscriminatory denial of deduction from gross income to sums expended to promote or defeat legislation is plainly not 'aimed at the suppression of dangerous ideas.' Rather, it appears to us to express a determination by Congress that since purchased publicity can influence the fate of legislation which will affect, directly or indirectly, *all in the community, everyone in the community should stand on the same footing as regards its purchase so far as the Treasury of the United States is concerned. Affirmed."* (* * * vs. The U.S. 79 S. Ct. 524).

In the same case, Justice Douglas, in a separate concurring opinion, made the point that the use of public funds to subsidize private views was not only unfair but dangerous. Wrote Douglas:

"Congress has not undertaken to penalize taxpayers for certain types of advocacy; it has rarely allowed some, not all, expenses as deductions. Deductions are a matter of grace, not of right. To hold that this item of expense must be allowed as a deduction would be to give impetus to the view favored in some quarters that First Amendment rights must be protected by tax exemptions. But that proposition savors of the notion that First Amendment rights are somehow not fully realized unless they are subsidized by the State. Such a notion runs counter to our Decisions and may indeed conflict with the *underlying premise that a complete hands-off policy on the part of government is at times the only course consistent with First Amendment rights.*

"With this addendum, I concur in the opinion of the Court."

A similar view on the dangers and inequity of governmental delegation of lobbying authority to private entities has been expressed by the eminent legal scholar, Professor Geoffrey Hazard of Yale, who wrote:

"The fact remains that in a constitutional regime partisan political activity is supposed to be a matter of private initiative. For such a regime to survive it has to stay pretty much that way in fact. However inconstantly the principle is fulfilled, it rests on a recognition that a government which creates agencies to formulate what shall be taken as the people's will is no longer a government by the people.

"The force of the point is suggested by asking what would be the consequences of generalizing the proposition that the poor should have lobbyists paid by the government: Should similar lobbyists * * * the political resources through which resource allocation is made? One comes uneasily to the conclusion that the idea simply does not have * * * attraction."

"The question boils down to the propriety of constituting a publicly funded agency to lobby for the special benefit of a limited sector of the general community . . . There is a serious, if simple, question of principle involved, namely, whether government predicated on equal participation of all members of the electorate is compatible with providing some of them with special political equipage at public expense."

In sum, the "inherent nature" of lobbying is such that where it is paid for from public funds, "Government direction or supervision" of those conducting the lobbying is required in order to "retain control of the function involved". To the degree that such lobbying is in itself legitimate, it should be conducted directly by some element of the executive branch (e.g. by an in-house unit in OEO) since the Chief Executive represents and is accountable to, not some "limited sector of the community", but all of the people. (See the report of the OEO Task Force on Advocacy).

It is now time to address the following question: In the light of the twofold criterion—the principle of neutrality and the principle of non-delegation—which of the activities conducted by the Legal Services Program's back-up centers can be judged to be improper? The principles once more, are as follows:

(1) The principle of neutrality or non-partisanship: The Government ought to subsidize by grant or by contract, or otherwise support, activities which are motivated by and which foster a particular religious, ideological, philosophical, social or political point of view.

(2) The principle of non-delegation (Potestas delegatus non potest delegari). The Government ought not, by grant contract or otherwise, to relinquish to private parties its responsibility for policy-setting (including discretion in the selection of a policy which favors activities of the sort described in (1) above).

In answer to the question, the most egregious example of an improper back-up center activity is the one so often referred to in legal services literature as "legislative advocacy", but which we have been calling, less elegantly "lobbying". Legislative advocacy or lobbying is violative of both principles. . . . Firstly, if the comments quoted earlier of Messrs. Harlan, Douglas and Hazard have merit, then it is plain that public funds are being used by the back-up centers to promote a "church" in the larger sense of the term. The controversiality of the advocacy activities of the Legal Services Program in general and the back-up centers in particular stems largely from the antipathy felt by the Program's critics for the social and political doctrines being promoted. The passions aroused are a sure sign we are in the realm of ideology. And the issue becomes a constitutional one when the question: "Why use taxpayers funds to support that awful ideology" is transformed to read: "Why use taxpayers money to support any ideology?".

Secondly, to the extent that the back-up centers, in drafting legislation and administrative regulations, have followed their own discretion uninhibited by specifications supplied by the funding agent, and to the extent that the centers have subsequently (still at government expense) promoted on their own initiative, acceptance of the proposals they drafted, the principle of non-delegation has clearly been violated. It seems beyond question that the range of choice available to back-up centers in determining whether to lobby, what to lobby, where to lobby and when to lobby is an instance of delegation of the power to "establish goals and priorities". If it is argued that backup centers, as legislative advocates, are not pursuing a goal they have set for themselves, but are merely implementing the law reform goal established for them by the Office of Legal Services, this only proves there has been an abdication rather than a usurpation of authority. If the law reform goal that has been established for them implies a grant of discretion in fixing their own advocacy goals and priorities, then the back-up centers have been "improperly invested with public authority", regardless of where the fault lies.

Are there any activities of back-up centers, other than legislative advocacy, which violate the neutrality doctrine and/or the non-delegation doctrine? Administrative advocacy, defined as intervention in the decision-making and rule-making activity of administrative agencies can, for the purposes of this discussion, be assimilated to either legislative advocacy or litigative advocacy, depending on the particular type of intervention. If the intervention consists in the drafting and promoting of new regulations, or in efforts to bring about changes in the application and interpretation of existing regulations, the intervention can be regarded as a species of legislative advocacy and is subject to the same objections made above against such advocacy. On the other hand, if intervention in the administrative process takes the form of amicus curiae briefs, or suits against administrative agencies, it can be regarded as a form of litigative advocacy. When the back-up centers involve themselves as formal parties in client-generated litigation where the principal counsel of record is an attorney assigned to a neighborhood law office, the back-up center's activity acquires the immunity of the attorney-client relationship and cannot be scored per se as a violation of the principle of neutrality or the principle of non-delegation. But the OLS guidelines which allow such intervention might be faulted for over-delegation. In any case, formal participation in litigation by back-up centers can be criticized on the grounds of redundancy and more importantly, on the grounds of incompatibility with the research mission of back-up centers. Non-client-centered litigation is even more questionable, since there is no statutory basis at all for any creature of OEO to engage, under its own name, in public interest litigation.

At this point, a proponent of the back-up center program might well ask how the above discussion brings us any nearer to an answer to the question posed at the beginning of the discussion: should the reorganized and consolidated back-up center(s) be located within OEO or should the program,

reduced to the dimensions of the library or think tank model, be delegated once more to a grantee or contractor? In other words, assuming some or even most of the existing 14 centers are discontinued on grounds of efficiency and economy, why could not the remainder be simply prohibited from doing anything which would violate the non-delegation principle, restricting themselves to nonadvocacy activities (e.g. research, compilation and transmission of technical information etc.) in direct support of project lawyers only? The answer to this question is elaborated in the succeeding and final part of this paper.

PART III: RATIONALE FOR AN INHOUSE POVERTY LAW RESEARCH CENTER

1. An argument for doing away with the existing set-up rather than trying to reform it: The advocacy motif has been deeply ingrained in the present network. It is so much a part of the mind-set of the attorneys, non-attorney professionals and consultants who are carrying out the present program that many of them could be expected to resist, consciously or unconsciously, new policies and guidelines. Others would just quit, producing a period of understaffing and administrative chaos which would be costly to the government and demoralizing both to project attorneys and to those willing to cooperate at the local level in re-shaping the backup center program. To the extent that the present backup center staff proved to be uncooperative, investment by OEO in a monitoring effort would have to be stepped up, adding further to the costs. A number of refusal-to-refund actions could be anticipated which would probably stir up even more resentment throughout the network, and might lead to hearings which could complicate things further for the Agency. A total discontinuance based on a major policy shift would be seen by most as more equitable and less invidious than a selective phase-out of certain centers whether on punitive grounds or on grounds of economy and efficiency.

2. A second argument for doing away with the existing set-up, rather than trying to reform it: The first argument underlines the difficulties the Agency would face in its reform effort, even if it were to win the battle to establish its right to impose certain guidelines and restrictions. The present argument questions the ease with which that right could be established. Attempts to enforce adherence to the new restrictions would probably be challenged legally on grounds drawn from both the First Amendment and the ABA's Canons of Ethics. One may not agree that restrictions on a Federally-funded grantee's freedom of action in the field of advocacy are precluded by the Constitution or the lawyers' Code, nonetheless, as the history of Hatch Act enforcement illustrates, there is a gray area here which should be avoided if possible. Its bad enough to have to cope with the problem of the project attorneys' prerogatives. Why compound the problem by trying to "reform" the present backup center operation, backed up as so many of them are by the expertise of the law schools? Much of their grant funds would probably be used to prepare their case against OEO's new guidelines. And even if OEO should in the end prevail, the rebuttal effort would be costly and time consuming.

(NOTE.—The above two arguments are reasons for closing down the present backup center operation rather than trying to reform it. However, they are not as they stand and without further expansion, very strong arguments for relocating the back-up center program in-house, rather than redelegating it to entirely new grantees. Additionally, though the above two arguments would probably impress an outsider, a particular back-up center in the present network might reject them, saying in effect: "We'll limit our activities to research for the project attorneys. We'll follow your new guidelines and conform to the library model of a back-up center, etc. So why won't you refund us?")

3. An argument for going the in-house route: The kind of social science research and poverty law research conducted by back-up centers is inevitably advocacy-oriented, since the whole raison d'etre of the back-up centers is to serve project attorneys engaged in client-generated advocacy. Furthermore, non-client generated or public interest advocacy even of the legislative variety can almost always be tied into advocacy on behalf of some particular client, if there are pressures strong enough to push it in this direction. And it would be repugnant, even if it were possible, for an agency of the government to probe motives in cases of this sort in order to determine whether the lawyer was trying to advance his own personal ideology at government expense, or whether on the contrary he was putting the legitimate interests of his client in first place. To put it another way, the momentum of back-up center research, pointed as such research is toward advocacy conducted by private individuals (project attorneys) can easily even if unintentionally carry the research activity across the line which separates policy-execution, which can be delegated, from policy-setting, which cannot be delegated (the principle of non-delegation), especially when it is a question of choosing options in the area of public policy in general and social policy in particular (the principle of neutrality). This problem is present in some degree in all government funded research in the social sciences as opposed to the hard sciences, but it is extraordinarily acute where there is an immediate and necessary link to advocacy, as in the case of back-up center research.

If the above analysis is valid, the principle of non-delegation can be invoked to justify the establishment of an in-house poverty law research unit, to replace the existing grantee network. Our paraphrase of the OMB formula above seems to fit the present case. The formula reads:

"An executive agency ought, on the grounds of preserving accountability, to refrain from delegating to a private grantee or contractor responsibility for policy-setting (planning programs or establishihng goals and priorities). On the other hand, an executive agency ought, on the grounds of furthering private enterprise, to farm out wherever possible the execution of policy, so long as such delegation entails no serious risk of abdication by the Government or usurpation by the grantee or contractor in respect to any non-delegable functions.

In short, even were guidelines to be spelled out banning non-client-initiated advocacy, the "inherent nature" of advocacy-oriented legal and social research is such that there would always be a grave risk that the line between policy-setting and policy and policy-execution would be breached, entailing either a loss of control or an excessive and questionable watchdog effort by the funding agency to prevent this from happening. The history of the Legal Services Program confirms this. On the one hand there has been an enormous reluctance by OLS to provide clear restrictions. This abdication has been well-documented by such writers at Blumenthal. On the other hand, wherever there has been an attempt to impose restrictions, it has been met with bitter resistance and evasion, tantamount, if our position on the non-delegation doctrine is correct, to usurpation.

There are of course ways of cutting he risks, so that in the future some research projects could be farmed out to supplement the government's efforts. But this presupposes the existence of a strong in-house research capability in the poverty law area, something which has never existed in the past. The *entire* research function has been delegated, so it is little wonder that insufficient know-how was generated in-house to set up an effective system of control. Had a poverty law research center been set up within OEO from the beginning, a network of non-government centers to supplement the government's effort might well have been viable.

Another factor which complicated the problem of control was the exclusive use of grants rather than contracts to get the job done. The question of the similarities between grants and contracts, and of the appropriateness of one or the other for a given project is being much debated at the present time. According to an article by John Grossbaum, the government agency which has come closest to resolving the problem of when to use a grant and when to use a contract for a particular research project is HEW. According to HEW's basic selection criteria:

"The *contract* is an appropriate instrument when:

"1. The objective is the acquisition of a specified service or end-product for the Government; *or*

"2. In order to accomplish its mission, the awarding agency must exercise *considerable direction and control over the manner of performance* or timing of the work."

"On the other hand:

"The *grant* is the appropriate instrument for providing support to an activity of the applicant which is in furtherance of a statutory purpose of the awarding agency when:

"1. There is no expectation of a specific service or end-product to be furnished to the Government as a quid pro quo for Federal funds; or

"2. The awarding agency does not need to exercise considerable direction or control over the manner of the performance or the timing of the work, and therefore extensive freedom of approach in carrying out the purpose of the award is to be reserved to the recipient."

If the theses underlying the decision to revamp the overall Legal Services Program in general and the back-up centers in particular are valid, that is to say if the Government has no business subsidizing the non-client centered advocacy activities of a private entity and if advocacy-oriented *research* is therefore, if publicly funded, in need of "considerable direction and control"—then it would seem obvious that the contract and not the grant is the preferred instrument of agreement. In the years-long skirmishing over the advocacy activities of back-up centers, has any thought ever been given to putting the entire operation on a contract basis?

Secondly, there is the problem of the kinds of "research" needed to support project attorneys. There is on the one hand "basic research" which is innovative, which aims at the development of new knowledge while on the other hand there is "applied research" which aims at the practical application of an already existing body of knowledge. If the primacy of the law reform objective is eliminated in the Legal Services Program in favor of "quality individual services", then much of the need for basic research in the back-up centers disappears. It comes down to a question of which is the more appropriate model for a back-up center: the library model under which the back-up center would concentrate on the transmission of existing knowledge and expertise, or the think tank model (version A. See p. 6 above) under which the back-up centers primary emphasis would be on innovative research. A number of government agencies (e.g. DOD and NASA) apply the simple rule of thumb: award grants for basic research and contracts

for applied research. Under this rule, if the library model for a back-up center were favored, the instrument of choice would be a contract whereas the think-tank model would justify the use of grants. There is no reason of course why a back-up center basically aligned on the library model could not devote some of its resources to basic research. In any case, the overriding consideration would appear to be the amount of direction and control needed. If conversion to the contractual method of delegation were to be adopted in lieu of establishing an in-house poverty law research unit, this in itself would justify the elimination of the entire present back-up center set-up, none of whose components, by the way, were selected on the basis of competitive bidding. If an in-house poverty law unit is set up, a policy should be developed in respect to grants vs. contracts to cover any future delegations of legal research projects.

4. Some supplementary arguments for transferring the backup center function to OEO:

(a) Back-up centers now have two functions: the "research" function and the advocacy function. Under the new policy, the advocacy function, to the degree that it is non-client initiated (as in the case of legislative advocacy) would be taken away from the back-up centers. The report of the recent OEO Task Force on Advocacy recommended that a unit be established within OEO headquarters to carry out the function of non-client initiated advocacy, defined so as to exclude certain forms of adversary advocacy, such as public interest litigation. But if such a unit were to be established, a poverty law research resource to support its advocacy would be needed. It would be awkward, to say the least, for OEO's advocacy unit to be dependent for its support on the present network of 15 national back-up centers. If the Task Force's recommendations were to be implemented, they would constitute an additional justification for locating the research unit in-house.

(b) The future shape of the Legal Services Program is uncertain. There is a possibility that the proposal for some form of corporation will be revived. If this happens, and a corporation should indeed be set up, the central problem with which this paper has been dealing, unaccountable advocacy, would be greatly magnified, *unless steps are taken now to wind down the back-up center program as it is presently constituted.* This is so because a back-up center network funded by a semi-autonomous corporation would be even further removed from Government surveillance and control than is the case at present. It therefore behooves the Agency to eliminate the present network and replace it with an integrated, well-defined unit which could, if and when a corporation is established, be located within the corporation at the national level. Provided the guidelines are right and precise and the board accountable to the President, the chances of the corporation's poverty law research unit violating the non-delegation doctrine or the neutrality doctrine would be minimal. There is, by the way, no suggestion here that the advocacy unit, if established within OEO, be a part of OLS or be transferred to any future legal services corporation.

DISARMAMENT AND THE ARMS RACE

Mr. HUMPHREY. Mr. President, the United Nations, recognizing both the problems and potential inherent in arms control agreements, has labeled the 1970's as a "Decade of Disarmament."

In this week's World magazine, William Epstein, former director of the U.N. Secretariat disarmament division, questions the commitment of the world to arms control in an article entitled, "The Disarmament Hoax." Mr. Epstein points out that despite far reaching agreements and treaties, the arms race continues unabated. The world spends more on military expenditures today than it ever has in the past. In 1959, $97 billion was expended for military purposes globally, and in 1971 the figure was $216 billion. Yet the nations of the world are no more secure and safe as a result.

I bring this article to the attention of my colleagues because I think it presents an accurate and reasoned picture of the current status of disarmament and efforts at arms control. If we are to make further progress in this vital field, we need to understand the issues raised by Mr. Epstein.

Of particular importance is his analysis of the SALT talks. While the agreements reached have considerable psychological and political significance, Mr. Epstein warns that SALT may only further the nuclear arms race, on a qualitative, instead of a quantitative level. Additionally, it is ironic to note that in spite of SALT we air proceeding with development of the B–1 bomber and the Trident submarine, at a cost of billions of dollars. Oddly enough, the more progress we make in limiting the spread of weapons, the more we are told by the Department of Defense that more weapon systems are needed.

Mr. President, for over two decades I have been calling for arms control as an effective means to channel much needed revenue into domestic concerns. I have done so out of the conviction that the building of more weapons of destruction does nothing to enhance our natonal security when both we and the Soviet Union have the capability of destroying the world 10 times over.

Mr. Epstein points out that—

When the United States converts its Polaris missiles to Poseidons, its submarine force alone will be able to launch more than 5,000 Nuclear warheads against separate targets. There aren't nearly that many practicable targets in the entire world.

The rationale of this vast overkill capacity frankly is beyond the comprehension of the American public who must pay for those weapons. I plan to continue to press for a sane posture of military preparedness, and I will continue to advocate greater and more substantal international arms control agreements as a way to enhance national security.

Mr. President, I ask that the article by William Epstein be printed in the RECORD.

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

THE DISARMAMENT HOAX

(By William Epstein)

Arms control is to the arms race what birth control is to overpopulation: Neither initiative seems able to cope with the explosive build-up it is trying to slow down and bring to a halt. For some fifteen years after the Second World War, negotiations for nuclear and conventional disarmament got absolutely nowhere. In the last thirteen years, however, the world has seen seven multilateral disarmament treaties, including the partial-test-ban and nonproliferation treaties, as well as six bilateral treaties, including the SALT (Strategic Arms Limitation Talks) agreements, between the Soviet Union and the United States.

Never before in human history have we had so many arms-control and disarmament treaties. But paradoxically, never before in peacetime have our resources been devoted so lavishly to fueling an accelerating arms race. During this same treaty-studed thirteen-year period, military expenditures more than doubled—from a global figure of $97 billion in 1959 to $216 billion in 1971. From 1948 to 1963 military expenditures tripled at *constant* prices, and from 1959 to 1972 the real increase was more than 50 percent. A few more such arms-control agreements, and the world will go bankrupt!

This astonishing build-up continues at headlong speed. In 1960 there was only one nuclear submarine in the world, carrying sixteen Polaris missiles, and there were something less than 100 ICBMs. Today there are nearly 100 nuclear submarines carrying some 1400 sea-based missiles, and almost one-third of these carry Poseidon missiles. Each Poseidon missile is armed with ten nuclear warheads, called MIRVs (multiple independently targeted re-entry vehicles). There are also more than 2600 land-based intercontinental ballistic missiles (ICBMs). Under the SALT agreements the number of nuclear submarines can increase to sixty-two for the USSR and forty-four for the United States, without counting the four British and five projected French submarines. Some years ago it was estimated that the explosive power of nuclear weapons was the equivalent of some fifteen tons of TNT for every person in the world, or some sixty tons for every inhabitant of the NATO and Warsaw Pact countries.

The money devoted each year to military expenditures is more than the total income of all the people of Africa, South Asia, and the Far East. It is nearly three times what all the world's governments spend on health, nearly twice what they spend on education, and nearly thirty times what industrialized nations give in aid to developing countries.

Naturally, the nations like to talk up disarmament and play down the steady inflation of military budgets. American and Soviet arms-control authorities, for instance, have stressed the great progress made as a result of the pragmatic, step-by-step approach. They hail the treaties already achieved as representing important progress in themselves and as paving the way to further agreements. On the other hand, the Chinese consider almost all the arms-control agreements thus far arrived at as a "fraud" and a "hoax," intended to deceive the peoples of the world and to preserve the "nuclear monopoly and hegemony" of the two superpowers.

But even ideologically neutral observers are growing skeptical. Mr. Alva Myrdal, the Swedish minister in charge of disarmament affairs, describes the disarmament story as a "history of wilfully squandered opportunities." She says the two powers have used the negotiations to achieve a balance between themselves, and have not seriously tried to achieve disarmament. The result has been the "unrelenting militarization of our world."

Ambassador Alfonso Garcia-Robles of Mexico, another active "non-nuclear" protagonist of arms control and disarmament, has repeatedly deplored the superpowers' failure to achieve greater progress. He says that annual disarmament resolutions adopted by the United Nations are,

irrespective of their tons of deep concern, justified alarm, or pressing urgency, . . . dispatched to the tomb of inertia, resignation, or oblivion in the UN. Conference of the Committee on Disarmament.

There you have it: Some observers point to the disarmament scene as a remarkable record of achievement in the light of the ob-

stacles. Others see it as a sorry failure in light of the needs. Both are right. It is like describing a glass of water as one-quarter full or three-quarters empty.

But arms control is too vital a matter to be dismissed as a purely subjective problem. How can we arrive at a balanced, practical view of the problem? One approach would be to examine in some detail the three leading current initiatives: the SALT talks, the Geneva disarmament conference, and the proposed world disarmament conference. (In addition those, preliminary talks now being held in Helsinki and Vienna for a European security conference and for troop reductions in Central Europe deal with only partial aspects of the basic problem.)

Almost all countries, with the notable exception of China, welcomed the SALT agreements. But there may be less here than meets the eye. The ceilings established for both the defensive antiballistic missiles (ABMs) and the offensive submarine missiles are higher than the existing number, and for exceed any conceivable purpose for which they might be used. The SALT and ABM treaty limits anti-ballistic missiles to two sites in each country, with up to 100 ABM single missile launchers at each. If many hundreds or thousands of ABMS would not be able to prevent some missiles getting through to their target, then 200 are in fact a mockery. The U.S. Congress apparently agrees, since it decided not to vote money to build an ABM ring around Washington. As one possible effectiveness of the ABM's: "We can't even get the telephone system to work!"

The SALT interim agreement for the limitation of strategic offensive arms has come in for even greater criticism. This five-year agreement merely limits land-based ICBMs to the existing number (1054 for the United States and 1680 for the USSR). Sea-based missiles may number 710 for the United States in up to forty-four submarines, and 950 for the Soviet Union in up to sixty-two submarines. However, the agreement provides no curb on converting missiles to MIRV warheads, no limitation on the number of missile-carrying aircraft, and virtually no agreed qualitative limitations. For example, when the United States converts its Polaris missiles to Poseidons, its submarine force alone will be able to launch more than 5000 nuclear warheads against separate targets. There aren't nearly that many practicable targets in the entire world.

The fixing of higher numerical ceilings for both defensive and offensive strategic systems, and the almost total absence of any qualitative limitation on offensive missiles, has not gone down well with either American or foreign experts. The U.N. General Assembly adopted a resolution (not supported by the United States or USSR and their allies) appealing for further Soviet-American agreements on qualitative limitations, and on substantial reductions in offensive and defensive strategic systems. The assembly also invited the two governments, which had not thus far officially told the United Nations about their agreements, "to keep the General Assembly informed of the results of the negotiations."

The first SALT agreements may very well bring on a qualitative nuclear-arms race—that is, the further sophistication of these weapons as a result of technological and scientific improvements. After the SALT agreements, and despite the better climate they were supposed to produce, the United States decided to proceed with the building of third-generation Trident nuclear submarines at a cost of more than $1 billion each, and it has authorized further work on the B–1 bomber and on "cruise" missiles, which can be electronically guided to their targets.

These new nuclear-weapons systems are supposed to be "bargaining chips" in the negotiations with the Russians. But these chips may become permanent blocks or new links in the action-reaction chain. The military-scientific-industrial complex in the United States and its military-scientific-bureaucratic counterpart in the Soviet Union might use such bargaining chips as pretexts to hold on to their oversized stockpiles of weapons and build them up even more. The continuing sophistication of the nuclear arsenals of the two superpowers feeds what Robert McNamara and U Thant have called the "mad momentum" of the nuclear-arms race. The maintenance and further development of vast overkill capability is completely irrational. It is a sophisticated form of insanity. One hundred to two hundred submarine-launched missiles on each side would be more than sufficient to stabilize the nuclear deterrent.

Nevertheless, the SALT agreements do stabilize the deterrent (read "balance of mutual terror") between the two superpowers, at least for the present. They publicly register the two behemoths' agreement to maintain a rough nuclear parity rather than to seek superiority. Further, they acknowledge that neither side can knock out the other side's capability to inflict on it assured destruction or unacceptable damage. Thus each nation is hostage to the other. The importance of the SALT agreements is in their political and psychological significance rather than their military or arms-control value. They help to promote a spirit of détente between the two powers that is likely to spill over in its political effects to other countries and areas of international affairs. Unless advantage is taken of this breathing space, and SALT II begins to reduce strategic weapons and halt the qualitative technological arms race, then no real arms control, disarmament, or security will have been achieved. The stability of the deterrent may be upset and SALT I could turn out to be of no more use than a grain of salt.

On the other hand, Secretary-General Waldheim has called the Geneva disarmament conference "the most effective and productive organ for multilateral arms control." Formerly known as the Eighteen-Nation Disarmament Committee, or ENDC, it is now called the UN Conference of the Committee on Disarmament, or CCD. It consists of twenty-six members under the cochairmanship of the USSR and the United States. In addition to the two cochairmen, there are six allies of the Soviet Union and of the United States, although France, which is a member, does not participate. There are also twelve so-called nonaligned member states. Although the CCD was established in 1962 as the ENDC to work toward general and complete disarmament, it quickly abandoned these efforts and concentrated instead on partial or collateral measures. Negotiations on nuclear disarmament have in effect been shifted from the CCD to SALT. Only a comprehensive test ban—meaning an underground test ban by the United States and USSR—remains for negotiation in the CCD, without much prospect of an early solution. The only other area under active CCD negotiation is a comprehensive ban on chemical weapons—that is, for the destruction of stocks of these weapons and banning their production, development, and stockpiling, as was done with biological weapons. Many CCD members feel the conference is running out of ideas or is being supplanted by other bodies, and thus has lost its momentum in the field of arms control.

France has no desire to take the seat allotted to it and is unlikely to do so while the Soviet Union and the United States remain as the cochairmen and while China is not a member. For its part, China shows no interest in joining the CCD, which it regards as an instrument of American and Soviet domination. The two cochairmen and most of their allies seem prepared to reorganize the CCD if that would bring in the Chinese and the French. But as Ambassador George Ignatieff of Canada put it, "Let us not stop the bus until we are sure we have some passengers to pick up." Ambassador Mirceta Cvorovic of Yugoslavia responded, "Let us overhaul the bus to ensure that it will be good working order to take on more passengers." In any case it seems clear that while the CCD may continue for another session or two, its days are numbered, at least in its present form.

Most countries favor holding a world disarmament conference as a means of promoting faster progress in disarmament and bringing China and France into negotiations. The Soviet Union and non-aligned countries strongly support an early world conference. China, however, says such a conference would be useless and would only delude the peoples of the world—unless the nuclear powers promise not to be the first to use nuclear weapons and agree to liquidate all their foreign bases and withdraw their troops and nuclear weapons to their respective homelands. The Chinese position resembles that of the Soviet Union in the late Forties and Fifties, when it wanted to catch up with the United States, and adopted an "all or nothing" attitude. The United States also opposes a world conference and any preparations for one. The Americans prefer to work through SALT, the CCD, and other small negotiating bodies, and believe that a world conference attended by some 140 countries might be counterproductive.

Nevertheless, China voted for the U.N. resolution creating a special committee to examine feasibility of the conference. Although China declined membership, she promised to keep in touch with the committee. The resolution to set up the committee was adopted by 105 votes to 0, with only 1 abstention. Many countries were astounded and disheartened because the abstaining country was the United States. The U.S. delegation has indicated privately that it would not participate in the special committee, even though it knows it is isolated on this issue. Mrs. Myrdal summed up the attitude of many when she questioned whether the U.S. objections were "based on an unwillingness to reduce at all its extraordinary military power." She also asked whether China's reluctance was "based on a desire to gain time in order to arrive at a similar military-power status." There is a feeling around the United Nations that as soon as China has developed her own minimum nuclear deterrent, which could happen very soon, she will become far more active in the entire field of arms control and disarmament. It is doubtful whether the United States will then be willing or able to stand in not-so-splendid isolation. But with both China and the United States now unwilling to join in planning for a world disarmament conference, it is obvious that one is still some time away.

In all, it would seem that despite the agreements reached over the last thirteen years, we are falling behind in the "race to stop the arms race." Unfortunately, nations increase their armaments unilaterally and at a feverish pace, but they reduce them only by mutual agreement and at the speed of a moving glacier. Alice in Wonderland had to run fast to stay in the same place; the disarmers, who are running as fast as their governments will permit, are falling behind.

The world cannot live securely poised on the knife edge of a balance of nuclear terror. The precarious balance can be shattered in a moment by an unexpected political upset or by a technological breakthrough. It could also collapse if someone fires a nuclear missile by accident, miscalculation, or mad intent. If human survival is to be assured, it must be founded on something more rational and permanent than the so-called stability of deterrence.

In addition to posing the fearful threat of ultimate disaster, the arms race exacts an appalling toll in terms of human welfare in both the rich and the poor countries. If

the world is to overcome the threat of the three *p*'s—poverty, population, and pollution—on both the national and international scale, it must rechannel the vast sums now wasted in the arms race to peaceful economic and social purposes. The United Nations, recognizing the link between the two, has proclaimed the 1970s both a Disarmament Decade and a Development Decade.

A new sense of uneasiness is now beginning to affect many of the small and medium powers. While they recognize the value of bilateral diplomacy and its achievements in 1972, they have deep-seated fears that there may be a trend toward bilateralism that could displace the carefully created multilateral structure of the world community. They recall that balance-of-power diplomacy has, in the past, succeeded for brief periods, but that it has always ended in disaster. It is more true today than in Woodrow Wilson's time that there is no true balance of power but only "an unstable equilibrium of competitive interests."

What then must we do? The first and most obvious step would be for the United States and the Soviet Union to agree on an underground test ban, thus living up to their commitment in the partial-test-ban treaty of 1963 to seek "to achieve the discontinuance of all test explosions of nuclear weapons for all time."

The United States has conducted more than 550 nuclear-weapons tests and the Soviet Union nearly 300. Roughly one-half of these have been exploded underground since 1963. The United Kingdom has conducted twenty-five nuclear tests, nearly all atmospheric, but stopped its testing program some years ago. France has carried out forty tests, almost all in the atmosphere, and intends to resume its testing program next summer. China has conducted thirteen atmospheric tests and says that it must continue to test in order to build up its nuclear defense against the aggressive superpowers.

The Soviet Union says that it is prepared to stop all tests on the basis of "national means of verification"—that is, no on-site inspection within its territory and no international control system. The United States insists that some on-site inspections are necessary to verify compliance with the test ban. Most scientists and experts simply don't believe this; they are convinced that recent improvements in long-range seismic means of detection and identification of underground tests, together with the amazing capabilities of surveillance by satellites, can provide all the assurance necessary to deter any attempts at clandestine testing. Time and again, Canada, Japan, and Sweden, all of which can "go nuclear" whenever they want to, have warned that the risks of continued testing far outweigh the risks from halting all tests. The U.N. secretary-general has said that all the technical and scientific aspects of the problem are so well known that only a political decision is necessary to stop the testing. He has called for a moratorium on further underground tests pending a permanent agreement. Unless the United States and the Soviet Union stop their underground tests, there is little likelihood that France and China can be persuaded to stop their atmospheric tests. From their point of view, why should they? But even if they continued testing after the United States and USSR stopped, they could hardly hope to catch up with the two superpowers for many years, if ever. There would be no need, and no sense, in their trying to.

If the United States and Russia ended their underground testing, they would at last be in a better moral position to urge countries such as India and Israel, which are also capable of going nuclear, to resist the temptation to do so. Many CCD countries have also expressed great concern that unless the nuclear powers stop their vertical proliferation (the further sophistication and deployment of nuclear weapons), there's little hope for preventing their horizontal proliferation (the spread of nuclear weapons to additional countries). Both the non-proliferation treaty and the partial test-ban treaty are thus in jeopardy. Both treaties contain withdrawal clauses providing simple procedures for unilateral renunciation by any party.

The non-nuclear powers appear to regard an underground test ban as a litmus-paper test of how seriously the two nuclear superpowers want to stop the nuclear-arms race. While such a halt would not by itself end the further technological improvement of nuclear weapons, it would be an important step in that direction. What is more important, it might help to convince the non-nuclear powers that the nuclear powers intended to live up to their legal commitment in the Nuclear Non-proliferation Treaty "to pursue negotiations in good faith on effective measures relating to cessation of the nuclear-arms race at an early date and to nuclear disarmament." An underground test ban is the single most important step toward halting the nuclear-arms race. It is the logical next step to the SALT I agreements; it would strengthen them and lend credibility and momentum to the SALT II negotiations.

The second important step would be for the two superpowers to curb their frantic efforts in the field of anti-submarine warfare (known as ASW). The United States is spending more than $2 billion a year on ASW, and this sum may be doubled by 1975. The Soviet Union is no doubt spending a comparable amount. At the moment the stability of the nuclear deterrent is based mainly on the invulnerability of nuclear submarines and their missiles. It is obvious that if either side were to make a significant breakthrough in ASW, this would immediately upset the balance and destabilize the deterrent in a far more serious way than any ABM system.

It is true that for now there seems no prospect of any real breakthrough in ASW. A successful ASW capability would require the detection of every enemy missile-carrying submarine in all the oceans; their positive identification (discriminating between enemy and friendly submarines, schools of fish, and other false targets); fixing their precise location; and finally launching a simultaneous attack that would destroy virtually the entire enemy force. Merely to detect all enemy submarines would require a tremendous oceanwide ASW system, using conventional means of surveillance together with both passive sonars (which pick up the sounds created by a submarine) and active sonars (which send out signals and analyze their echoes). Currently no nation can even begin to approach such a worldwide capability. Nevertheless the possibility always exists that the fertile brain of some not-so-mad scientist on either side might come up with some ingenious invention—even one only partially effective—that would frighten the other, which always seems to proceed on the "worst case" hypothesis about its adversary. This could set off a new cycle in the arms spiral, and thus ASW could become the ABM of the 1970s.

The time to prevent such a possibility is now. Just as nearly all arms-control agreements are for limitation or "non-armament," so too in ASW, prevention is much easier than cure. Had the two superpowers overcome their mistrust and inertia, and begun their SALT talks several years earlier, the world might have been saved from the hydra-headed monster called MIRV, and thus have avoided a new round in the nuclear-arms race, and the magnified difficulties of effectively coping with them. If measures are taken soon to limit and halt work on ASW, the world may be saved still another escalation of the nuclear-arms race and the fears of destablization of the deterrent. The awful alphabet and arithmetic of ASW and ABMs ought to be relegated to the world of science fiction before, rather than after, the damage is done.

The third measure, and perhaps the most important of all, is cutting down on massive military expenditures. As shown above, such expenditures tend to go on escalating despite the dozen-plus arms-control agreements. President Nixon has just proposed that the U.S. defense budget be increased from $76 billion to $81 billion. At the same time he has proposed that the budget of the U.S. Arms Control and Disarmament Agency be cut from $10 million to $7 million. We can attack the problem directly by calling not simply for a freeze for a substantial drop in military expenditures—in the first place by the five nuclear powers and the two Germanys, and eventually by all countries. It would not even be necessary to specify how or in what field military budgets should be cut; it would be enough to obtain commitments from the different countries to undertake such cuts, and to leave it to them to decide in what way and in what sectors they could best be carried out.

The Soviet Union has repeatedly called for reductions in military expenditures, the latest call coming from Brezhnev in his address to the Twenty-fourth Congress of the Soviet Communist party, in March 1971. At one time the Americans feared that there was no way of knowing whether the Soviet Union was actually carrying out the budgetary cuts. Ambassador Adrian Fisher, an American disarmament negotiator in the 1960's, pointed out with devastating effect that the entire published Soviet military budget consisted of sixteen words and the one sum: "To establish in the state budget of the Soviet Union for 1964 an allocation for national defense of 13,289,000,000 rubles." Nevertheless, in 1963–64 the United States and the USSR both carried out unilateral budget reductions by what Khrushchev called "the policy of mutual example." With the greater understanding and knowledge of each other's systems, and the new techniques of economic monitoring and satellite surveillance, many experts are now convinced that unilateral or agreed budgetary reductions could be satisfactorily verified. It is certainly worth a try. Since the piecemeal approach to arms control and disarmament has failed to slow down the arms race or to make any impact on military expenditures, and since general and complete disarmament seems a hopeless ideal for the present, only a budgetary approach now holds much promise of halting and turning down the spiral of the arms race.

The above three measures—an underground test ban, a cutback in anti-submarine warfare research, and a sharp reduction and social reallocation of military funds—are the most important ones. There are, of course, other measures the nations could try: a comprehensive ban on chemical weapons; more nuclear-free zones and regional disarmament; reducing both strategic and tactical nuclear weapons; the freezing and reduction of conventional armaments and armed forces; the withdrawal of troops from foreign bases (which is the aim of the force-reduction talks just begun in Europe); curbing the trade in arms; declaration of non-first use of nuclear weapons; elimination of napalm and other incendiary weapons; halting the development of new laser weapons, and many more. But none of these limited measures really get at the guts of the problem, and time may really be running out.

The three measures outlined above would represent major advances in stopping and reversing the arms race. Each of these measures could be taken within the next year and all of them within two or three years. But unless there is a great deal more public interest and pressure for them, it is highly doubtful that any one of them will be taken soon.

Unfortunately the public is too easily lull-

ed and gulled. When people were shaken by fear of leukemia and bone cancer from the radioactive fallout from nuclear tests in the atmosphere, they compelled their governments to sign a partial test ban. Having achieved that, most of them promptly went to sleep and ignored the even greater perils posed by the escalating arms race.

With the Vietnam war now ended, with China now in its U.N. seat, and with the two Germanys expected to make their entry in 1973, new opportunities and problems become evident in arms control and disarmament, as they are in the entire field of international peace and security. But one looks in vain for either new ideas or any sense of urgency in either Washington, Moscow, Peking, or the other great capitals.

It seems as if only the smaller and middle-sized powers are exerting a major effort toward achieving disarmament. They do not always find it comfortable to keep pointing out that the emperors are wearing no clothes other than a superabundance of armaments. It is heavily armed "emperors" who must be persuaded that arms control and disarmament are in their interest.

PROBLEMS IN MEDICAL DEVICES

Mr. NELSON. Mr. President, it has come to our attention that a very serious problem has developed with regard to a particular heart pacemaker now in clinical use by some 30,000 Americans. A report on the pacemaker, prepared by the Health Research Group of Washington, D.C., and based on the manufacturer's own information, indicates two things: in 3 percent of the 30,000 pacemakers—involving some 900 patients—2 out of 5 batteries in each pacemaker may fail before the 24-month expected life span of the batteries; and, all 30,000 of the pacemakers may not warn patients of a problem in the event of battery failure.

This is not the first time in recent years that a problem has developed with heart pacemakers. The same company 2 weeks ago voluntarily recalled more than 300 external pacemakers for battery defects. In 1972, another company recalled voluntarily, 487 battery-powered pacemakers for possible defects.

These problems dramatically illustrate the need for legislation requiring Federal safety and efficacy standards for medical devices, and pre-market testing of devices prior to approval for their use.

Presently, there is no law requiring regulation of the estimated 12,000 medical devices now on the market.

A bill that I introduced on March 22, 1973, would give the Federal Government the authority to establish safety and efficacy standards and to require premarket clearance for medical devices, based on the finding that such standards and clearance are necessary to protect the public health and safety.

There have been many tragedies with drugs that were not properly tested before marketing. We have also seen that it is extremely difficult to pass drug legislation unless some major tragedy occurs that captures public attention. We should not wait for a major tragedy to force medical device legislation.

The Food and Drug Administration is now investigating the possible problems with this pacemaker, which the health research group brought to the Agency's attention.

Mr. President, I ask unanimous consent that the group's report and a newspaper article from the Washington Post be printed in the RECORD.

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

HEALTH RESEARCH GROUP REPORT ON DEFECTS IN MEDTRONIC CARDIAC PACEMAKERS, MARCH 29, 1973

More than 30,000 Americans have heart pace-making devices which could potentially, without warning, stop working and subject their owners to fainting, shock, or even death.

The devices in question are manufactured by Medtronic, Inc. the major U.S. producer of cardiac pacemakers.

There are two main components in a cardiac pacemaker. The pulse-generator is a battery powered unit several inches in diameter which is implanted under the skin. A "lead" connects the pulse-generator to the heart. In patients whose natural pulse generating and conducting system is defective (various forms of heart block) the device provides electrical stimulation to ensure that their heart will beat at an adequate rate. The doctor is told in a Medtronics manual that the pulse-generator unit should be replaced.

a. in 24 months *or*

b. if, upon measuring the patients' pulse, "the check shows a rate decrease of five pulses per minute or more" (indicating depletion of 2 or more of the 5 battery cells).

In April 1972, at a time when more than 40,000 of these pulse-generating devices were in clinical use (MODELS 5842, 5942, 5843, 5943 and 5910), Medtronics quietly announced in Volume III, issue 2 of "Medtronic News", (a company bulletin circulated to *some* physicians), that a defect existed in many pulse-generators with the above model numbers manufactured prior to April, 1972.

"The purpose of this report is to supply updated information and recommendation to those physicians . . . who use changes of the rate or the wave shape of the pacemaker pulse to determine the time at which a pulse generator needs replacement (i.e., "end of life") . . . manuals enclosed with several Medtronic devices manufactured prior to April 1972 indicated that a rate decrease of 5 or more pulses per minute would occur with the loss of two cells (batteries). It has become evident that in many of these pulse generators, *the decrease in rate will not occur as described or may be absent.*" (emphasis added).

The newsletter went on to say that "the statements describing the end of life characteristics in those manuals are, therefore, not applicable" and "we wish again to underline the importance of 'elective replacement' rather than waiting for an uncertain and, at best, small decrease in rate to indicate replacement . . ."

Since elective replacement is indicated only at 24 months, and since the signalling device to indicate impending "end-of-life" before 24 months doesn't work in many of the pre-April 1972 pulse-generators, if the power supply does not last 24 months, the patient has no way to protect himself from abrupt power failure.

The following information was obtained from the aforementioned April 1972 "Medtronic News", the next (Nov. 1972) issue of the same newsletter, and other information "supplied" by Medtronic.

In a group of 10,000 pacemakers in use for 15 months there were (as of April 1972) "only 4 premature end-of-life failures" *documented.*

Although "Medtronic News" tries to minimize these cases by saying *only* 4, the data were collected at 15 months, not 24, and, equally important the means of "documenting" cases is far from adequate. According to several cardiologists, when a patient with a pacemaker dies, the facts that

a. he/she is older (average age around 70) and

b. has heart disease.

usually dissuade physicians from seeking further explanation for death. Unless autopsy permission is granted, the pulse-generator cannot be examined to see if it is still working properly. Thus, for most people who die with pacemakers implanted, there is no data as to the possible role of power failure of the device in causing the death of the patient.

As of the April 1972 "Medtronic News" bulletin, extensive *in vitro* testing (not in the body but in solutions at body temperature) of the pulse-generators had been going on for only 21 months. Thus, well before adequate pre-market testing to determine safety (length of life) had been *completed*, massive human use had been initiated. Within six months after the *in vitro* "life tests" were begun, 10,000 humans were already using the device.

In the Nov. 1972 "Medtronic News", further data from *in vitro* life testing and a carefully followed clinical sample indicated that "97% of these pulse generators may be expected to reach 24 months without premature depletion of a cell in the battery."

Thus, 3% of the pacemakers *will not* reach 24 months without some loss of energy. 900 or more Americans may thus be living on borrowed time. They have no way of knowing if they have in their body one of the 3% of pacemakers which won't reach 24 months, nor, because the pulse decrease does not occur, will they know when the battery has failed until they become symptomatic.

The Medtronic *Pacemaker Patient Booklet* bespeaks the company's own lack of confidence in its products.

"In spite of the care employed in the design of circuitry, the selection of components, the manufacturing process, and the checking and testing prior to acceptance as a finished product, some implantable pulse-generators will fail in the *extremely hostile environment* (emphasis added) of the human body. Therefore, Medtronic, Inc. does not assume any liability for malfunction from any cause other than to the extent set forth in this Replacement Credit Agreement. Nor does Medtronic, Inc., warrant or guarantee the implantable pulse-generator for any specific length of time."

OTHER PROBLEMS WITH MEDTRONIC DEVICES

In the face of this serious hazard, why doesn't Medtronic recall these pacemakers and replace them *at their own cost* with models of post-April 1972 manufacture . . . in which this defect does not exist?

Part of the answer to this question may lie in a similar episode in the summer of 1970. At that time a "problem" arose with the power supply of Medtronic pulse-generators and the company recalled an estimated 1000 pacemakers at a cost of approximately $500,000. As a result of this, loss of confidence in the product ensued and the Medtronic "share" of the pacemaker market fell from 70% to 60%.

At present, they have recovered and currently possess about 67% of the market for implantable pacemakers which yields them about 40 million dollars in sales annually and has resulted in an average growth rate of about 50% per year for the past several years.

Little wonder they are trying to ride out this storm, hoping that they won't have to recall their defective products again. The marketing figure of a nuclear-powered Medtronic pacemaker, recently introduced and expected to be much in demand, would also suffer if a recall were to occur.

Defective pacemakers are not by any means limited to Medtronic. In April, 1972, General

Electric voluntarily recalled 487 battery-powered units and bore *all* costs associated with this procedure.

ONE SOURCE OF PACEMAKER PROBLEMS

Following the General Electric pacemaker recall, Dr. Joseph Davis, an FDA Medical Devices official—who said he had learned of the problem from the newspapers—stated that "it isn't always possible to prevent an incident like this—but a 4% rate of products found to be defective (the GE incidence) is a high risk rate. As a physician, I think a 1% defect rate in medical devices is too high."

If a 1% defect rate was too high—so too is the 3% of Medtronic batteries which won't reach 24 months without loss of power or the unknown percentage ("many") of the aforementioned pulse-generators which don't have a properly functioning warning device (decreasing pulse rate).

One way to ensure the continued marketing of defective pacemakers and other medical devices is to keep delaying the enactment of medical device legislation. It is no accident that *in vitro* experiments—which, if completed *before* mass marketing, might have prevented implantation in tens of thousands of older citizens—were only brought to semi-completion *long after* millions of dollars worth had been sold. It is barbaric to allow humans to use these and other devices (and drugs) before adequate pre-market testing.

[From the Washington Post, Mar. 30, 1973]

NADER GROUP ASKS PACEMAKER RECALL

(By Morton Mintz)

The government was urged yesterday to seek a recall of heart pacemakers implanted in more than 30,000 persons on the ground that some of the devices could fail without warning and cause fainting, shock or even death.

Ralph Nader's Health Research Group made the appeal to Caspar W. Weinberger, Secretary of Health, Education, and Welfare.

The devices in question, made by Medtronic, Inc., of Minneapolis, are models 5842, 5843, 5943 and 5910. Battery-powered, they stimulate the heart to beat at an adequate rate.

Company President Earl E. Bakken said his "primary concern" is that patients using Medtronic pacemakers—about 70 per cent of all in use—not be caused "unnecessary stress and concern by news accounts . . . They must be reassured."

Bakken said the report, based mainly on "materials we provided to physicians over the last year . . . can raise no new elements or risk . . ."

The Research Group, drawing almost entirely from Medtronic's own materials, gave this account:

A Medtronic manual advises doctors that the pulse-generator unit should be replaced either in 24 months, or if the patient's pulse rate slows "five pulses per minute or more."

In a bulletin last April, the company told some doctors that "the decrease in rate will not occur as described," making the device's "end of life" characteristics as described in the manual "not applicable."

The newsletter went on to "underline the importance of 'elective replacement'" without explaining what protection would be afforded a patient whose unit failed without warning before the time specified for "elective replacement"—24 months—came around.

Medtronic has acknowledged knowing of four "premature" failures within 15 months among 10,000 units, the Health Group said—adding that this is probably a large understatement because the possible role of a pacemaker failure would not be discovered in the deaths of many users.

Medtronic is quoted as saying in a November bulletin that careful testing indicated 97 per cent of the units may last 24 months without "premature depletion."

The Health Group interpreted this as an admission that 3 per cent of the 30,000 pacemakers in the study will lose some energy before 24 months, meaning that about 900 persons may be "living on borrowed time"—not knowing if they have a pacemaker that won't last 24 months, and unable to know, unless they develop symptoms, if the battery has failed.

In the letter to Weinberger, the Health Group's Dr. Sidney Wolfe said Medtronic should replace the questioned units at its own expense. The devices sell for $1,000 each. Medicare funds have bought $100 million worth—most of those sold.

EXTENSION OF HEALTH PROGRAMS

Mr. SYMINGTON. Mr. President, the Public Health Service Act Extension of 1973, now approved by the Senate, provides a 2-year extension of a number of Federal health programs, namely those which this administration plans to terminate by means of a budget strategy and without regard to congressional consideration. It is a matter of a great deal of interest to Missourians.

Many programs are involved. Among them are the community mental health centers program, the regional medical program, the Hill-Burton hospital program, the Public Health training program, comprehensive health planning, and allied health training.

The administration asserts that some of these programs are ineffective and others, although effective, can be continued through local funding. The Congress needs to evaluate these programs, and such an examination may show the need for revision or termination of some programs. This congressional review cannot be accomplished, however, overnight.

Many people in my State have written of their serious concerns over the unfortunate effects that will result from the announced intention of this administration to terminate such programs as community mental health centers and the regional medical health program.

In this connection, I sent to Roy L. Ash, Director of the Office of Management and Budget, a letter enclosing copies of telegrams received from Missourians wtih respect to the cutoff of staffing grants for community mental health centers. I ask unanimous consent that these telegrams, along with my covering letter and a reply I received from Frederic V. Malek, Deputy Director of OMB, be printed at this point in the RECORD.

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

MISSOURI ASSOCIATION FOR MENTAL HEALTH,
Jefferson City, Mo., February 14, 1973.

Senator STUART SYMINGTON,
Capitol Hill, D.C.:

The Missouri Association for Mental Health has been advised that the regional office of the HEW in Kansas City received a directive yesterday from the President through the Office of Management and Budget that effective immediately no more staffing and children grants of the community mental health centers act can be reviewed for funding during the remainder of FY 73 budget. This directive will have disasterous effects on the CMHC movement in Missouri in that four centers which are in Southeast Jackson County North Kansas City, Kirksville, and Cape Girardeau are directly affected. These centers were to serve 30 counties and 600,000 people which is almost half the number currently being served in Missouri.

Another problem associated with this directive is that all four of these centers have been approved for construction and money has been expended in this area. Without these staffing grants, for which money had been appropriated, we might very well end up with building which cannot be used because without the staffing grants, which all the centers were advised would be available, no programs will be able to be redeveloped because of the seriousness of the action by the President. I urge you on behalf of the 15,000 member of MAMH to help us bring to the attention of the President and the public the disastrous effect which this directive will have on mental health services in Missouri. A copy of this telegram is going to all members of the Missouri congressional delegation and to Governor Bond.

Thank you.

Respectfully,

JOHN E. THIEL,
President.

MISSOURI DIVISION OF MENTAL HEALTH,
Jefferson City, Mo., February 14, 1973.

Hon. STUART SYMINGTON,
Senate Office Building,
Capitol Hill, D.C.:

I have been advised by the regional office that Community Mental Health Center staffing applications and children's staffing applications will not be reviewed by the regional office or the advisory council to NIMH. At stake in Missouri are centers already approved for construction funds; without staffing funds they will be able to operate. In light of this policy, a decision to terminate construction will in most cases be made. The centers are: Southeastern Jackson County Community Mental Health Center, Lee's Summit; St. Francis Hospital Community Mental Health Center, Cape Girardeau; Thousand Hills Community Mental Health Center, Kirksville; Tri-County Community Mental Health Center, North Kansas City.

Further, a mental health center construction proposal to be developed by Cox Memorial Hospital, Springfield, will not be submitted because of the staffing grant situation. Effected by this policy are services to 30 counties and 617,000 people; an additional 158,000 people are involved if the Cox application is considered. Centers have been developed with the understanding that initial salary costs will be offset in part by a staffing grant. As such, there is a moral commitment on the part of the Federal Government to honor this understanding and to complete the Community Mental Health Center Program in such a way that constructed centers can become operational and fulfill the stated objectives. Over one-half million people are involved. We need your help.

RICHARD B. CRAVENS,
Director of Community Mental Health.

FEBRUARY 14, 1973.

MR. ROY L. ASH,
Director, Office of Management and Budget,
Washington, D.C.

DEAR MR. ASH: Enclosed are copies of telegrams from Dr. Richard B. Cravens, Director of Community Mental Health, Missouri Division of Mental Health, and Mr. John E. Thiel, President of the Missouri Association for Mental Health, expressing their distress about the directive that applications for

staffing grants for community mental health centers can no longer be processed.

We do share the concern set forth in these telegrams on behalf of the number of citizens of Missouri who have a need for the services supplied by the centers, and would hope this directive will be rescinded.

Will you please let us know when processing of these applications will resume.

Sincerely,

STUART SYMINGTON.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., March 6, 1973.

Hon. STUART SYMINGTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SYMINGTON: This is in response to your inquiry of February 14, 1973, regarding funding for community mental health centers.

The Department of Health, Education, and Welfare has stated that the workability of the community mental health center concept has been thoroughly demonstrated and that the current momentum should be adequate to maintain existing centers and stimulate the establishment of new centers. The program has matured and shown the value of reorienting the delivery of mental health services. States and local communities can now decide whether or not to establish and support new centers.

The President's 1974 budget requests sufficient funds to support Federal grants to existing community mental health centers for the duration of the approved grant periods. No "new" grants to community mental health centers are, however, contemplated.

Generally, the President's 1974 budget reflects a strategy of making available Federal support for benefits to all individuals as equitably and effectively as possible. This strategy emphasizes a reliance on financing programs—Medicaid, Medicare, and national health insurance—to provide people with the means to purchase services rather than selectively financing certain services through direct Federal grants to a limited number of communities.

I hope this information is helpful.

Sincerely,

FREDERIC V. MALEK,
Deputy Director.

Mr. SYMINGTON. Mr. President, as may be noted, the OMB reply does not respond to the valid question raised concerning the honoring of the commitment on the part of the Federal Government to assure that community mental health centers will be completed in such a way that constructed centers can become operational and fulfill the stated objectives. These telegrams suggest it would be wasteful as well for the Federal Government to simply walk away from the program.

With respect to legislation for both new and old programs, the Congress should obtain the evaluation of the experts in the medical and health fields, but the viewpoints of the citizens we represent on the needs in these areas are mighty important as well.

The significance of the legislation to extend the life of these programs for 1 year lies in the opportunity thereby afforded Congress to examine the various programs and to provide, as may be needed, an orderly means of transition for those which may need to be modified or curtailed. For the foregoing reasons, I voted for S. 1136 when the Senate approved it on March 27.

BARRIERS TO HEALTH CARE FOR OLDER AMERICANS: VIEWS OF THE AMERICAN ASSOCIATION OF RETIRED PERSONS-NATIONAL RETIRED TEACHERS ASSOCIATION

Mr. MUSKIE. Mr. President, the Subcommittee on Health of the Elderly, of which I am chairman, is conducting hearings on "barriers to health care for older Americans." The opening round of hearings in this series—held in Washington on March 5 and 6—gave the subcommittee vital information for our overall study. Witnesses outlined the key problems to be explored in greater detail at subsequent hearings in Washington and the field, or in special reports that might be issued in connection with the hearings.

These March hearings also had a more specific focus. We took testimony on the administration proposals to raise the cost of coinsurance and deductibles for medicare participants. This is an issue we will continue to examine in later hearings.

The American Association of Retired Persons-National Retired Teachers Association shared with me before the hearings their views on barriers to health care for older Americans and on the medicare cutbacks recommended by President Nixon. The cutbacks are, in the opinion of these associations, "ill-timed, based in myth, and harsh to older Americans." Their letter to me expresses the hope—and it is one which I share—that the President's proposal for more cost-sharing under medicare will be withdrawn.

The AARP–NRTA letter included these comments on deficiencies in our health care system:

Attention must be paid to the inadequacies of the present health care system; inadequate funding, maldistribution of services, insufficient personnel, inappropriate delivery systems, inattention to preventive care are the real difficulties in providing older Americans with quality care.

Mr. President, I am pleased to have the very helpful comments and suggestions of these leading associations in the field of aging as our subcommittee goes forward in its study of "barriers to health care for older Americans." What they have told us is, I am sure, of great interest to my colleagues in the Senate, who share our concern about the pressing need to improve health care for the elderly.

I ask unanimous consent that the letter to me from Cyril F. Brickfield, legislative counsel, American Association of Retired Persons-National Retired Teachers Association, be printed in the RECORD.

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

AMERICAN ASSOCIATION OF RETIRED PERSONS, NATIONAL RETIRED TEACHERS ASSOCIATION,
Washington, D.C., February 27, 1973.

Hon. EDMUND S. MUSKIE,
Chairman, Subcommittee on Health of the Elderly, Washington, D.C.

DEAR SENATOR MUSKIE: Our Associations, the American Association of Retired Persons and the National Retired Teachers Association, with a combined membership of over five million persons, appreciate this opportunity to express our concern about the Administration's proposals to increase coinsurance and deductibles under Medicare.

We are particularly concerned that the cost-sharing proposals recommended by the President would strike hardest at older Americans relying on limited retirement income from public and private sources. These Americans are those whose income, while small and fixed, is nonetheless too high to meet Medicaid requirements. For these individuals who are deemed ineligible for Medicaid assistance because they had the foresight and the opportunity to invest for their retirement, the burden of medical expenditures not covered by Medicare must be shouldered by themselves. It is for this reason that our Associations' basic position is that any health proposal must take into account the substantial out-of-pocket outlay that older people now must make at a time when their income is apt to be fixed or diminished and their health care requirement increased.

In light of the fact that Medicare in fiscal year 1971 covered only 42 per cent of the total health payment of the elderly, that per capita expenditures in fiscal year 1971 were $861 for persons 65 and older compared to $228 for those under 65, that in fiscal year 1971 out-of-pocket payments for people 65 and older were about the same as the total medical care expenditures of the average person under 65 and were more than double the younger person's out-of-pocket payment, it is alarming that the President would recommend increased personal expenditures by older Americans to meet their health needs.

The President's proposed Medicare changes which would force Medicare patients to pay for actual hospital room and board charges for the first day plus 10 per cent of all subsequent hospital room and board cost is a cruel punishment to older persons. We wonder how the President expects the average Social Security recipient receiving an average cash benefit of $164 a month to pay the average daily charge for a hospital bed of $105.30 and still provide for his other needs during the month.

Our Associations fear that increased out-of-pocket costs to the patients are more likely to result in the postponement of needed care—especially preventive care—which might forestall longer and more costly treatment at a later date.

Spokesmen for the President have stated that the proposed increase in out-of-pocket cost is needed to prevent over-utilization of hospital facilities and doctors' services. The justification points out that both doctors and patients will become more cost conscious and reduce over-utilization of the patient's out-of-pocket share of the cost is increased. There is no evidence to support this claim. In fact, a survey by Blue Cross Association and the National Association of Blue Shield Plans indicates that unless deductibles and coinsurance payments are large enough to constitute a serious economic hardship they have no significant effect on utilization. Furthermore, if out-of-pocket costs truly act as a deterrent to over-utilization, then patients who pay nothing for hospital care would spend more time in hospitals than patients who must make substantial out-of-pocket payments for hospital stays. Department of Health, Education and Welfare figures demonstrate, however, that patients belonging to health maintenance organizations, where hospitalization is provided free, actually spend less time in hospitals than do other patients.

We are pleased that a number of the members of your committee, yourself included,

share our conviction that the President's proposal is ill-timed, based in myth and harsh to older Americans.

We appreciate this opportunity to bring our views before this committee, and to express our concern. We would hope that our protest and those of groups sharing our interest in legislation affecting older Americans will illuminate the false logic upon which the suggested cutbacks are based. Furthermore, we hope that these preliminary hearings will demonstrate the strong sentiment against these cost-sharing proposals so that the President would not have to suffer the embarrassment of defending an untenable position before a hostile Congress. In short, we are hopeful that you will communicate to the President our views that the suggested increase in coinsurance and deductibles under Medicare is unacceptable to the older public and should be withdrawn.

The recommendations of the President only make it more obvious that our Nation must now find a comprehensive solution to the problems of delivering and financing health care and must reform substantively the present health care system. Attention must be paid to the inadequacies of the present health care system; inadequate funding, maldistribution of services, insufficient personnel, inappropriate delivery systems, inattention to preventive care are the real difficulties in providing older Americans with quality care.

Our Associations are in agreement with the fundamental proposition reflected in virtually all major health care proposals before Congress: the medical care system requires substantial and comprehensive improvement of the benefits of medical care, the manner of delivery of medical services, the quality of medical services and care and the means of financing the system. It is shortsighted to tax the older recipient of health services for the failure of the Congress and the President to recognize and act on the health crisis in our Nation. Unfortunately, it is sad commentary that our Nation, the richest and most powerful in the world, must resort to burdening those most in need to pay for their health services.

We would hope that during the coming months, your committee can explore steps to make immediate improvements in Medicare. New directions must be initiated to improve the administration of the Medicare program, to expand its coverage, and to insure that older Americans are receiving quality care under these services. A renewed effort must be made toward merging parts A and B of Medicare so that the health needs of older persons are better met. Emphasis should be placed on expanding geriatrics and the study of gerontology to further the research in health care for older persons. An investigation should be initiated into the quality of services available under Medicaid, and facts should be gathered on the effect of the Title XIX Amendments authorized under P.L. 92-603.

These areas are but a few of the major health issues in which we share your interest. As you know, our Legislative Council which formulates our legislative policies will be meeting in the near future, March 19–March 22, here in Washington. Following this meeting, I shall be in further communication with you as to our goals for 1973, and ways in which we hope we can be of assistance to the Congress in achieving these goals.

Again, Senator Muskie, I want to thank you for your invitation to comment on the upcoming hearings of the Subcommittee on Health of the Elderly. Needless to say, I look forward to our continued close liaison and working friendship.

Sincerely,

CYRIL F. BRICKFIELD,
Legislative Counsel.

RECENT BUDGETARY REDUCTIONS IN SOCIAL SERVICES

Mr. INOUYE. Mr. President, the recent budgetary reductions in social services programs proposed by President Nixon well illustrates that this administration tends to think in abstract monetary balance-sheet terms, and not in terms of human needs and suffering. The original purpose of Federal programs is to assist and support those elements of our population that are in need and are not able to fully provide for or protect themselves.

In recent times two of the most deserving of these Federal programs operated in the areas of housing assistance for citizens with low incomes and support for the elderly. One need only to take a short drive through any major urban area or go into the poorer rural areas to reinforce the idea that the need for housing assistance is still very much there. And, with 25.6 million of our citizens at or below the official poverty line for nonrural families of four, it should be clear to all that poverty has not suddenly disappeared. When the Nixon administration chooses to try to drastically reduce or abolish the Federal programs associated with these crisis areas, it will be these citizens with low incomes, the old and the poorly housed, that suffer the most.

I wish to introduce into the RECORD a resolution that was passed by the Council of the County of Maui on March 16, 1973, which eloquently and directly addresses itself to the seriousness of the impact that these administration proposals would have in Maui.

Hawaii would be hit especially hard by such funding reductions due to the fact that Hawaii has one of the highest living and housing costs in the Nation. Thus, those Hawaiians needing housing or having low-level incomes must fight even harder to try to achieve certain minimum standards. I abhor these defunding proposals both for their immediate negative impact on the people of Hawaii, and for their implied principle that the Government of the United States no longer will be responsive to the needs of the people, regardless of income or status. I request unanimous consent that this resolution, with which I fully support and which so poignantly addresses the essence of these problems, be printed into the RECORD.

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

RESOLUTION REQUESTING THE PRESIDENT OF THE UNITED STATES AND CONGRESS TO RESTORE FUNDS FOR CERTAIN SOCIAL SERVICE PROGRAMS

Whereas, the President of the United States has ordered reductions and deletions of federally funded programs designed to improve the general welfare of the socially and economically deprived citizens; and

Whereas, it is a proven fact that the federal funding provided has done much toward the development and improvement of the socially and economically deprived citizens; and

Whereas, such reductions and deletions include, but are not limited to, the following:

(a) The deletion of federal programs 235 and 236 will result in the denial of housing for the low income citizens. Due to the funding of Section 235 and 236 programs, the County of Maui has provided 194 fee simple homes and 112 rental units for the economically deprived citizens;

(b) The reduction of funding to Maui Economic Opportunity, Inc. will affect 2,400 low income citizens. These economically deprived citizens have been receiving services by way of general community programs and consumer education programs. Noontime meals have been provided for approximately seventy elderly citizens over the age of 60, and transportation for approximately 1500 low income citizens. Due to the lack of federal funds the Haiku Neighborhood Service Center, the Haua Neighborhood Center, the Makawao Neighborhood Service Center and the Puunene Neighborhood Service Center will be closed down. Such denial of federal funds would drastically affect the living standards and social orientation of families who have relied on such aid over the past years;

(c) The drastic reduction of funds to the social services programs of the State of Hawaii will in turn affect the welfare programs in the County of Maui. It is a known fact that the State of Hawaii has ordered a cut in the amount of welfare subsidies to the low income families. This, in effect, would deny the economically deprived citizens on Maui needed income for survival;

(d) The elimination of federal funding to libraries, vocational educational training of personnel, new careers in education, training institutes and summer fellowships, P.L. 815 school construction, programs for strengthening state departments of education, drug abuse education, environmental education, and vocational rehabilitation services; and

Whereas, federal cutbacks will have drastic psychological, social and economical effects on the deprived citizens of the County of Maui; now, therefore,

Be it resolved by the Council of the County of Maui that it does hereby respectfully request the President of the United States and Congress to re-evaluate the funding for social programs and restore monies proposed to be deleted; and

Be it further resolved that certified copies of this resolution be transmitted to the President of the United States, President of the Senate, Speaker of the House, Hawaii's Congressional delegation, Governor of the State of Hawaii, and Mayors and Councils of the counties of the State of Hawaii.

HUMAN AND SOCIAL PROBLEMS CONFRONTING AMERICA

Mr. ABOUREZK. Mr. President, the identity of the human and social problems which confront America are well known to the Members of Congress and the American public. Mr. William E. "Bill" Ryan has written an editorial, which appeared in the January 1973 issue of "This Issue," which is a thoughtful, eloquent, and provocative appraisal of the problems which confront America and the responses of the current administration to the problems. As a serious consideration of the editorial would be of benefit to all who are concerned about the future of America. I ask unanimous consent that the editorial be printed in the CONGRESSIONAL RECORD.

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

THIS ISSUE

On Saturday, January 27th, agreements on ending the fighting in Vietnam and calling for the withdrawal of all U.S. forces were signed in two sessions held in the ballroom of

an old hotel near the Arch of Triumph in Paris. The signing took approximately eighteen minutes and was finished off with a champagne toast. The second session supposedly brought an "official" end to diplomatic efforts for peace in Vietnam, and the war was over.

On Sunday, January 28th, President Nixon told the nation in a speech made on radio that he, in effect, had also ended the "war on poverty", that the Office of Economic Opportunity would, as of June 30th, become extinct. There would also be substantial cuts in the budget of the Department of Health, Education and Welfare. Social service and social action programs from the era of the "great society" are "taking it in the shorts". Witness the Administration's decision to place an eighteen month moratorium on all subsidized housing programs, but one. Consider the renewed series of beatings suffered by the American farmer via federal policy. And in the background, rural America gets ripped off again; the Department of Interior announces to increase wholesale power rates for farm power: in dollars and cents, this means South Dakotans will be forced to pay an additional $590,000 in power costs next year. The list of overt abuses goes on and on. But remember, we are all saving tax dollars, or at least that is what we are told. Meanwhile, Mr. Nixon is speeding up work on a "laser bomb" that will be "more powerful than the hydrogen bomb." This year we will spend at least twenty-two million dollars ($22,000,000) on that bomb—next year, we will spend an additional thirty-four million dollars ($34,000,000) on that same bomb. Think of that the next time you balance your checkbook. And meanwhile, millions of Americans are suffering from hunger and malnutrition, unemployment, dilapidated housing, inferior education and limited educational opportunity, poor health complicated by an inadequate supply of medical facilities and personnel, and an abundance of high-cost medicine and medical services, a lack of job opportunities, rising crime rates, and ever-spiralling inflation.

"But at least the war is over," you say. Well, that is a rather grey area. Yesterday, January 30th, the newspapers offered some interesting headlines; on the front page of the Pierre Daily Capitol Journal, a head read, "Last U.S. Fighter Bomber Group Begins Pullout". On the very same page, immediately above aforementioned head, ran this larger article, "U.S. Bombers Continue Laos, Cambodia Raids". You interpret that.

Sadly, in dollars, the cost of the Vietnam War to date is well over sixty-five billion dollars (that figure looks like this: $65,000,000,000—and that, friends, came from tax dollars); in lives, it is 1,100,000 dead (over 45,000 American lives), and this figure excludes "civilians"; in human misery and sickness of soul—it is incalculable. Put alongside that price the fact that after ten years "the enemy" commands most of the countryside in the South, moves its troops and weapons back and forth with relative ease, and keeps its economy functioning in the North, bombing or no bombing. The war in Indo-China is over, and the bombing stops in one of three countries.

Thank God that a formal peace arrangement has been made in Vietnam and that our prisoners of war and forces (most of them at least) are coming home. But what of the bombing? What of the war that is being waged on the poor, on rural America, on education? Still we are sold secondhand, secondterm promises. If Mr. Nixon truly is a "man of the people", let him respond to the needs of all American people—not just to the attentions of the rich, the giant corporations, and conglomerates. The problem of poverty is not solved when Mr. Nixon decides to abolish it. The problems of poverty and credibility are not solved with schizophrenic pledges from Administration mouths. The President speaks out as an advocate for the elderly—even specifically requested (via Title VII of the Older Americans Act) $100,000,000 for programs to feed the elderly—but pocket-vetoed the bill. The Administration speaks out against crime yet participates in the "Watergate" affair; it cuts the welfare budget, then closes down successful social service programs, placing over one-hundred thousand people out of work, and unemployment continues to rise; Mr. Nixon promises relief from the drug epidemic and slices away at funds that would have provided more drug education; welfare for the poor is attacked vehemently while welfare for the rich and big business is encouraged. There seem to be a pattern here; in each case the low and middle income person suffers, and the situation is getting worse.

In theory, being a democracy means that the final decision for all things affecting our lives is in the hands of the people. We cannot forget that our representatives (and this includes Mr. Nixon) are elected by our votes—but just as importantly, it is the duty of an informed, concerned electorate to continue to communicate with those it elected. Our freedoms cannot and must not be jeopardized by a one-man show. Our Congress recently was referred to as an "advisory council" to the President. This can only be true if you allow it—speak out, keep your representatives aware of how you feel, keep them aware of your problems and your community's problems.

If the war is truly over, let us first concentrate on rebuilding America: disadvantaged America, uneducated America, poor America, hungry America, rural America, urban America. The need now is to awaken the interest and consciences of all Americans and draw them into the "real" issues and problems that confront this country so we all might claim a fair share in a great joint work.

WILLIAM E. RYAN.

SELF-DETERMINATION FOR THE DISTRICT OF COLUMBIA

Mr. NELSON. Mr. President, the Government Operations Subcommittee of the House District Committee today began hearings on local self-government for the District of Columbia. Senate hearings will begin very shortly.

I ask unanimous consent to have printed in the RECORD the testimony presented in the House today by the Metropolitan Coalition of Self-Determination for D.C. It is a detailed and thoughtful statement of their position regarding the issue of home rule.

Self-Determination for D.C. is a coalition of 51 national and 60 Metropolitan District of Columbia organizations working for full congressional voting representation and local self-government for residents of the District.

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

TESTIMONY BEFORE THE GOVERNMENT OPERATIONS SUBCOMMITTEE OF THE HOUSE DISTRICT COMMITTEE, TUESDAY, APRIL 3, 1973

(Statement of Sterling Tucker)

Mr. Chairman and members of the Committee on the District of Columbia:

I am Sterling Tucker, Chairman of the Metropolitan Coalition for Self-Determination for the District of Columbia. We appreciate the opportunity to appear before you today on the issue of local self-government for the District of Columbia.

The Metropolitan Coalition, as its name indicates, is the local component of the National Coalition for Self-Determination for D.C., which is scheduled to testify later on in the agenda of these hearings.

Our local organization, which was formed on October 13, 1971, is comprised of a rapidly growing number, now approximately sixty, of business, professional, labor, political, religious and civic groups in the Greater Washington area, each of which is firmly committed to the principle of self-determination for the District of Columbia and to the cause of self-government and national representation for its citizens.

Our area-wide drive for D.C. self-determination is being greatly aided and stimulated by the joinder in such effort of the Washington Home Rule Committee, which organization brings to us a large individual membership, and a quarter-century of expertise and dedication to total suffrage for the residents of our Nation's Capital. Our Vice-Chairman, Mrs. Marshall Hornblower, has long been identified with the work of the Home Rule Committee, as its Legislative Chairman and in other official capacities, and her involvement evidences the identity of goals and unity of efforts of our two organizations.

Since its formation, the Metropolitan Coalition has been actively seeking a broad consensus of citizen opinion regarding the question of full suffrage for the people of Washington. Although we are a Coalition of organizations, representing a broadbase of this community, I want to make it clear that we do not appear before you today assuming to speak for the citizens of the District of Columbia. Delegate Fauntroy is the only person who can presume to speak to you with that authority. Although much of my testimony today repeats testimony we have given in the past, we attempt to be responsive to the detailed questions which you have posed. We welcome this opportunity to clarify issues.

Unfortunately, the District does not have a vehicle for gathering elected representatives of all the people to determine answers to your questions. That is what our visit here today is all about. It would not be fair to imply that we have inventoried all citizens of the District and then developed these recommendations.

Rather, we did involve representatives of the organizations in the Coalition and as many local "experts" as we could identify within the framework of the time we received your questions and prepared our testimony. Our efforts involved many community leaders, professionals, and persons who have worked within the District Government. These people have roots in the community.

In order to give you the benefit of the work of our task forces which we organized to study and answer your questions, we have organized our presentation along several topic areas. First, I will respond concerning the "Federal Interest." Next, Delano Lewis will discuss Government form and organization—legislative and executive. Third, Sturgis Warner will review the electoral and judicial functions. Jim Devall will handle the fiscal affairs area and Ken Kennedy will offer concluding remarks. Other resource people will be available to help respond to specific questions.

We would like to offer for the record three research papers prepared by Jason Newman, our legal counsel and Chairman of our Legal Research Committee. These papers describe congressional proposals for self-determination over the past twenty-five years, a review of historical forms of government in the District of Columbia and an analysis of Nelsen Commission recommendations that relate to self-determination.

We submit that a full delegation of legislative, executive, fiscal and budget authority to an elected city government is consistent with the intention of the Founding Fathers who drafted the United States Constitution. We note, for instance, the comments of

James Madison in Federalist Paper Number 43 which supports the logic and validity of an elected local government for the Nation's capital. Congress has recognized this intention many times in the past by granting various forms of elected self-government for the District of Columbia.

On behalf of our constituency, and of all the disenfranchised residents of our Nation's "last colony," we come before the District Committee today to urge your receptive consideration and legislative assistance to restore to us this basic American right of self-government, of which we were deprived almost one hundred years ago.

It is a basic principle of democracy that government officials should be elected rather than appointed, and therefore answerable to the electorate, rather than to the appointing authority. Yet, in the District of Columbia, where democracy should be most evident and at its very strongest, it is conspicuously absent.

If our Federal Government does not believe that it can function democratically at its own seat, then how can it expect to convince the rest of the world that democracy is good for anybody, or can work anywhere?

In the eyes of many people throughout the world, the Federal Government's attitude toward the District of Columbia appears, as suggested by an observing foreign student., like an automobile salesman who drives one make of car, but sells another—a salesman who doesn't have enough confidence in his own product to use it himself.

There are no legal, moral or philosophical grounds for the denial of self-government to the residents of Washington. We live and pay taxes here. We raise and educate our children here. We are citizens of the Country, we are citizens of this City. We are not transients; we are not squatters; this is our home, and we plan to remain here. We do not have one foot here and the other foot elsewhere.

We want only what residents of other cities of this Country have—a right to elect those who govern us; control over our budget and revenues; and participation in the decisions which affect our lives daily. We are not mythological; we are here, and we are entitled to be treated as though we are!

Legal, moral and philosophical arguments aside, there are compelling practical benefits which would accrue to the District from self-government.

It would start a political process—a people becoming involved in a systematic approach to problems and progress.

It would put an end to the isolation of people from their government—both local and national.

It would provide opportunities for dealership development, and create a body of legitimate and authentic leaders, responsive to the people, yet responsible to their government.

This is why the Metropolitan Coalition, and the broad-based, bipartisan group of organizations and individuals which we represent, feel that the citizens of the District are entitled to and should enjoy the full measure of democracy, and the same privileges of citizenship as all other Americans, and that there exists no justification of the second-class citizenship status to which Washingtonians have been relegated.

One practical benefit of an elected local government with full power to act is that the "buck" cannot be passed to the Congress. As you know so well, city residents with problems seek out the District Committee at least as often as they seek out the Mayor and City Council. As long as the city government does not have real authority, people with problems and grievances will continue to sit in your outer offices hoping for five minutes time with someone who holds real power.

The absence of real power in local government breed apathy and a lack of concern on the local level. Local initiatives are not taken when most citizens and officials have the impression that the nebulous "they" on Capitol Hill really run the daily affairs of the city government. This atmosphere is unhealthy and leads to avoidance of decision-making as well as fiscal irresponsibility.

We submit to you that it is in the interest of the Congress and of the citizens of the United States for an elected local government with full authority to exist in the District of Columbia. We need a strong vehicle to improve the quality of life in the Nation's Capital, for residents and visitors, as we near the 200th anniversay of the independence of this Nation.

We appreciate the opportunity to appear before you today and we hold high hopes that you will deliver a self-determination bill to the floor of the House in just a few months. We will be pleased to supply further information you request as your review progresses.

Before introducing our task force chairmen, I would like to offer some comments on the issue of the Federal Interest.

FEDERAL INTEREST QUESTION

The Subcommittee asked: "What is the 'federal interest' and how is it defined?"

The "federal interest"—as regards the District of Columbia—would be best served, we believe, by adopting legislation delegating the full powers of state and local government to a locally-elected District government. This would serve the "federal interest" from several points of view—moral, political and practical.

It is in the "federal interest" to provide for "consent of the governed" in the Capital City of the United States. This is the form of government we advocate throughout the world but do not practice in our backyard.

It is clearly in the "federal interest" to free Congress from the burdens of dealing with the District's purely local affairs.

Finally, a locally-elected government, operating on a full-time basis, accountable to the people of the District, would provide a more practical and efficient form of District government. And certainly, good government in the District is in the "federal interest."

In all cases, the "federal interest" as Congress chooses to define it, is protected by the U.S. Constitution, which grants Congress exclusive jurisdiction over the District of Columbia.

We would resent, and I'm sure the Subcommittee did not mean to imply, any suggestion that there is a dichotomy between "federal interest" and "local interest." We would be unhappy to be placed in an adversary position in this regard. We hold an adversary position only with respect to our current colonial status,—in that area we have strong views.

In a very broad sense, the "federal interest" and the "local interest" are in harmony.

The Federal Government is a major employer of the citizens of the District. The well-being and proper functioning of the Federal Government is clearly in the "local interest."

The residents of the District are proud of our Capital City. The monuments, Capitol Building, White House and Smithsonian Museum are a vital part of our city. The L'Enfant plan is a local resource. It would be very incorrect to assume that the beauty of the Mall is within the "federal interest" but not the "local interest." We D.C. residents have a strong interest in protecting the beauty of the city.

The question of local self-government for the District of Columbia requires a definition of the "federal function" in the District, not the "federal interest." The question should be: "What is the federal function—or—to which agency, council, etc. should Congress delegate various functions over which it maintains constitutional responsibility? Which functions are best delegated to a local government? Which should be directly under the control of a Congressional committee or Federal Agency."

We believe that the Federal Government has special responsibilities within the corporate limits of the District of Columbia. We conceive of the federal function as threefold:

1. The Federal Government's responsibility for the well-being of the diplomatic community residing and working in the District of Columbia;

2. The Federal Government's responsibility for the establishment, care and maintenance of federally-owned buildings, lands and monuments;

3. The Federal Government's responsibility to maintain the harmonious and uninterrupted physical operation of the three branches of government and to insure that the Constitutional rights of all the people of the United States (right of assembly, right of petition, etc.) are guaranteed within the District of Columbia.

We propose that these areas of federal function be delegated to appropriate Congressional or Executive agencies with the Federal Government maintaining exclusive jurisdiction and immediate control over the administration of these functions.

All other functions involving the District of Columbia should be delegated to a locally-elected government.

Although we did consider the fact that occasional functional overlaps and differences of opinion would arise, we believe that the authorities administering the federal function and those administering the local function would work in harmony on the vast majority of occasions.

It has been suggested, for example, that the architectural consistency and visual appearance of the Mall could be affected by a Zoning Commission decision authorizing the construction of a high-rise office building adjacent to federal land. However, the architectural consistency and visual appearance of the Mall is in the "local interest" and we believe that a locally-elected government would act in good faith on such matters, responsibly watching out for these "federal-local" interests.

In any event, the Congress has ultimate authority to act if it feels the actions of the District Government are in conflict with the federal funcion. This power provided by the U. S. Constitution would not be removed through legislation providing for local self-government.

If this Subcommittee determines that a mechanism should be created for arbitration of conflicts between the federal and local functions, we would like to testify at that time with respect to our recommendations in this subject. We did consider several specific proposals in this regard, but we feel that they are not necessary to protect the "federal function," just as they aren't necessary in the fifty states where the Federal Government has an interest in terms of federally-owned lands and buildings, diplomatic offices and regional operations of the Federal Government.

SELF-DETERMINATION FOR THE DISTRICT OF COLUMBIA

(Testimony of Delano E. Lewis)

I am Delano E. Lewis, General Public Affairs Manager of the Chesapeake and Potomac Telephone Company and the chairman of the Political Committee of Self-Determination for D. C. My portion of the testimony will address itself to the specific questions regarding the form and organization of the local government and the questions of executive and legislative function.

GOVERNMENT FORM

We propose a Mayor-Council form of government. This is a natural outgrowth of our recent experience and has proven use in many large cities. However, we would recommend,

in place of our current nine-member Council, a District Assembly of 13 members. The larger Assembly would be required to meet the increased workload and responsibilities this body would have. The District of Columbia should have only one level of government, in our judgment. As a polity, D. C. is comparable to a "city-state," unique in the United States.

We would like to see what is often referred to as the "strong-Mayor" form of Mayor-Council government in order to assure an ability to act and be responsive on the part of the local government to both the people and the needs of the National Government. The "strong-Mayor" form is basically what we have today in the District, and has been defined by one writer as follows:

"Where the mayor's authority exceeds that of the council, what is called the "strong-Mayor" form of government exists. One cannot distinguish sharply between systems having a "weak" and a "strong" mayor, but in a general way the strong-mayor form resembles the national government. The mayor shares with the Council responsibility for policy-making, but he alone has administrative responsibility. He appoints department heads without approval of the council, makes up the budget, and usually his veto can be overridden only by a two-thirds vote of the council. He is the dominant force in the city government; the council must follow his lead." (Banfield & Wilson, *City Politics*, p. 80 (Vintage, 1966)

We would define a strong-mayor form of government as one in which the residual powers as well as certain explicit powers rest with the Mayor, while the Assembly has only the authority set forth in the enabling legislation.

EXECUTIVE FUNCTION

The District Mayor will function in a political environment different from that of any other local government executive. This is due to the District's relationship to the Congress and surrounding states and counties. The Mayor's powers should be a combination of the powers of Mayor, County Executive and Governor, as is the case today with the present Mayor-Commissioner. Surrounded by the States of Virginia and Maryland, the District does and will work jointly with these states and their counties on a host of matters, such as sanitation, water supply and pollution, to mention a few. Thus, the Mayor of the District of Columbia will need the authority to enter into functional agreements with surrounding county, state and regional bodies, as is the case today.

The Mayor should be elected. We recommend that he serve a four-year term and that the Mayor be elected in a partisan election.

We recommend that the Mayor have the authority to make certain appointments without confirmation by the Assembly. These would include a Deputy Mayor, department heads, Fire Department Chief, Police Chief, Auditor and the boards of all present local agencies with some exceptions. As a balance of power, we would recommend that certain other appointments be made by the Mayor with the approval of the Assembly. For example, the Public Service Commission, the Board of the Regional Land Agency in the District of Columbia and such other appointments formerly made by the President of the United States, should be approved by the Assembly.

LEGISLATIVE FUNCTION

We recommend the creation of a District Assembly with members elected on a partisan basis, both from wards and at-large. It is envisioned that at-large assemblymen would achieve greater independence from a narrow constituency and could take a broader and more objective view of the city's problems. Moreover, by becoming known city-wide they are afforded an opportunity to assume a city leadership role. On the other hand, there is a greater incentive for ward-elected assemblymen to be responsive to, and serve, the needs and wishes of their constituencies. Also, at-large races tend to be relatively expensive. Therefore, we suggest the Assembly be comprised of eight assembymen elected from eight Districts or wards and five at-large members.

Assemblymen should serve staggered terms of four years, expiring on even-numbered years. We propose that the Assembly elect its Chairman from among the at-large members and the Vice-chairman from among its 13 members every two years, following the elections of the members.

We strongly recommend that the Congress delegate to the District Assembly full legislative power over local affairs. If this new government is to work at all, if it is to relieve the Congress of the necessity for legislating on purely local matters, and if it is to be capable of governing the city efficiently and responsibly, then it must have the range of powers normally vested in state and local governments.

This Subcommittee has asked us to respond to the question of whether or not a distinction can be made between "laws normally enacted by municipalities and those normally enacted by states?" It is our view that this is both a practical impossibility and unwise from the standpoint of reasonable and responsible government. At the present time, the city government performs many state functions and has commensurate state legislative authority to act in certain areas. The city is also the "state agency" for purposes of all federal programs and as such adopts state plans in such areas as mental health, welfare and highway safety.

The even more compelling reason for not making such a distinction between state and local functions is one of simple logic and history. Just as Congress stepped into the field of interstate commerce to assure uniformity of law within a geographically related area, states serve the function of providing uniformity over a geographic area in such fields as commerce, transportation, higher education and so forth. States, of necessity, legislate where conflicting local laws would be detrimental to the public interest. There is no such danger here. There is only one geographic unit and the need for only one political unit. The District Assembly will be at once both city and state.

For similar reasons, we did not recommend a bicameral legislature, which is created when there are competing interests and areas to be represented. In an area as small and compact as the District, all interests can be represented within the Assembly. We would provide this Assembly, by the way, with the power to alter its size through referendum.

The new legislative powers which the Assembly would assume are in large part proposed in the recommendations of the Nelsen Commission report. The legislation should explicitly grant the Assembly the right to set new taxes and alter existing tax rates and the authorization to participate in all federal grant programs in a manner analogous to other state and local jurisdictions. Of course, any act of the Assembly, itself a creature of Congress, could at any time be negated by a positive enactment of the Congress—even if the act were purely local and otherwise valid. Because of this Constitutional fact of law, we do not see the need for a veto provision, such as was included in the Senate bill of the 92nd Congress. However, if a veto provision is considered, we strongly urge that it require action by both Houses of Congress. We have every confidence that an elected District Government would act responsibly as do elected municipal and state governments throughout the free world.

GOVERNMENT ORGANIZATION

Any agency, department, etc. presently exercising functions which do not fit into the identified categories of "federal functions," such as agency and/or the jurisdiction exercised by same should be transferred to the District government. The Redevelopment Land Agency and the National Capital Housing Authority are examples of this type of agency.

Any agency, department, etc. presently exercising functions partially local and partially federal should relinquish its local jurisdiction and focus exclusively upon its area of Federal authority or expertise. The National Capital Planning Commission, for example, should relinquish its local planning function to the District Government, but retain its planning authority over federally-owned lands and buildings. These recommendations are consistent with the Nelsen Report. Lastly, the right to reorganize and restructure local functions should rest with the District Government.

SELF-DETERMINATION FOR THE DISTRICT OF COLUMBIA

(Testimony of Sturgis Warner)

I am Sturgis Warner, an attorney in private practice. I have lived here for more than 30 years and my roots are deep here. My portion of the testimony will address itself to the specific questions of electoral function and judicial function.

As you have heard us testify, we recommend the Mayor and the members of the Assembly be elected. In addition, we recommend that consideration be given to electing the Public Prosecutor for the District of Columbia. That office is an elected office in a number of states, and we believe that this method of selection provides the incumbent with greater freedom of action. The incumbent would for instance be in a position to prosecute the Mayor or a member of the Assembly, if that became necessary. At present, the members of the Board of Education are elected, and we believe that this should be continued, with some changes in compensation which I shall discuss shortly.

We believe that, at this time at least, the officials whom I have just mentioned should be the only ones who are elected, and that all others should be appointed, with or without confirmation by the Assembly.

Before discussing such matters as the length of the terms of office and the mechanics of nomination and election of these elected officials, it is impotant at the outset to stress that these officials are going to carry a big load and tremendous responsibility, and that they should be compensated accordingly. We believe that the Mayor's salary should be $40,000 as at present and that each member of the Assembly have a salary of $25,000.

You must bear in mind that the total size of the Assembly is only thirteen members and that the legislative load on the Assembly really is going to be very heavy; accordingly, the salary level for the Assembly members should be based on the assumption that most of them will be working full time as Assembly members and not have to moonlight. We believe that the President of the Assembly, who will be elected from among its members should receive additional compensation during the period of that person's Presidency, perhaps an additional $5,000.

The elected Public Prosecutor would also carry a heavy load, including the supervision of a substantial staff of assistant prosecutors, we believe that the salary of that official should be in the $30,000 to $35,000 range.

The members of the Board of Education are now elected, as previously stated, but that the present rate of compensation which is only $1250 a year, is totally inadequate for the amount of time required to be spent on what is recognized to be an extremely difficult area of public administration—namely, the operation of a public school system of 140,000 pupils. We believe that the salary of Board of Education members should be raised now to $15,000 or $20,000 a year and that the

job be considered to be basically a full-time job.

These salaries are the ones which should be in the basic legislation itself. The Assembly would have the power to vary these salaries as later circumstances require. We believe that it is essential that the District of Columbia have a tough but realistic conflict of interest law which would be applicable to all these elected officials, and which would require abstention from action either by the Mayor or a Member of the Assembly who has a conflicting financial interest in a pending measure. The conflict of interest statute should contain disclosure requirements with the disclosed information to be available at least to other elected members of the District Government and in certain categories to the public. We recognize that the evolution of such a conflict of interest statute will be a difficult operation, but we believe it will be an essential part of any package, and will be glad to participate in its drafting.

Turning next to terms of office of elected officials, and the method of nomination, we believe that the Mayor should be elected for a four year term, and that the members of the Assembly should be likewise elected for four year terms. There would be five members of the Assembly elected at large, with elections every two years for staggered four year terms. There would be one member elected from each of the eight election wards and these two would serve full year terms with elections staggered two years apart. We believe that the Presidency of the Assembly should be for a two year period so that the members can choose their President immediately after each new Assembly election. We believe that the Prosecutor should be elected for a full four year term. The Board of Education at present consists of three at large members and one elected for each of the eight wards. They all have four year staggered terms and we believe that no change in this arrangement should be made at this time.

Nominations for Mayor and Assemblymen should be partisan, with closed party primaries, with provision however, for minority parties and non-partisans to be nominated to compete in the general elections, as in the case at the present time with respect to candidates for Delegate to the House of Representatives. All nominations should be by petition signed by D.C. registered voters and the numbers of signatures required for nomination to each such office to be somewhat fewer than the signatures required for the Delegate to the House of Representatives. Obviously substantial work will be necessary to work out the details on these nominating requirements and those requirements for the conduct of the primary and the general elections of these officials. We shall be glad to assist in drafting such provision.

THE JUDICIARY

The Court system here has recently had a comprehensive reorganization, through the District of Columbia Court Reform and Criminal Procedure Act of 1970. Transfers of jurisdiction from the U.S. District Court to the Superior Court are taking place progressively, and will not be completed until August of this year.

While further changes in the Court system may ultimately be proved desirable, we believe that the present new Court system needs to have a chance to shake down and to operate for a while; consequently, we believe that at this time, no changes should be made either in the Superior Court's jurisdiction, or operations, or compensation or terms of office. The sole change, with regard to the judges themselves, should be in the authority for selection and appointment of the judges of the Superior Court and of the D.C. Court of Appeals.

Rather than having these judges nominated by the President and confirmed by the Senate, as at present, we recommend an adaptation i.e. variant of the so-called Missouri system, which contemplates the creation of a high-level standing Judicial Selection Committee, composed principally of lawyers, who maintain continuing responsibility to recommend several suitable candidates for each judicial post to be filled.

The nominating authority to whom the Judicial Selection Committee would make its recommendations, would be the Mayor, with all judicial nominations subject to the advice and consent of the Assembly. The Mayor would be obligated either to nominate one of the persons proposed by the Judicial Selection Committee for each vacancy, or in the alternative to reject all such persons, in which latter case the Judicial Selection Committee would send a new list of prospective candidates to the Mayor. If the Mayor rejected all the names on the second list as well as the first list, the Judicial Selection Committee would make public the names on both lists, which the nominating authority had rejected. At that point, and only at that point, the Mayor would be authorized to make his or her own selection as nominee without reference to the recommendations of the Judicial Selection Committee.

Variations of this plan can, of course, be developed and will be developed if this Committee so requests; however, we feel that the general plan makes a great deal of sense. An effective Judicial Selection Committee requires continuity, and also a competent but very small staff, probably not more than one or two persons. The Committee should meet regularly at least every couple of months, even though there is no judicial vacancy to be filled, in order to build up a carefully screened list of competent prospective judicial appointees for use as soon as any vacancy occurs. It should be borne in mind that the D.C. Court of Appeals has nine judges, the Superior Court has forty-four judges—two vacancies at present—and both Courts have mandatory retirement at age 70. It can be expected, therefore, that vacancies in one or both Courts will occur with relative frequency, wholly apart from reasons of death or disability or premature retirement, so that the Judicial Selection Committee will have continuing work to do.

The membership of the Judicial Selection Committee can include not only representatives of the Bar (and possibly the Bench), but also one or more representatives from the White House, the Congress, as well as the public in general.

The proposed statute should include a grandfather clause to permit present judges to stay during their present terms of office, and possibly also to provide for their reappointment once without action by the Judicial Selection Committee, until such judges reach the mandatory retirement age.

SELF-DETERMINATION FOR THE DISTRICT OF COLUMBIA

(Testimony of James L. Devall)

Mr. Chairman and Members of the Committee:

My name is James L. Devall and I am appearing today, on behalf of the Metropolitan Coalition of Self-Determination for the District of Columbia, to discuss certain financial and budgetary issues associated with home rule for the District of Columbia. I am presently an attorney in private practice in the District. Previously I worked in the Executive Office of the Mayor for the District of Columbia and was involved in legislative and regulatory matters for the City. I have also been employed by the Federal Office of Management and Budget and in that capacity I handled District legislative matters.

In my testimony I have addressed myself to two interrelated matters of significant importance to any legislation providing for local control of local affairs in the District of Columbia. The first of these is the question of local financial and budgetary authority for the District of Columbia, and second, the financial relationship between the Federal and District Governments.

LOCAL FINANCIAL AUTHORITY

Local taxing authority

The new District of Columbia Government should have complete authority to establish local taxes and engage in any other revenue-raising activities which it deems necessary. The local taxing authority should include the power to set not only those taxes now established by Congress, such as the District's income tax and the sales tax, but also any new taxes, charges, or fees. The District should also be authorized to establish other income-raising methods determined appropriate.

The local taxing authority for the District should be analogous to that now generally possessed by State and local jurisdictions. This comprehensive local revenue-raising authority is essential if the new District Government is to have the flexibility necessary to meet the current and future needs of the city. Pursuant to such authority, the new District Government would no doubt carefully review at the outset, and on an annual basis thereafter, the level and applicability of existing local taxes and the desirability of any additional taxes or fees and charges. With respect to other revenue-raising authority, the District would presumably wish to examine such potential revenue items as lotteries and off-track betting. Experience in other jurisdictions indicates that these types of revenue-producing activities should be fully explored.

The local taxing authority we envision is one unhampered by any restrictions in the enabling legislation. Recognizing that there might be certain areas of disagreement on this point, in terms of the extent of the District's authority as it might affect individuals, activities, or organizations within the city, we would propose that any restrictions on the District's ability to raise revenue from local sources be fully recognized and accounted for in the computation of the Federal financial commitment to the District. Absent either complete local taxing authority, or appropriate recognition of a reduced local taxing base in Federal financing for the city, the District could find itself seriously hamstrung in its effort to rationally fulfill its responsibilities to both the local citizenry and the obligations resulting from the presence of the Federal Government.

Local borrowing authority

The new District Government should be authorized to engage in public borrowing for the capital construction expenditures of the city. The borrowing authority should be flexible to the extent necessary to allow the city to either pledge specific revenues to a particular bond issue or to provide general borrowing with principal and interest paid through the use of operating funds.

The District's borrowing authority, in a manner analogous to most State and local jurisdictions, should consist of the power to issue tax-exempt bonds. In the event that Congress, through the enabling legislation, should determine that a Federal guarantee of local District bonds is preferable to tax-exempt bonding authority, then that Federal guarantee should be tied to an automatic interest-subsidy payment by the Federal Government. This interest-subsidy feature would be necessary to insure that the District be able to borrow at effective rates comparable to those available in the tax-exempt market.

The District's current outstanding capital debt, which consists of long-term borrowing directly from the Federal Government, should be repayable either according to the existing payment schedules or through refinancing by the District Government utiliz-

ing its new borrowing authority. Specific provision should be made for the exclusion from the District's local debt of any outstanding obligations of the Federal Government, such as the indebtedness of the National Capital Housing Authority. Those obligations are likewise "Federal obligations" within State and local jurisdictions and should not be considered local borrowing.

The District's borrowing authority should be subject to a debt ceiling established by the local legislative body. The initial debt ceiling and any future changes in the ceiling should be determined by two-thirds concurrence of the full local legislative body. The District's borrowing authority should be subject to the annual budget process of the city.

Local budget authority

The new District Government should have complete authority to establish the local budget. This authority should be divided between the executive branch, through submission of an executive budget, and the legislative branch, through the approval process. The District budget should be balanced on the basis of all funds available to the city, with authority to engage in short-term borrowing in anticipation of revenue receipts.

FEDERAL-DISTRICT FINANCIAL RELATIONSHIP

Federal payment

An annual Federal payment should continue to be made to the District Government. Historically, this payment has been made in recognition of the presence of the Federal Government and its significant impact on the city. That impact was recently reviewed in detail by the Commission on the Organization of the Government of the District of Columbia.

The Commission, quite correctly in our view, concluded that it is difficult if not impossible to quantify the impact of the Federal Government in the District. Rather, the Commission outlined numerous factors which underlie the Federal financial commitment to the city. Those factors include the significant amount of land, and land value, in the city exempt by virtue of Federal ownership, the unique limitations on the local tax base due to the relative lack of revenue-producing commercial and industrial enterprises; limitations on the District's tax base due to height limitations and other zoning restrictions; and the effect of Federal agency relocation and leasing decisions. This list of factors is illustrative of the considerations inherent in the Congressional decisions over a period of decades in providing the Federal payment for District Government operations.

The Commission viewed the Federal payment as representing an equilibrium or balancing the benefits and costs resulting from the Federal presence. The result of the historical balancing and decision-making on the part of the Congress with respect to Federal responsibility to the city is reflected today in the existing annual authorized Federal payment of $190 million. The historical perspective which has led to the establishment of that amount appears to us to be an appropriate place to begin the new Federal-District financial relationship.

We would propose that the annual Federal payment be established with two objectives in mind. The first objective is a clear recognition that the payment cannot remain at a static, fixed level as the needs of the city continue to grow. Rather, the payment, as has been the case historically, should be established so as to allow for increases based in a rational manner upon the District's own revenue commitments and resources. Second, the procedure by which the Federal payment is made to the city should be automatic. Payment should be automatically appropriated and provided to the city on a timely basis at the beginning of each fiscal year. This feature will allow the local District Government to accurately predict the resources it has available and proceed with its budget planning and city operations in an orderly and efficient manner.

In recognition of the Congressional determination of the current amount and the historical incremental increases provided by the Congress, we would propose that the enabling legislation provide in the initial year, the current authorized payment of $190 million. For the succeeding five years, that payment would automatically be recomputed to reflect an increase by the same percentage as the increase in the local general fund revenues. At the end of five years, the question of the future Federal-District financial relationship should be examined jointly by the District Government and the Congress to determine the appropriateness of this method of computation in light of the five-year experience.

This proposal is designed to build on the wisdom of the prior Congressional decisions on the Federal commitment to the city, and to insure a specific payment to the city for budgetary and planning needs.

Existing obligations

In order to insure that the new District Government is not unreasonably burdened with extraordinary expenditures as a result of expanded functions or unique circumstances, a careful review of outstanding and potential obligations should be undertaken with the objective of identifying those obligations originating either in Federal commitments or a transfer of functions to the new government. These obligations should be accommodated through appropriate funding in legislation authorizing local self-government.

Examples of the type of obligations to be considered in this review include the following:

Robert F. Kennedy Memorial Stadium: No payments have been made on the approximately $20 million in outstanding debt for construction of the stadium. While the District is responsible for principal and interest payments, the stadium itself is owned by the Federal Government. Recognition should be given to this outstanding obligation, possibly through some shared Federal-District method of retiring the outstanding obligations and transferring title for the stadium to the District.

St. Elizabeth's Hospital: With the transfer of St. Elizabeth's Hospital to become a part of the comprehensive mental health programs of the local District Government, some arrangement should be devised to compensate the District for services of a Federal nature and for the absence, in the short-term, of normal Federal financial assistance for facilities of this nature.

Higher Education: States and localities have proceeded with the development of higher education facilities over a lengthy period of time and in many cases with substantial Federal assistance during much of that period. Only recently has recognition been given, through the enactment of legislation, to the need for higher education facilities in the District of Columbia. This fact has resulted in significant requirements for capital outlays to provide higher education facilities in the District and those expenditures should be considered in the review which we are recommending.

Personnel systems: In certain instances the District Government has, through its operating budget, contributed significant amounts to various Federal personnel retirement systems. With the creation of a unified local personnel system and local retirement funds, appropriate reimbursements should be made into those funds in recognition of past District contributions to the Federal retirement system. Similarly, consideration should be given to the funding needs of new retirement funds for District police and firemen.

Federal reimbursement

Finally, a mechanism should be established to take care of future situations in which the local District Government must obligate itself, because of a request or action by the Federal Government, to expenditures uniquely related to Federal activities.

Some of these expenditures may be on a periodic basis such as the local costs associated with inauguration of the President. Others may be associated with unforeseen events involving the Federal Government such as mass demonstrations in the city. Generally, these expenditures are likely to occur as the result of requests by the Federal Government to develop either local programs or local facilities to serve the Federal interest. Typically, these expenditures have not been included in the annual Federal payment to the city because of their uniqueness and the fact that they are difficult to anticipate. A reimbursement device will give the Federal Government greater flexibility to utilize District Government resources as may be appropriate to meet specific Federal needs.

The determination as to the appropriate amount to be paid by the Federal Government for these types of unique expenditures should, in the first instance, be made by the District Government and then be subject to audit by the General Accounting Office. A determination as to actual appropriation and payment should be made through the creation of an advisory body consisting of representatives from both the Congress and the District Government. Upon a determination by that body as to the appropriate sum, appropriation to the District should be on an automatic basis in the same manner as the annual Federal payment.

I appreciate the opportunity to testify today and I would be pleased to attempt to answer any questions you may have.

SELF-DETERMINATION FOR THE DISTRICT OF COLUMBIA

(Concluding Remarks of Kenneth Kennedy)

Mr. Chairman and Members of the Subcommitte, I am Kenneth Kennedy. I have been active for many years with citizen groups, both city-wide and in my area of Northeast Washington.

You have heard our specific testimony regarding self-government legislation. I would like to conclude our presentation by attempting to set at rest the myth that D.C. residents do not want home rule.

For decades, the opponents of home rule have taken shelter behind the myth that D.C. citizens are really not in support of self-government, that our umbilical cord to Uncle Sam is so tough that it can never be cut.

This is a pure myth, as every rational legislator knows. D.C. residents no more want to allow appointed officials to control their daily lives than do the citizens of any other city, town or county in this democracy.

The people who come in the side door of the District Building or the Congress and get their favors do not represent the great bulk of law-abiding D.C. residents.

We want to vote for local officials. We want to have something to celebrate in 1976. We implore you to report out a strong home rule bill.

We appreciate the opportunity to appear and commend you for calling these hearings. Your request for citizens to comment is refreshing and we urge you to move on to report out a bill promptly.

Thank you.

SECOND-CLASS POSTAL RATES

Mr. MOSS. Mr. President, over the past decade the entire magazine industry has faced a crisis of rising costs.

One of the major elements in the squeeze on many magazines has been the increased cost of postal services. I am pleased to see that the bills under discussion by the Post Office and Civil Service Committee are all concerned with this important national problem.

If the rate increases announced last June by the Postal Service were to go into effect according to the current 5-year schedule, it would sound the death knell for a large number of publications that play a vital role in the cultural and political life of this Nation. We have already witnessed the death recently of such widely read publications as Life and Look, magazines which had virtually become national institutions.

The problem of rising costs affects not only the larger, well-known members of the magazine industry, but a countless number of small publications as well. I am particularly concerned about the survival of publications that are often referred to as "independent journals of opinion." These include such journals as the New Republic, National Review, Saturday Review, Harpers, and others that are less prominent. It is this type of publication that is so essential to democracy's "marketplace of ideas." Without such journals, the vitality of our democracy would be greatly diminished.

I am aware that the proposals before the committee, in effect, call for Federal subsidies on the mailing of magazines and newspapers. But I believe that costs of this Government aid are small compared to the great loss that our society would suffer if a large number of publications were forced to stop their presses.

According to one estimate I have received, the 10-year phase-in of the new rates would cost the Federal Government somewhere in the neighborhood of $20 million per year. The Government would have to spend approximately $75 million per year if Congress enacts the Kennedy-Goldwater proposal for a ceiling of 66⅔ of the applicable rates for the first 250,000 of any publication. These sums are actually quite modest when put in perspective. For, throughout our history, the Federal Government has helped pay for the costs of mail service in order to encourage the dissemination of ideas. In the 24 years following World War II the average annual appropriation for second-class postal rates was $283 million.

I wish, Mr. President, that it were possible for publications using second-class mail to pay their own way. But, unfortunately, it has become apparent that many of these publications are operating on such a narow margin that the new rates simply would send them under. This would be a loss that our democracy could ill afford.

MEAT PRICE CEILING

Mr. PEARSON. Mr. President, American farmers are deeply troubled, frustrated, and angry. They believe they are being made the scapegoat for an inflation problem which they did not cause. They cannot understand why they are being singled out for special economic sanction.

Mr. President, I agree with them. I sympathize with them. Livestock producers are especially troubled at this time because of the price ceiling on meat recently imposed by the President. They are, of course, concerned about the ceiling itself. But they are more concerned about all the rhetoric that this is only the first step; that the administration seeks not simply to put a lid on farm prices but to roll them back. And this talk is disturbing not only for the livestock producer but the wheat growers, the corn growers, and all farmers who produce food commodities.

They have heard no call to roll back wage rates, indeed they know that wages will go up significantly this year.

They have heard no call to roll back the price of automobiles, indeed they know they will be higher.

They have heard no call for businessmen to roll back their profits, indeed they expect them to be higher.

They have heard no call to roll back the prices on new tractors and other farm equipment, indeed they know they will be higher this year just as they were higher last, and the year before that, and the year before that, and the year before that.

Mr. President, no one denies that the price of meat has risen significantly in recent months. But it is important to keep in mind that these are increases from a low, stable price. In 1952 choice steers sold for $32 per hundredweight but for the next 18 years they sold for less than $30.

From 1954 to 1970 choice steer prices averaged about $26 per hundredweight on a yearly basis. Prices began to rise in 1971 and are now somewhere in the neighborhood of $44. In comparison to last year or the year before, this looks high, but in comparison to the past 20 years it is modest particularly in view of the spectacular increase in the costs of production. And cattlemen's costs have been especially high in recent months because of high feed grain prices and death losses due to extremely adverse weather conditions. Considering the costs of production, the current price of beef and pork is not excessive.

The basic fact remains that over the past 20 years farm prices have been deflationary rather than inflationary.

If beef prices had increased at the same rate as industrial wages since 1950 farmers would be getting $77 per hundredweight for steers.

If the price of beef had followed the price of medical care a producer would be getting $179 per hundredweight.

Since 1952 the cost of food to the consumers has increased 43 percent while the cost of medical care has increased 150 percent, the cost of housing 80 percent, and the overall consumer price index by 80 percent. But even more revealing is the fact that farm prices have increased only 6 percent over the past 20 years. Thus most of the increase in the cost of food is attributable to increased processing and marketing costs.

Mr. President, the farmer also suffers the burden of inflation. Thus, farm parity, the relationship between prices received by the farmer and prices paid by the farmer, was actually lower in 1972—74 percent—than in 1963—80 percent.

The farmer is not getting rich at the expense of the housewife. It is true, of course, that last year was a good year for farmers. But it was one of the few good years that the farmer has enjoyed over the past 20 years—a period during which millions of people were forced to leave the farm because they could not make a decent living, because of the price-cost squeeze.

In recent months the farmer has begun to catch up a little. Thus, in 1971 the disposable income for farmers was 78 percent of the disposable income for nonfarmers and in 1972 that ratio increased to 83 percent. He still has a considerable way to go. He knows only too well that if his prices are rolled back while his costs continue to rise his income will decline, all the while the income of his city brothers will continue to rise. He believes this would be unfair. I agree with him.

Mr. President, in the case of meat we have a situation where demand has temporarily outstripped supply. The American's annual per capita consumption of beef has increased from 85 pounds in 1960 to 160 pounds in 1972. Moreover, worldwide consumption of meat is increasing rapidly.

Supply of meat has not kept pace because the prices in relation to costs over the last decade have not been high enough to encourage production. The so-called high prices today are a reflection of the fact that prices were too low over the past 10 to 15 years.

The situation has been compounded in recent months by sharply increased feed grain prices. The corn blight in 1970 reduced production here at home. Crop failures in the Soviet Union caused them to buy more of our feed grains. Shortages in soybeans, a necessary protein supplement in livestock feeding, caused those prices to rise dramatically. Also, adverse weather conditions throughout the Midwest have been a contributing factor. Cattlemen and feedlot operators have experienced extraordinary costs in recent months due to death losses and increased expenses attributable to the weather.

Mr. President, there is a real need to increase meat production in this country. But I would suggest that all this talk about ceilings and price rollbacks will serve to reduce production rather than to increase it. Thus, we have done the consumer no favor here.

Mr. President, I would suggest that farmers will tolerate a ceiling today if they can count on some fair treatment tomorrow. They do not want to be singled out for special privileges, neither do they want to be singled out for special punishment. They want to do their part in solving the inflation problem, but they see no reason why they should carry a greater burden than others. Thus, if they are to operate under a ceiling today, they want to have some confidence that their prices will rise in the future along with all other prices. All they want is fair treatment and if they are not treated fairly the laws of economics will dictate that we will not get the increased farm pro-

duction that all experts claim that we need.

JOHNNY STILL CAN'T READ

Mr. BROCK. Mr. President, a recent column by Joseph Alsop sounded a clear warning that a crisis in education persists in this country.

In spite of forced busing, in spite of billions of dollars, in spite of the rhetoric of the social planners, Johnny still can't read.

Alsop's documentation of the failure of our educational system, particularly in our large cities, is a grim commentary which will, I hope, bring us to the realization that new directions and new leadership are desperately needed.

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

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

[From the Washington Post, Mar. 28, 1973]

JOHNNY STILL CAN'T READ

(By Joseph Alsop)

It is not the sort of stuff headlines are made of, but the deepening crisis in American education is still the most ominous single feature of our political landscape. Consider the following facts:

ITEM: The Supreme Court has just refused to strike down the discriminatory system by which our schools are largely financed by property taxes. The court was probably wise not to order a judicially-contrived educational earthquake. But that still leaves rich school districts paying lower taxes and getting better schools, and poor school districts getting poorer schools while paying higher taxes.

ITEM: Only a few decades ago, New York City's school system was still a model for other big cities. The other day, however, the annual citywide reading tests showed that the New York system had once again dropped further behind in teaching the city's children the most basic and essential skill, which is how to read. The reading level has been declining continuously in the New York schools since 1965, when testing began.

ITEM: There is a class difference here. Queens and Staten Island children, still predominantly white and middle class, are still reading at the level of the national averages, and sometimes above. But in the overwhelmingly black Williamsburg district in Brooklyn, for instance, the boys and girls in the ninth grade are reading at the level of normal sixth graders. That means most of them will leave school effectively illiterate.

ITEM: Really recent exact figures are not available. But in all big cities in America, the black and Puerto Rican components in the school populations—the ones who are not learning to read, in fact—have been steadily increasing, year by year. In most American big cities beginning on a North-South line from Chicago to New Orleans line and going eastwards, the whites are now in the minority in the school populations, both in North and South.

The social meaning of this for the future hardly bears thinking about. In the last half centuries, great numbers of Americans—all the so-called ethnic groups, for instance, and the Chinese- and Japanese-Americans—have escaped from partial or total exclusion into full success in the larger American society. But these groups escaped by having the tools to escape; and reading was the first tool.

Thus the meaning of the school crisis is that our last large excluded groups, the great majorities of the blacks and Puerto Ricans, are not being given the tool they need most of all, in order to escape into equality. There is no use talking about equal opportunity, for people who cannot take advantage of opportunities, even when offered. And there are precious few opportunities in modern America for persons who leave school without the ability to read and write and figure.

So consider the future of so many of our big cities, which are getting nearer and nearer to being straight-out ghettos half hidden behind financial and business districts! All this in sum betokens a horrifying failure of American society today, and an even more hair-raising problem for American society in the future.

Yet the soggy silence that now prevails on these subjects also has its own grim, quite current political meaning. After all, you do not look to hold-the-line conservatives like President Nixon for creative answers to vast social problems. For such answers you look—or used to look—to the liberals who want change and do not fear it.

But in the crucial area of education, as in so many other areas important for domestic policy, the American liberals have fallen strangely silent. They cannot even find the energy to challenge the nonsense of pseudo-thinkers like Harvard's Christopher Jencks, who has grandly announced that it is hopeless to expect the schools to educate the people who need education most.

The reasons for the liberal silence on education are pretty obvious, too. The slogan-think remedy of the past was school desegregation, forcible if need be, and by busing if need be. But three things have happened to make the slogan-thinkers taciturn.

Busing has proved to be a horribly hot political potato, especially with the white blue collar workers who are so vital to the Democratic Party. Most black people have turned out not to want their children bused, any more than blue collar whites want it. And even where the device has been given the fairest kind of chance, in places like Berkeley, Calif., mere forcible desegregation has turned out to do little or nothing to raise black children's reading levels.

This is a thing that can be done, and has been done, although it costs a good deal of money. It was done, for instance, very briefly, by the more effective schools program in New York City—which was killed by liberal hostility and liberal neglect, because it did not suit the slogan-thinkers. But is it really liberalism (or is it bankruptcy?) To have no problem except dismantling the country's foreign policy and national defense? All the same, that is American liberalism today.

OPEN THE TRUST FUND

Mr. KENNEDY. Mr. President, I call the attention of my colleagues to a column by Tom Wicker appearing today in the New York Times which I believe once again clearly states the argument for providing cities and States the flexibility to use highway trust fund moneys for mass transit.

Mr. Wicker notes that Boston has brought urban interstate highway construction to a complete halt after a 33-month study convinced both city and State leaders that the disadvantages far outweighed the benefits.

He could have also cited nearly two dozen other cities where similar decisions have been made regarding specific interstate routes.

Cities across the Nation require mass transit if they are to meet the basic transportation goal of enabling people and things to move from place to place.

Yet they are consistently denied the option of using Federal transportation funds for the programs they see as absolutely essential to meet their transportation needs. The Senate has acted twice to provide funds for that purpose from the trust fund. And this year the House will hopefully have the chance to vote on it, and hopefully will join in approving the flexible use of trust fund moneys.

I ask unanimous consent that Mr. Wicker's article appear in the CONGRESSIONAL RECORD at this time.

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

TWO TRACKS VERSUS EIGHT LANES

(By Tom Wicker)

New or renewed rail transit is an idea whose time has come, despite the highway lobby's propaganda. Here are a few facts to support that proposition:

The new Lindenwold line from Philadelphia to the South New Jersey suburbs began service in 1969 and now carries 42,000 riders daily, 40 per cent of whom are former automobile commuters. San Francisco and its sister cities have just opened the Bay Area Rapid Transit system; Washington is digging a new subway, and so is Atlanta; Miami has voted the funds to build an elevated system that by 1979 will carry 400,000 passengers daily in fully automated trains over 58.7 miles of track, including the full length of Miami Beach.

Boston has stopped urban super-highway construction and is shifting its efforts to various forms of mass transit. In New York, the ground has been broken for a new Second Avenue subway; Baltimore and Buffalo have new transit systems in the planning stages.

While total transit ridership in the United States has declined since World War II, the largest part of the decline—contrary to popular belief—was in bus and trolley, not rail mass transit ridership, and much of the rest is explained by ancient equipment and inadequate service. Rail lines are cheaper to build than superhighways and can move 40,000 people per hour, compared to 2,500 per hour for each highway lane. Modern trains of any number of cars require no more than one crewman, as on the Lindenwold line; but every bus must have a driver, pushing labor costs much higher.

Electrified rail transit cuts pollution; when the Chicago Transit Authority updated its Skokie line, the result was a reduction of 2,000 auto trips per day and a 13 per cent drop in hydrocarbons in the air along the route. And rail transit does not require all that space for eight or 16 lanes of concrete, huge cloverleafs, and acres of downtown parking. Above all, rail transit can bring communities full cycle to the solution of a problem described as follows by Gov. Francis Sargent of Massachusetts:

"We found that we had defeated our own purpose, and that we have been caught in a vicious cycle. More cars meant more highways, which meant more traffic jams, more traffic jams meant the need for more highways, which meant more traffic jams—and the need for superhighways. The result today? Miles and miles of bumper-to-bumper traffic, creeping along hopelessly crowded highways. The side effect? Billions of dollars spent, more and more cities torn apart, more and more families uprooted and displaced. Worst of all—failure to solve the problem that started it all: how best to get from one place to another."

All of this (most of the foregoing facts are from Railway Age) is why nothing in the murky world of public affairs seems clearer than that at least part of the massive Highway Trust Fund ought to be made available to communities that prefer new or renewed rail transit to more superhighways. The Sen-

ate voted to do so last year, and has done so again in 1973. The Nixon Administration favors the proposition.

The need is apparent from the facts that general revenue support for mass transit cannot be expected to reach more than $1 billion a year, while the Department of Transportation estimates that the cost of a minimally acceptable urban mass transit system would be $28 to $34 billion by 1980.

Yet, when the House debates the matter later this month, it may well reject the idea; last year, it did not even vote on it. That is primarily because the highway lobby has pictured this limited step as the beginning of the end for highway construction and has succeeded in rallying representatives of rural states and areas against it. The truth is that the mass transit amendment would only permit cities, if they chose, to use their shares—about $850 million a year—of the $18-billion trust fund appropriation for rail or bus transit rather than for urban highway construction.

To the lobby's other argument that the automobile driver finances the highway fund (through his gasoline taxes), the quotation from Governor Sargent provides the answer; the auto driver also creates the need for mass transit.

Speaker Carl Albert may hold the key to the situation. Last year, he effectively sided with the highway lobby and the mass transit amendment was ruled not germane to the highway appropriation. But in this session, reforms have increased Mr. Albert's potential strength, and personnel changes have given him more power over the vital Rules Committee than any Speaker has had in years. His support could not only clear away parliamentary difficulties but help the mass transit forces pick up the votes they need on the House floor. With that stroke, the Speaker could gain new standing among the urban members who have been the least impressed with his leadership.

A TALE OF TWO SUBSIDIES

Mr. PERCY. Mr. President, I want to bring to the attention of my colleagues an unusually useful analysis of two contrasting Federal subsidy programs.

Mr. Tom Littlewood of the Chicago Sun-Times had done all of us a service by digging into the section 235 homeownership program for low- and moderate-income families as well as the program of Federal subsidies for the construction and operation of commercial shipping vessels.

In this time of concern about our spending priorities and objectives I believe Mr. Littlewood's article is excellent reading for all public officials.

I ask unanimous consent that the article headlined "Housing Subsidy in Peril but Shipping Is on High Tide" be printed in the RECORD.

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

HOUSING SUBSIDY IN PERIL BUT SHIPPING IS ON HIGH TIDE

(By Tom Littlewood)

WASHINGTON.—This is a tale of two subsidies and what has happened to them. One has been in existence since 1936 and was intended to give a helping hand to the owners and builders of cargo-carrying ships that fly the U.S. flag. The other was enacted in 1968, shortly before the election of President Nixon, and was designed to make it easier for people in the $5,000 to $8,000 income range to own their homes.

The statute books are filled with programs that pay subsidies out of the federal treasury, but some meet stubborn resistance and others meet none at all, which is the underlying message of this tale. Subsidy is another word, simply put, for money from the government.

First the housing subsidy for lower-income families and then the payments to the maritime industries.

SECTION 235 A SOCIOLOGICAL TRAP

Sen. Charles H. Percy (R-Ill.) staked his reputation as the boy wonder of the business world on the thesis that it would be politically and practically feasible to improve the lives of the poor by assisting them in the purchase of places that would otherwise be out of reach.

It was largely through his persistence that Congress included in the 1968 housing bill section 235, the first large-volume, home-ownership subsidy program ever to be tried in the low-income market. People who qualified would live in privately built and financed dwellings, but the government would pay the monthly mortgage cost above 20 per cent of the family income.

For many years, standard FHA and VA-insured mortgages have been available, but the average income level of those eligible for that help is nearly $15,000 now and the average price of the new house is about $25,000. Moreover, the $7 billion of lost revenue resulting from the deduction of mortgage interest and real estate taxes from the federal income tax constitutes the biggest, middle-class housing subsidy of all.

But the incoming Republican administration refused to appoint members of the foundation—because, one suspects, of the obvious social policy implications of Section 235.

Although many subsidized dwellings were built or rehabilitated in suburbs, the U.S. Civil Rights Commission complained that racial patterns were scrupulously not disturbed. The few sales to blacks of homes in the suburbs under Section 235 were in all-black enclaves. Anthony Downs, chairman of the Real Estate Research Corp. in Chicago and one of the few experts on the complicated operation of the program, said most of the suburban buyers were "already suburbanites" and there has been very little dispersal of inner-city poor into outlying and suburban neighborhoods.

The potential was certainly there, but in its testing phase the program was not used as a tool to obtain significant racial economic integration of higher-income communities.

Until January of this year, when the White House suspended new applications, the program has been responsible for about 425,000 new and rehabilitated units, plus about 78,000 existing units that were used. In 1970, one-third of all new houses sold for less than $25,000 were purchased under the Section 235 program, it was estimated.

The average acquisition cost was $18,300, and the average family income of the purchaser was $6,300. The subsidy to lower the monthly payments will be about $412 million in the next fiscal year, payable to the lenders.

A disproportionate share of the homes was in the South, where building costs are lower and the mortgage limitations are more realistic than in the urban North.

Percy said less than 1 per cent of the 6,647 purchases in the Chicago area have ended in default and repossession. The rate has been considerably higher in some cities.

Furthermore, the official who had responsibility for managing the program until his resignation, George W. Romney, the former secretary of housing and urban development, admitted that the FHA had a dismal management record. He mentioned that the program had been "made the vehicle of inordinate profits through shoddy construction, poor site location and questionable financing arrangements." Nearly one in four of the Section 235 homes contained "significant defects" at the purchase closing.

When the White House stopped all new commitments for subsidized housing, pending a six-month reassessment of the whole package, it was said that the interest subsidy had proven inequitable, wasteful, too expensive, ineffective, and "in most cases counter-productive to the greater solution of our urban and rural problems."

Despite its handicaps, Percy and Downs contend that the program has been remarkably effective and that deficiencies could be corrected by better management. It is a delusion, Downs believes, to think that private enterprise will invest in housing for low-income households in deteriorated areas without making an appropriate profit. He and Percy both would have preferred that more of the money had gone into higher-risk central-city rehabilitation and less into new structures in the suburbs.

The word from the White House, nonetheless, is that Section 235 is highly unlikely to survive the current review process.

It is important to identify the real issues. Many powerful forces—the National Assn. of Real Estate Boards is an example—subscribe to the filter-down theory of housing: The tax subsidy is the key to a system of helping put middle-income families in better housing that they can take care of, then poorer families can move into the rundown housing that has been vacated, a process that goes on indefinitely.

NAREB protested last year that the FHA "preoccupation" with interest subsidies had "seriously jeopardized the future existence of the FHA's economically sound mortgage insurance program."

Percy has this answer to that: "Removing the federal role in favor of the operation of a free market would tend to concentrate the poor in older, declining neighborhoods abandoned by the families of higher-income brackets moving to the suburbs."

Section 235's potential for large-scale economic integration of outlying and suburban neighborhoods is why the administration wanted no part of a home-ownership foundation that might have busied itself with such sociological questions. In his study of the program, Downs recommended a requirement that at least 20 to 25 per cent of the subsidized households "move directly from inner-city poverty areas."

SHIPS AFLOAT ON SEA OF GREEN

And now a quite different kind of subsidy, actually a combination of two subsidies that have had a longer, happier and less precarious life, for reasons that will be examined later.

In its wisdom, Congress determined many years ago, in 1936, that it was essential that certain selected shipping routes in foreign commerce be served by the U.S. merchant fleet.

To this end, the federal government picks up half or more of the cost of vessels built in U.S. shipyards, an arrangement that helps the shipbuilder by bringing the price down close to what the same vessel would cost in a foreign shipyard. That means the government invests as much money in a new ship as the builder.

To the same end, after the ship is afloat, the government pays the difference between the costs that U.S. shipping lines have and those that their foreign competitors have. Most of the difference is the higher wages that crews earn aboard American ships. In 1969 the government paid 67 cents of every dollar of wages aboard subsidized cargo vessels and nearly a quarter of all the operating expenses of such ships.

Gerald R. Jantscher, a research associate at the Brookings Institution, assembled this information for a study that was published Saturday by the Joint Economic Committee of Congress.

Within the space of 20 years, federal sub-

sidies for the construction and operation of commercial ships have grown from $121 million a year to more than $500 million a year in the President's new budget, Jantscher reported. In fact, maritime assistance is the only sizable subsidy program that was not cut in the budget for the next fiscal year.

In the election-year budget period, $425 million was appropriatetd for the construction subsidy alone, compared with a previous average of just under $100 million.

Mr. Nixon visited a shipyard in Southern California last year to dramatize a new initiative.

"A great expansion in the amount of these subsidies is now under way," Jantscher wrote, "in fulfillment of the President's pledge to rebuild and revitalize the merchant marine. . . . There is no way of telling how much administration's ship construction program will cost by the time it is finished. Uncertainty surrounds the number of vessels that will eventually be built. It reflects no credit on any of the parties connected with the program that no public estimates of its cost were ever demanded or volunteered as it moved toward enactment."

The operating subsidy was broadened in 1970 to cover not only steamships operating over the essential ocean routes but bringing in a bulk carrier on the Great Lakes that goes to Canadian ports.

There are certain additional benefits too complicated to describe in detail—for example, the "cabotage" laws which require that goods in domestic oceanborne commerce must be carried in U.S.-built and registered vessels. Over 20 years, Jantscher estimated, these have added $3 billion to shipping costs that are eventually passed on to the consumer.

Shipowners also enjoy a unique tax advantage that Jantscher said "constitutes an extraordinary form of public assistance available to no other industry."

Essentially, the government lends back the taxes that a ship owner is supposed to pay, interest-free and with no time limit, provided the earnings are invested in new U.S.-made ships and equipment.

How can this be? There are several reasons. The maritime unions are obviously influential in Washington. Some of the subsidy increase is an attempt to buy labor peace on the waterfront. Nor can there be any mistake about Mr. Nixon's interest in stimulating export trade with the Soviet Union and other nations, much of it to go in U.S. ships.

Although maritime employment is not large, it is strategically located. The President's election-year announcement at a California shipyard reflected both the West Coast spin on his administration (John Ehrlichman is from Seattle; Caspar Weinberger, who put together the new budget, is a Californian) and also the fact that shipping is important to politically important states, on the Pacific, Gulf and East coasts and increasingly on the Great Lakes.

THE END OF THE DRAFT AND THE ALL-VOLUNTEER FORCE

Mr. SCHWEIKER. Mr. President, I was gratified to learn that Secretary of Defense Elliot Richardson has announced the administration will not request an extension of the induction authority after it expires June 30. Furthermore, they will also not request standby authority, thereby effectively ending the draft until and unless the Congress passes legislation specifically authorizing the President to draft young men into the Armed Forces.

The President has delivered on his promise to end the draft—not merely to stop drafting, leaving the threat of a standby draft hanging over the heads of our young people—by formally and finally announcing that he will not seek such authority from the Congress. He is to be applauded for his performance on this issue.

This is a sign that we have successfully achieved the all-volunteer force. However, some loose ends remain to be tied up. With Senators STAFFORD, BENTSEN, TOWER, and CRANSTON, I introduced S. 368, the Uniformed Services Special Pay Act earlier in this Congress. This bill was passed in identical form in the House last year, but the Senate failed to act on it. I have been informed that Secretary Richardson intends to provide the Congress with his recommendations on this legislation in the near future. It is essential that the appropriate committees consider this measure as soon as they can, in view of the announced end of the draft, and the necessity of assuring adequate manpower flows in those skilled areas to which this legislation addresses itself.

Secretary Richardson has announced that successful institution of the all-volunteer force is among his highest priorities. As one of the earliest proponents of the all-volunteer force, I am very pleased to hear this, since obviously it represents not only his views, but those of the President.

Roger Kelley, the incumbent Assistant Secretary of Defense for Manpower and Reserve Affairs, who managed this most difficult transition so successfully, deserves high praise for his successful efforts.

VETERANS' PROGRAMS IN OREGON

Mr. HATFIELD. Mr. President, the State of Oregon has long been a pioneer in creative, effective veterans' programs which might well serve as models for other States. The following is a brief outline of benefits available to Oregon's veterans today, which I ask unanimous consent to have printed at this point in the RECORD.

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

THE OREGON VETERANS' PROGRAM

The State of Oregon has one of the outstanding veterans' benefits programs in the nation. Even before the passage of the original GI Bill in 1944, the Oregon Legislature had submitted two measures to a vote of the people to create State veterans farm and home loans, and an educational aid program. Both measures were approved by the voters in 1944, and the next year the Legislature created the Department of Veterans' Affairs for the purpose of administering the loan and educational aid programs, and providing counseling and claims service to veterans and their dependents and survivors.

The unique feature of the Oregon veterans' benefits program is its farm and home loan offering. Only one other State—California—has a program like it. In Oregon, eligible veterans may borrow up to $24,500 to acquire a home and up to $80,000 for a farm, at a current low interest rate of 5.9 percent. Until May 27, 1971, the rate was only 4 percent. Veterans borrow this money direct from the Department of Veterans' Affairs, which issues self-liquidating bonds periodically to obtain the loan funds.

Since the program started in 1945, the Department of Veterans' Affairs has granted more than 95,000 loans in excess of $1.1 billion. The program has been averaging 660 loans every month in the amount of $12 million, and a new record for dollar volume was set in calendar 1972 when 7,927 veterans borrowed $144,480,202.

Of the $1.1 billion borrowed, veterans have repaid $573 million in principal and $204 million in interest. Monthly repayments are averaging over $9 million, with interest payments alone amounting to $2.5 million a month. The veterans' repayment record is so good that only 455 homes have had to be foreclosed out of more than 95,000 loans granted, and the serious delinquency rate averages only around 45/100ths of 1 percent.

The Oregon veterans' farm and home loan program has been a self-supporting operation and has, in fact, accumulated net earnings since 1945 of more than $25 million. This money is ploughed right back into loans.

Veterans of World War II, Korea and the Vietnam era who meet certain residence requirements are entitled to the loans, as are the unremarried widows of Oregon servicemen who died on active duty and the wives of men who were missing in action or prisoners of war.

Oregon also offers educational aid benefits to her returning servicemen, in amounts ranging up to $50 a month. This program is designed to help students who have already exhausted their federal GI schooling benefits and who wish to continue their studies, as the state benefits cannot be paid at the same time the veteran is receiving federal GI aid. Since the program started in 1945, payments have gone to nearly 15,000 veterans in the total amount of $4.4 million. The average payment to each veteran under this program has been $290.

The Oregon Department of Veterans' Affairs offers a full range of counseling and claims service to veterans and their survivors, and coordinates these services with county veterans' service officers situated in all but one of Oregon's 36 counties.

Another service of the Department of Veterans' Affairs is that of acting as guardian of the estates of certain incompetent or minor recipients of Veterans Administration benefits. This program came into being in 1965, and in the seven years since then the department has handled 712 cases, of which today slightly over 500 are active accounts.

FOOD PRICES IN PERSPECTIVE

Mr. McGEE. Mr. President, on Thursday, April 5, National Farmers Union President Tony Dechant is scheduled to make a speech in Midland, Tex., on the subject of "Food Prices in Perspective."

An advance copy of his remarks was contained in the March 30 Washington Newsletter of the National Farmers Union on page 3. Tony's remarks really strike to the heart of the issues surrounding food prices and I would hope my colleagues would study what he has to say. It is all too convenient to target the farmer and rancher as the scapegoats of the supermarket. Many in this body do so and it is understandable, because the farmer and rancher of this Nation have very little political clout these days. Therefore, it is easy to ignore them.

However, if we are to be equitable in our treatment of all sectors of our society, then a little informed understanding is in order concerning the price of meat in the supermarket.

I ask unanimous consent that Tony Dechant's remarks be printed in the RECORD.

There being no objection, the remarks

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

FOOD PRICES IN PERSPECTIVE

When farm prices are low, farmers go bankrupt by the thousands. But now that one sector of the farm economy (livestock) has finally reached 100% of parity, cries of anguish are heard across the land and President Nixon orders price ceilings that will inevitably put the livestock producer again face to face with bankruptcy. Hardly a word of concern is expressed for the wheat farmer who is receiving 62% of parity in the "open market" or for the feed grain farmer who is receiving only 63% of parity in the marketplace.

The farmer and rancher, of course, are the most convenient targets in the discussion over higher food costs. The public pressure against fair farm income started more than a year ago. It was in March, 1972 that a large retail supermarket placed an ad in an Eastern metropolitan newspaper which blamed the farmer for rising prices and advised its customers to "eat less meat."

At that time, the average price per hundredweight the farmer received for beef was a dollar less than it had been 20 years ago. But retail meat prices in the chainstores had doubled. In 1952, swiss steak was 85¢ per lb. but in 1972 it was $1.69. In 1952, hamburger sold for 49¢ per lb. but in 1972 it cost 97¢ per lb. Somehow, the chainstore newspaper ad failed to mention the 100% increase in retail prices while the farmer's price had only inched back to the level of 20 years ago.

As long as retail food prices remained cheap and most income was going up, no one seemed to notice or care that the farmer's income was depressed and his cost of production was jumping by leaps and bounds. (A 2-row corn picker that sold for $1,500 in 1952 increased by 300% to $4,480 in 1972.) Only the farmer realized that the $38 he received for prime cattle in 1972 was 91% of parity.

A House Agriculture committee staff report, released last week, shows that overall farm prices for food have increased only 6% above what they were 20 years ago. But at the same time, wholesale food prices have jumped by 20% and retail food prices are up 43% over the past 20 years. The study goes on to show that agricultural productivity per man hour has increased by 330%. That compares with an increase of only 160% per man hour in manufacturing industries.

In other industries, prices have been managed upward at a rather steady pace. Consumers have had years to become accustomed to steadily increasing prices on everything from light bulbs from General Electric to automobiles from General Motors. But because agriculture prices may fluctuate widely in the short run, as they have since the Russian grain deal, consumers are suddenly faced with large increases in food prices which they did not expect and did not plan for in their monthly budgets.

Last year the Price Commission found that livestock production and farming are highly competitive enterprises and there is no opportunity for "administered price" inflation as occurs in such concentrated industries as steel, automobiles, and farm equipment manufacturing. Perhaps the only way that producers can maintain fair prices is to create the market structure and marketing system which other sectors of the economy have shown can achieve administered production and administered prices that move up with costs. This may be the only way to avoid the great contrast between the short-term leap in prices, which brings pressures to break prices, and the long-term creep in farm prices, which often leaves the producer with very inadequate returns.

Under the present system, the farmer has no control over the price even at the first point of sale. Therefore, it is impossible for him to be responsible for prices which lurch from depression to inflation. But there is no question that a farm program which balances supply with demand and assures parity of income for the farmer would stabilize farm prices. While this might not guarantee stable retail prices, it certainly would make it easier to identify the culprits in any future price spirals.

EDITOR'S NOTE: The above is based on remarks prepared for delivery by President Tony Dechant in Midland, Texas on April 5, 1973.

THE SUCCESS OF ERTS

Mr. MOSS. Mr. President, the World Environment Newsletter, prepared by Philip W. Quigg for the International Institute for Environmental Affairs and published in the magazine World for April 10, 1973, contains a report which should be of considerable interest to the Senate.

I ask unanimous consent that the item be published in full for the benefit of the Senate.

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

THE SUCCESS OF ERTS

When the possibility of remote sensing by satellites in space became a reality, many countries were worried. It raised the "spy-in-the-sky" specter, that first emerged more than a decade ago when it was surmised that the Soviet Union would not tolerate U.S. satellites passing over its territory.

When the Earth Resources Technology Satellite (ERTS) was being designed by NASA, developing nations especially were fearful and resentful. Many believed that the information obtained would be closely held by the United States and used against them to exploit natural resources of which they were unaware.

Now, after eight months in polar orbit ERTS is a spectacular success not only technologically but politically as well. Although some lingering resentment remains, nations have been reassured. As promised, the United States has made the 130,000 or more pictures transmitted available to all, and their immense value is recognized. The United States has also volunteered to make a complete master tape available to the United Nations if an agency is set up to service those who need and want pictures. At the meeting this winter of the U.N. Working Group on Remote Sensing of the Earth by Satellites, nations that have not said a kind word about the United States for years were full of praise.

THE TERMINATION OF CERTAIN AGRICULTURE PROGRAMS

Mr. McGEE. Mr. President, the executive branch, through a series of unilateral actions, has terminated numerous agriculture programs, stating that the benefits these programs render are minimal at best.

However, in looking at the termination of these programs, it is apparent that very little informed thinking went into the decision to abolish them. Today, therefore, I would like to offer a little education course on one particular program, the resource conservation and development program of the Soil Conservation Service. In an article appearing in the U.S. Department of Agriculture's January publication of Soil Conservation, it was pointed out how the R.C. & D. program benefited the community of Kemmerer in my State of Wyoming.

The author of the article, Richard L. Thompson, who is the R.C. & D. project coordinator at Kemmerer, made a very important point when he noted:

The people of Kemmerer know that R.C. & D. projects promote the concept of "self-help," and that's what they have done.

Apparently, the President does not feel the same way about the Soil Conservation Service as he has moved to severely cut back on its operations.

I ask unanimous consent that the article be printed in the RECORD.

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

HELP YOURSELF

(By Richard L. Thompson)

There was a time in Kemmerer, Wyoming, when the drinking water took on a "different" taste right after a storm. And esthetically the town wasn't any better off. People approaching Kemmerer from one end of town were greeted by an open garbage dump, and from the other end by a rundown cemetery.

Then, in 1968, things began to happen. People in Lincoln and Uinta Counties organized the Western Wyoming Resource Conservation and Development Project to help in the development of urban and agricultural areas in the two counties.

RC&D projects are locally initiated and directed, permitting local people to work together for mutual goals. The Soil Conservation Service has U.S. Department of Agriculture leadership in providing assistance to sponsors of RC&D projects.

Soon after the Western Wyoming RC&D Project was organized, Kemmerer officials asked the project's executive committee for help in developing a sanitary landfill and in improving the town's cemetery. The committee approved the request.

Today the town's cemetery is no longer an eyesore, and a landfill has replaced the old dump, which has been covered with soil and allowed to go back to native vegetation.

With the support of the RC&D committee, Kemmerer obtained a grant from the Department of Housing and Urban Development for the design and installation of a new water supply system.

The people of Kemmerer know that RC&D projects promote the concept of "self-help," and that's what they have done.

ANTIENVIRONMENTAL BARRIERS BILL

Mr. PERCY. Mr. President, on March 6 Senator DOLE and I introduced S. 1105, the antienvironmental barriers bill. This measure would provide income tax incentives for the modification of certain buildings to remove architectural and transportational barriers to the handicapped and elderly.

Since that time, I have received a highly favorable response to the bill from professionals who work with our handicapped and elderly citizens. I am overwhelmed at the enthusiasm that has been voiced all across the country, from States such as New Mexico, West Virginia, Missouri, Michigan, Idaho, Massachusetts, Illinois. Numerous State offices of vocational rehabilitation, State departments of public welfare, State commissions on employment of the handicapped, and associations representing various constituencies of handicapped people have writ-

ten to me welcoming the introduction of the anti-environmental barriers bill and expressing wholehearted support of it.

For example, Mr. Donald H. Kappes writes:

Please be advised that as a professional in the field of rehabilitation of the handicapped and as the Delaware State Acting Director of Vocational Rehabilitation I lend my full support to your Bill. It would seem that in this day and age of maximizing the potential of individuals to "do for themselves" we must strive to lower the barriers which prevent this possibility.

A member of the California Governor's Committee for Employment of the Handicapped and an adviser to the State department of vocational rehabilitation says:

I have for years fought for this very principle (of accessibility of public buildings to the handicapped) . . . I am convinced that this kind of incentive and/or an investment credit will accomplish what you and I realize would mean so much not only to the disabled but to the community as a whole because of the reduction in the welfare load and the increase in tax revenue.

The director of Pennsylvania's Bureau for the Visually Handicapped:

I can simply state that any action to encourage removal of environmental restrictions to the handicapped population of our Nation must be considered of prime importance.

The administrator of Ohio's Rehabilitation Services Commission writes:

We feel that the architectural and transportation barriers which often prohibit use by our handicapped and elderly are a major problem to society. However, to impose requirements that barriers be eliminated without incentive or financial relief could easily create more problems than solutions. It appears that your legislative approach provides both the incentive and the financial relief that would be beneficial to all of society.

From Georgia, the director of the division of vocational rehabilitation writes:

This is a practical, long needed, forward looking idea that can eventually be of very considerable benefit to a large segment of our citizens. Obviously, in the long run, it will help the people which the Vocational Rehabilitation Agency works with to live more normal lives, but there are many hundreds of thousands of people who will also be helped by it. . . . I am also impressed with the fact that this bill doesn't cost money, even though it may defer a little income tax for a few corporations, it won't amount to much; in fact, in all probability, in the long run, it will mean more income tax paid by these corporations. It is a very practical approach without spending government money.

Says the executive officer of the Indiana Rehabilitation Services Board:

The approach you have chosen seems both workable in terms of the objective and consistent with our private enterprise system. I am hopeful that your approach will provide the incentives needed and furthermore direct governmental action will be foreclosed. You can count on Indiana Rehabilitation Services and myself for support.

Needless to say, I am greatly pleased that my proposed legislation has met with such a positive reception among the professionals in the field of vocational rehabilitation and employment for the handicapped. I urge my colleagues in the Congress to press for prompt and positive action on the antienvironmental barriers bill.

THE IMPACT OF GROWTH ON THE ENVIRONMENT

Mr. MUSKIE. Mr. President, on April 2 and 3 of this week, the Subcommittee on Air and Water Pollution initiated a series of hearings on the impact of growth on the environment. Of particular interest and importance was testimony presented to the subcommittee by Dr. George M. Woodwell of the Brookhaven National Laboratory on the "Ecological Effects of Growth."

Dr. Woodwell has made a significant contribution to identification of the impact of man's activities on the world's life support systems. His conclusions are provocative and significant. He challenges many of the assumptions on which our industrial-technical society has functioned for the last 100 years.

Three specific conclusions which Dr. Woodwell has drawn highlight the importance of his commentary:

1. The assumption that the environment has an assimilative capacity for all human insults is misleading and inconsistent with the imperative that the earth's biota be preserved for continuous use by man. An assimilative capacity for organic matter or heat does not imply an assimilative capacity for mercury, lead or other substances that may accompany the organic matter. The evidence is overwhelming that man has already exceeded the assimilative capacity of the biosphere for CO_2, chlorinated hydrocarbon pesticides, PCB's, dust and possibly fossil fuel energy. Assimilative capacity is a useful concept only within those areas of the earth that man determines that he will manage intensively.

2. Economic principles are an insufficient basis for management of the biosphere or such large segments of it as the United States controls. The limits of the earth can be accommodated by recognition of the fact that the biosphere is a series of interacting units, oceans, forests, estuaries, cities, agricultural units, each of which has definable characteristics including interactions with other units. Some such as the oceans, cannot be managed intensively; other such as cities and agricultural regions, must be. The design and management of these units is an essential topic for science and government. It is encouraging that our laws are now beginning to reflect in their objectives some of the realities of the biosphere.

3. The pattern of change necessary in the design of human activities is clear. The further diffusion of toxic influences around the globe must be checked. A certain amount of retrenchment and repair is necessary to assure the stability of biotic resources. Cities cannot be allowed to dispose of wastes in the oceans; fresh water supplies, nutrient elements and mineral resources are to be conserved and recycled; estuaries and coastal waters cannot be used for cooling power plants or ursurped for other industrial uses: they are essential to maintenance of the oceanic biota, including especially the fisheries.

In order that my colleagues may study and react to this important contribution to understanding the impact of growth on our environment, I ask unanimous consent that the testimony of Dr. Woodwell be inserted in the RECORD.

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

ECOLOGICAL EFFECTS OF GROWTH

Many of the ramifications of growth have been explored recently in documents familiar to you such as "The Limits to Growth" (Meadows et al. 1972), "Bluprint for Survival" (Goldsmith et al., 1972) and Mishan's "The Cost of Economic Growth" (Mishan, 1967). These documents establish that many facets of growth as we have known it through the past century will slow or stop within the next decades. The principal question is whether we will have any control over the transition, avoiding the discomforts of Malthusian limits or analogous chaos. I applaud your attempt to address the question directly.

I shall examine an aspect of the cost of growth that has not been explored adequately in these documents or elsewhere. This is the dependence of man on the earth's living resources. I believe that the data I shall summarize indicate that this dependence is far greater than the world's intellectual, political or economic leaders have commonly acknowledged, that irreversible changes are occurring at the moment that have great importance for all, and that, while significant steps have been taken recently in our own air and water pollution bills, much more powerful steps are needed to prevent major, irreversible changes in the capacity of the earth for support of man.

First, the problem is urgent, perhaps the very most urgent of the plethora of urgencies of our time. There is a common tendency to think of pressures on environment as directly correlated with the growth of population; and so they are. The population of the earth is expected to double in the next 30–35 years. But pressures on environment are also a product of human activities. People who have cheap energy, for instance, can command more of the earth's resources than those who do not. Indeed, one of the advantages of having an abundance of energy is precisely this control over other resources. The aggregate demand on resources is the product of the number of people times their average impact per person. Various indices suggest that aggregate impact is increasing very much more rapidly than the population alone. A review of the "Gross Domestic Product", which does not include services, taken from the U.N. Statistical Yearbook (1968), shows an annual increase since 1950 of of 5–6% or a doubling time of 12–14 years (SCEP, p. 119). The Gross Domestic Product might be taken as one index of the aggregate effect of man on environment.

Similarly, the amount of energy used in support of the technological segment of society is another index of aggregate demand on resources. World use of fossil fuel energy has increased for the last century at about 4% per year, giving a doubling time of about 18 years (Hubbert 1969).

Such considerations suggest that the aggregate effects of man on environment are doubling in between 1 and 2 decades, perhaps less. This is a very short time when we consider the time required for major changes in social systems.

Certain effects increase at much greater rates. In the 15 years between 1951–66 a 34% increase in food production was accompanied by a 146% increase in use of nitrates and a 300% increase in use of pesticides. These relationships are shown in Table 1. There appears to be every reason to believe that the further intensification of agriculture will require similarly disproportionate efforts, perhaps more so, as less fertile lands are put into production. There is reason, moreover, to fear that toxification of the environment over large areas will aggravate this problem significantly. It is difficult to exaggerate the speed with which these problems are developing or their potential for disruption.

Second, contrary to the arguments of many economists and others, the earth's biota is our single, most important resource.

While protecting it will not assure wealth and grace for man, its decimation will assure increasing hardship for all. We can gain insight by examining certain aspects of the earth's energy budget, including especially the nonbiotic energy used directly by man in support of technology and the energy used by plants in support of the essential qualities of that thin surface layer of the earth that contains all life. I use energy for my simplification because energy is the basis of the wealth of the western nations and, as we have seen, it can be used as an index of total human activity. I use it also because those who advocate reliance on growth as a solution for all problems rely on an abundance of cheap energy which can be used to substitute resources for one another as need arises. Energy can also be used to measure the intensity of biotic activity on a regional or global basis. A brief discussion and comparison of these two flows of energy, that through man-dominated systems and that through the earth's biota, provides an indication of the scale of human activities and offers one index of the limits of the earth for support of man.

First, world consumption of non-biotic energy is summarized for 1967 in Table 2. Total energy use worldwide, including all non-biotic sources, was estimated as about 45×10^{12} KWH. Virtually all of it was from fossil fuels. About 35% of the total energy was used by the United States and about 86% by the "developed" countries. If all the people of the world used energy at the U.S. rate in 1967, total energy use would have been 6.6 times higher than it was then. Chauncey Starr, writing in the Scientific American in 1971, estimated that if the people of the underdeveloped countries were able to reach the present U.S. standard of living by the year 2,000, total world energy consumption would be 100 times the present consumption. This is, of course, impossible. Petroleum is the most versatile form of readily available energy at present. M. K. Hubbert in 1969 provided an authoritative appraisal of world supplies, reproduced here as Fig. 1. By either of the two limiting assumptions as to the total quantity of petroleum on earth, we can expect to enter the declining phase of extraction and use world wide by the year 2,000 or sooner. A 6 fold increase in rate of use is not possible; the maximum use may be 2 times the present rate, but will decline almost immediately because of declining supplies. Coal is a very much larger resource and might sustain greatly increased use, but at substantial cost to environment in strip mining and in air pollution. Nuclear energy's potential is not being realized for a variety of important reasons. Other non-biotic sources of energy are small. The possibilities for sustaining a doubling time of 15–20 years for energy use worldwide for more than another doubling look questionable at present simply on the basis of the size of the resources and the magnitude of the problems of extraction and distribution. Supplies of non-biotic energy are finite. The problems of supply in the next decades are sufficient of themselves to give pause to those who assume that growth as we have known it in recent decades can continue to float on cheap non-biotic energy.

The second flux of energy I wish to examine is the flux through biotic systems, which is summarized in Table 3. This flux, while often overlooked by those considering the issues of the human future, is far more fundamental to human welfare than the non-biotic energy we have been considering. With only trivial exceptions this energy represents all of the life of the earth including man and sets one limit on the size of human activities. Hidden in the table is all of human food, both plant and animal, some of man's fuel, his fiber and other resources; hidden also are services such as the stabilization of water flows, the amelioration of climate, the cleansing of water and air, and the control of plant and animal populations. These services are performed at no cost to man by systems that build and repair themselves. The services to man can be disrupted and lost; when they are, large costs accrue to society for flood control, for land stabilization, for subsidies of various types, for pest control, and for various forms of social repair and relief. It is reasonable to assert that when large increments in the earth's capacity or maintaining this flux of biotic energy are lost, the earth has lost a significant segment of its capacity for support of man. This energy, too, is finite: the total for the world was estimated most recently by Whittaker and Likens (1973) as 841×10^{12} KWH of net primary production per year. Net primary production is the dry organic matter or energy that is left over after the needs of the plants for metabolism have been filled; it is the energy available to support man, other animals and the decay organisms. More than 60% of the earth's net production is terrestrial, most of that in forests. Cultivated land provides for only 43×10^{12} KWH of this total. Probably somewhere between 5 and 10% of the world total is used directly now in support of man as food, fuel or fiber. The fraction of the net production of the sea used as food may be higher than that for land because we harvest only fish and may be harvesting fish now at close to the maximum rate that the oceans can sustain.

The most difficult question for us is how much of this flux is used indirectly in support of man through maintenance of essential service? How big can human activities get with respect to the rest of life before all aspects of life in the broadest context of the meaning of "life" are progressively degraded? It seems very doubtful that we will be able to substitute energy-based technologies for all of the functions of forests, for the functions of the biota of the oceans, or for the biota of the coastal wetlands. These are simple systems in the limited sense that they run themselves. They do not require man-controlled energy to sustain them; they do their job in support of man without any tinkering from us. How can we measure the total function of these systems in support of man? Keeping in mind the age-old principle of ecology that no single-factor analysis is ever adequate, we may use as one criterion a comparison of the flux of energy through natural systems with that through man-dominated systems to establish an estimate of the equivalence between the constructive forces of ecological succession and the biotically destructive forces of fossil-fueled man. Table 4 offers such a comparison (Woodwell 1972).

Less than 0.1% of the solar energy impingent on the top of the atmosphere is fixed in photosynthesis and made available as net production. This does not mean that photosynthesis is inefficient, it simply means that the rest of the solar energy is used in other ways. Photosynthesis provides an average worldwide density of net production of 1.4 KWH/m²/year of the surface of the earth. The non-biotic energy flux controlled by man when averaged over all of the land, is very much lower, about 0.3 KWH/m²/year; the average flux in the U.S. is about 1.67 KWH/m²/year, appreciably less than 5–15 KWH/m² characteristic of forests and agriculture in the temperate zone. In areas such as Manhattan and Brooklyn the flux of non-biotic energy probably rises to 1,000–3,000 KWH/m²/year (Table 4), nearly as high as the mean solar flux at the top of the atmosphere. These areas are clearly dependent on other regions for food, fiber and essential services. The significance of the worldwide fluxes and the U.S. flux require further analysis. What can we say about the effects on the biosphere of the growth of human activities to the point of using an average of 1.67 KWH of energy annually per square meter over the entire U.S.? The answer is sufficiently complex to be easily ignored. I shall offer an answer in two segments. First, a general segment showing the pattern of change in the biota caused by disturbance; second an examination of certain specific effects that are more or less directly caused by energy production.

There is a popular assumption that the earth's biota is a more or less random array of species, capable of adjusting by evolution or short-term successional rearrangements to virtually any disturbance. The assumption is misleading. A hundred years of post-Darwinian experience has shown that there are clear, quantitative relationships between species by whatever criterion we choose for measurement. If we choose energy, we can show that there is in any mature natural community a transfer of 10–20% of the energy fixed by the plants to animals that eat plants. Consumers of these animals commonly take 10–20% of this energy. And so on through two or three levels of carnivores. No matter how large the plant population and its net production, canivores will be rare because there is simply not enough energy transferred to them to support them in abundance. This does not mean that they are unimportant; they exert controls over the sizes of populations below them in the trophic structure that keep the flow of energy within the 10–20% limits. This simplification emphasizes that there are quantitative relationships between populations in nature. Natural systems have powerful interactive mechanisms to maintain these relationships and to preserve the integrity of biotic structure. There is overwhelming evidence that man is now overriding these interactive mechanisms by changing the basic chemistry, physics and therefore the biology of the earth, locally, regionally, and worldwide. What are the changes, how important are they, and what should be done?

The changes, no matter how complex they may appear and potentially advantageous in one or more respects, are reductions in biotic structure that can only be considered unstabilizing and retrogressive. The pattern is consistent throughout all of the plant and animal communities of the earth. First, the highly specialized carnivores, perched high in the food web, are reduced or eliminated either by the accumulation of toxins such as the chlorinated hydrocarbons or by changes in the food web below them that leave them without an essential ingredient of their environment. Second, the entire array of plants and animals is changed from one in which large bodied, long-lived species occur to one in which small-bodied, short-lived, rapidly reproducing plant or detritus-eating organisms predominate. We see this pattern now in the reduction of forests in the Los Angeles Basin by toxins in the air. The forest is replaced by low growing shrubs and annual herbs. It can be illustrated dramatically in agriculture where use of broadly toxic compounds as insecticides has eliminated predators and competitors not only of the target species but also of other previously benign inhabitants of the crop, releasing insect and mite populations as new "pests", all of which are herbivorous competitors with man for the crop. It can be seen in carefully designed experiments such as those at Brookhaven National Laboratory where ionizing radiation has been used to reduce the structure of a forest systematically to offer an opportunity to study such questions. It can be seen in the biotic impoverishment of the lands around the Mediterranean and in eutrophic and polluted streams, lakes and estuaries.

Data from Lake Pontchartrain obtained by R. Darnell (1961) illustrate these points for a disturbed estuarine lake. The lake was receiving significant quantities of organic matter at the time of the study and was turbid with Mississippi River silt. It contained a surprising diversity of consumers, most of which showed a dependence on two

or more sources of food (Fig. 2). Most, but not all, were dependent on organic detritus in some degree. It is clear that with further disturbance such as elimination of bottom-dwelling animals by siltation, by dredging, or by an oil spill, the fish populations would shift still more heavily toward plant and detritus-eating forms low in the list insofar as the fish survived at all.

It is important that here few species of fish were dependent directly on the plants; most fed only indirectly through detritus, zooplankton, or other fish. Disruption of one of these populations has implications throughout the system, although the changes are often difficult to measure. The pattern, however, is clear: a reduction of complexity favoring fewer forms that are detritus-feeders. We guess that this would mean a reduction in total production of fish; it would certainly mean a reduction in the variety of fish and in the opportunity for harvest of food that would otherwise be totally unavailable to man, who does not eat phytoplankton, most small zooplankton or detritus.

These are gross disturbances: minor disturbances such as small changes in the chemistry of environment must be assumed to bring increments of change in the same direction, although individual increments may be unmeasured and unmeasurable. We are learning now that fish and various other animals communicate by chemical signals at incredibly low concentrations. With the experience of DDT and radioactivity behind us we would be naive to assume that small concentrations of other substances cannot be accumulated, do not have significant effects at low concentrations, and cannot be returned to man in toxic quantities. Indeed, we must assume that they do have biotic effects and manage our affairs to assure that in those systems, such as the oceans, lakes, streams, and terrestrial communities, where biotic integrity is important to us, there is no accumulation of minor chemical insults that can become significant in total. This conclusion bears directly on the recent legislation on air and water pollution as we shall see in a moment.

There are abundant signs that growth in human influences has already progressed to the point where these individually small insults are world wide. Clear world wide effects seem to be limited to an increase in the CO_2 content of air, the worldwide distribution of DDT residues and PCB's to the point where virtually every organism contains detectable residues, to fallout radioactivity, to dust in the atmosphere, and to a worldwide reduction in biotic diversity through a combination of direct exploitation and changes in habitat. While each of these has potentially great significance for man, I use them only to emphasize that we are changing the physics, chemistry and biology of the earth worldwide, a clear sign that growth in the aggregate effect of man has already exceeded the point where we can rely longer on the classical assumptions of an Adam Smith-based economics, in which free enterprise organizes itself through the self-interest of the entrepreneur and the economy grows unbridled into a limitless world.

The magnitude and seriousness of the ecological problems associated with the current scale of human activities is shown most lucidly by a consideration of the acidity of rainfall in the Northeastern United States. Normally rain has acidity that is determined by the CO_2 in the atmosphere. On the pH scale rain usually has a value of 5.6–6.0, indicating slight acidity. Increasing acidity is indicated by lower numbers, each whole unit representing a 10 fold increase. During the past decade rainfall in widely separate parts of the Northeastern U.S. and in Scandinavia has been commonly in the range of 3.8–5.0, occasionally as low as 3.0 (Likens, et al. 1972). The high acidity has been correlated with an increase in the amount of sulphate and nitrate in the rain and is thought to be caused by these acid forming ions. The source of sulphur is probably fossil fuels, including both petroleum and coal. The sulphur is oxidized in combustion and forms sulphuric acid in precipitation. The nitrate is probably fixed by automobiles.

The effects of acid rains are many and important. The acidity is great enough to erode limestone and cement; it is also high enough to affect lakes and streams and to cause serious effects on terrestrial ecosystems. In southern Norway it is reported that the pH of streams has been lowered to the point of eliminating salmon runs (Klein, 1971). Likens and his colleagues (1972) report data suggesting that the acidity of Lake Michigan, the Illinois River, possibly the Ohio River, and the Mississippi has increased in the last 50–75 years. But the most important effects, as yet unmeasured in the United States are on the uplands. Acid rains leach nutrients from leaves and other tissues of plants. Weak acid is also commonly used to extract nutrients from soils. A decade or more of highly acid rains must be assumed to have had effects on nutrient cycles in terrestrial systems in the Northeast, including both forests and agriculture. Continued and increasingly acid rain might reasonably be expected to reduce net production of plants regionally making a major step toward the biotic impoverishment of a segment of a continent. A 10–20% reduction in net primary productivity for the region would be difficult to detect in less than several years. Such a reduction may be a reality now; it will be surprising if it is not demonstrated clearly within the next decade. The fact that the effects are diffused does not diminish their importance. A 10% reduction in the net primary production of the vegetation of the New England States would be a loss of solar energy equivalent to the output of 15 1,000 megawatt reactors operating at full capacity.

Solutions to the acid rain problem are elusive. The sources of the sulphur and nitrogen probably extend as far west as Chicago and south to the Gulf States. The possibility of shifting to low sulphur fuels throughout any significant part of this area seems remote in view of the mounting shortage of oil and the shift to coal. An early reduction in the consumption of fossil fuels, however necessary, scarcely appears possible.

The prospect for the Northeast is for continued, perhaps increasingly, acid rains that will levy a tax on all, but an especially heavy tax on those who gain their livelihoods directly from forestry, agriculture, fishing or related industries. It is a most insidious and regressive tax taken from a resource that should not be available for compromise in the endless series of "trade-offs" made in support of the classical forms of growth. This is a part of the uncounted costs of the growth we have experienced to date that has led to a non-biotic energy flux over the U.S. of 1.67 KWH/m^2/year. It is one sign that we are overdeveloped—that we not only cannot sustain further growth in the current pattern but must plan now for a substantial revision in the pattern and intensity of our activities.

Solar energy is the only long term source of energy available now for support of man. Within the next decades we can expect worldwide human demands on the flux of solar energy fixed in photosynthesis to increase with a doubling time of 10–20 years, perhaps less. These demands include food, fuel, fiber and environmental services. The demands extend not only to plants, they extend to the full range of diversity of the biota. This diversity offers not only stability and predictability of function, but also a wide range of resources to man.

The challenge for us is to recognize the dependence of man on the earth's biota and to bend our phenomenal technology resources to see that the biota is not only preserved but that its support for man is enhanced in the most energetically efficient ways consistent with long continued use. This is not a stance against growth; it is a challenge to redirect growth into new and exciting topics consistent with the facts of a 20th Century earth headed for 7 billion people in about 30 years.

The conclusions seem obvious:

1. The earth's most important resource is its capacity to fix solar energy through photosynthesis and to use it in support of life. This is the earth's largest flux of energy; it's management must now become a major and increasing concern of governments.

2. Man probably uses directly 5–10% of the net primary production of plants; the worldwide changes in the quality of air and water and the reductions in the earth's biota indicate that he is using all of the rest of that energy in secondary services and is in effect now mining the life of the earth.

3. Man's use of non-biotic energy has reached about 5% of the magnitude of worldwide net production of plants and secondary effects of its use at that level are having serious toxic effects on the earth's biota, probably reducing overall the fixation of solar energy and its availability in support of man.

4. Growth in the use of fossil fuels and other energy sources will probably be limited in the next decades by the problems of supply and distribution, forcing major changes in the technological societies that will include restraint of growth in energy-rich technologies.

5. The inevitable struggles for more energy that are intensifying rapidly now should not be allowed to destroy additional segments of the earth's capacity for fixing solar energy. National and international policies on energy development and use are needed now with policies on population to avoid increasing conflict and further degradation of biotic energy sources.

6. The assumption that setting standards for toxins on the basis of thresholds for biotic effects will protect the earth's biota and man is false. There is no way of determining thresholds for the myriad of substances that can be developed and released, no way of controlling releases, no sure way of monitoring for the substances, and no basis for belief that thresholds for effects on natural ecosystems exist. The alternative is, as stated in the Water Pollution Control Act of 1972, preservation of the chemical, physical and biotic integrity of those areas of the earth not directly manipulated by man for urban or agricultural uses.

7. The assumption that the environment has an assimilative capacity for all human insults is misleading and inconsistent with the imperative that the earth's biota be preserved for continuous use by man. An assimilative capacity for organic matter or heat does not imply an assimilative capacity for mercury, lead or other substances that may accompany the organic matter. The evidence is overwhelming that man has already exceeded the assimilative capacity of the biosphere for CO_2, chlorinated hydrocarbon pesticides, PCB's, dust and possibly fossil fuel energy. Assimilative capacity is a useful concept only within those areas of the earth that man determines that he will manage intensively.

8. Economic principles are an insufficient basis for management of the biosphere or such large segments of it as the United States controls. The limits of the earth can be accommodated by recognization of the fact that the biosphere is a series of interacting units, oceans, forests, estuaries, cities, agricultural units, each of which has definable characteristics including interactions with other units. Some, such as the oceans, cannot be managed intensively; others such as cities and agricultural regions, must be. The design and management of these units is an essential topic for science and govern-

ment. It is encouraging that our laws are now beginning to reflect in their objectives some of the realities of the biosphere.

9. The pattern of change necessary in the design of human activities is clear. The further diffusion of toxic influences around the globe must be checked. A certain amount of retrenchment and repair is necessary to assure the stability of biotic resources. Cities cannot be allowed to dispose of wastes in the oceans; fresh water supplies, nutrient elements and mineral resources are to be conserved and recycled; estuaries and coastal waters cannot be used for cooling power plants or ursurped for other industrial uses: they are essential to maintenance of the oceanic biota, including especially the fisheries.

10. These changes in perspective and function of government can come only with a major change in objectives, away from the attractive, even beguiling, concept that economic growth will solve all problems and toward a recognition that the earth's basic resources of life and energy are finite. The transition requires major support from science, from the educational establishment, and from legislative bodies. Private enterprise cannot be expected to make these innovations. Government must lead by providing the domestic climate and resources for the massive research and educational needs that such a transition requires. We should at the moment be building at least two national laboratories, one in the East and one in the West to address directly the questions of how to reconcile the needs of 20th Century man with the facts of a living but finite earth. Instead we are watching the dismantling of science. We would be terrified, if we were thoughtful.

11. The inevitable restriction of growth in energy-dense activities does not restrict growth in all segments of society. On the contrary the problems present an intellectual challenge unprecedented in history. We have now a great new freedom to examine in detail the enduring question of what man's most rewarding circumstances might be. On these topics growth has barely begun.

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TABLE 1.—*World Average Rates of Increase for the Period 1951–1966 for Selected Aspects of Human Activity Related to Food Production (SCEP 1970).*

	Percentage Increase
Food	34
Tractors	63
Phosphates	75
Nitrates	146
Pesticides	300

TABLE 2.—WORLD ENERGY CONSUMPTION IN 1967—(ADAPTED FROM SCEP 1970, P. 294)

[10^{12} kWh(t)]

	Coal	Petroleum	Gas	Water [1]	Nuclear	Overall
Developed countries:						
United States	3.52	6.33	5.58	0.22	0.03	15.68
Canada	.18	.63	.38	.13	----	1.32
Western Europe	3.67	4.42	.33	.32	.09	8.83
Eastern Europe	2.42	.37	.26	.01	----	3.06
U.S.S.R.	3.27	2.23	1.66	.09	[2]	7.45
Japan	.61	1.11	.02	.07	----	1.81
Oceania	.26	.24	----	.02	----	.52
Total	14.13	15.33	8.32	.86	[3].12	38.67
Developing countries:						
Communist Asia	1.97	0.13	----	0.04	----	2.14
Other Asia (excluding Japan)	.76	.85	0.12	.03	----	1.76
Africa	.43	.29	.02	.02	----	.76
Other America	.10	1.14	.33	.06	----	1.63
Total	3.26	2.41	.47	.15	----	6.29
World total	17.39	17.74	8.70	1.01	[3]0.12	44.96

[1] Hydroelectricity is converted from kWh(e) production figures in table 13 of United Nations, World Energy Supplies as follows:

$$\text{kWh(t)} = \left[\frac{3{,}412\ \text{Btu}}{\text{kWh(e)}} \; \frac{\text{kWh(t)}}{3{,}412\ \text{Btu}}\right] \text{kWh(e)} = [1]\text{kWh(e)}$$

[2] Not available.

[3] Nuclear totals exclude U.S.S.R. for which separate data are not available.

Note: U.N. figures are in million metric tons of coal equivalent. The energy contained within 1,000 generated kWh(e) of electricity is equated by the U.N. to 0.125 metric ton coal equivalent. Since the energy content of 1 kWh(e)=the theoretical 3,412 Btu, therefore, $3{,}412 \times 10^6$ Btu=0.125 m.t.c.e.=27.3×10^6 Btu.

TABLE 3.—NET PRIMARY PRODUCTION OF THE EARTH. NET PRODUCTION IS THE AMOUNT OF ENERGY OR ORGANIC MATTER AVAILABLE FROM PLANTS TO SUPPORT ANIMALS (INCLUDING MAN) AND ORGANISMS OF DECAY

	10^9T C/yr	10^{12} kWh/yr
Continental:		
Tropical rainforest	15.3	162.0
Tropical seasonal forest	5.1	55.0
Temperate evergreen forest	2.9	36.0
Temperate deciduous forest	3.8	45.0
Boreal forest	4.3	53.0
Woodlands and shrublands	2.2	27.0
Savanna	4.7	49.0
Temperate grasslands	2.0	21.0
Tundra	.5	5.8
Deserts scrub	.6	7.0
Rock, ice and sand	.04	.3
Cultivated land	4.1	43.0
Swamp and marsh	2.2	23.0
Lake and stream	.6	7.0
Total	48.3	534.0
Marine:		
Open ocean	18.9	237.0
Upwelling	.1	1.2
Continental shelf	4.3	50.0
Algal beds	.5	5.8
Estuaries	1.1	12.8
Total	24.9	307.0
World total	73.2	841.0

Source: Adapted from Whittaker and Likens 1973.

TABLE 4.—THE FLUX AND AVERAGE DENSITY OF ENERGY WORLDWIDE

Source of energy	Worldwide flux kWh/yr	Density kWh/m²/yr
Solar energy: Top of atmosphere	156×10^{16}	3.05×10^3
Net production of plants: World	841×10^{12}	1.4
Temperate forests and agriculture		10–21
Nonbiotic energy: World (1967) [2]	44.9×10^{12}	[1] 0.088
		[3] 0.301
United States (1967) [2]	15.6×10^{12}	1.67
Manhattan		[4] $\sim 2.4 \times 10^3$
Kings (Brooklyn)		[4] $\sim 1.36 \times 10^3$

[1] Worldwide.
[2] Man's Impact on the Global Environment (SCEP), MIT Press, 1970, p. 294.
[3] Land only.
[4] Estimated on Basis of per Capita use of Energy in United States.

BARRIERS TO HEALTH CARE FOR OLDER AMERICANS: VIEWS OF THE NATIONAL COUNCIL OF SENIOR CITIZENS

Mr. MUSKIE. Mr. President, I am deeply concerned about the health care crisis facing our Nation's elderly. As chairman of the Subcommittee on Health of the Elderly, I opened hearings last week on "Barriers to Health Care for Older Americans." The first round in the series had a twofold purpose.

First, we gathered valuable testimony for our overall study. Those who appeared before the subcommittee provided information on the major problems we will be exploring in more depth in further hearings in Washington and the field, or in special reports that might be issued in connection with the hearings.

Second, our March hearings served a more immediate purpose. We took an intensive look at the administration proposals to increase the cost of coinsurance and deductibles for medicare participants. This is an issue of great concern to the subcommittee.

The National Council of Senior Citizens sent me for the hearing a statement on the administrations' proposed cutbacks in medicare.

Mr. President, the subcommittee is grateful to have the forceful and well-reasoned views of this outstanding organization on the issue of medicare cutbacks. The statement that NCSC has

prepared will greatly assist us as we continue our examination of this crucial matter. Their analysis of the effects of the cutbacks is, I am certain, something my Senate colleagues would like to study in detail.

I ask unanimous consent that the statement of Nelson H. Cruikshank, president of the National Council of Senior Citizens, be printed in the RECORD.

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

STATEMENT OF NELSON H. CRUIKSHANK

COMMENTS OF THE NATIONAL COUNCIL OF SENIOR CITIZENS ON ADMINISTRATION'S PROPOSED CUTBACKS IN MEDICARE

The 3,000,000 members of the National Council of Senior Citizens reacted with dismay to President Nixon's budget message. We were shocked to learn that rather than improving the Medicare program along lines proposed by the White Hosue Conference on Aging, the President proposes extensive cutbacks in the existing program.

After studying the President's proposal, the 50-member Executive Board of the National Council of Senior Citizens expressed the serious concern of the Council's membership in a resolution denouncing the drastic Medicare cuts "as an attempt to win favor with the well-to-do at the expense of the defenseless sick elderly of the nation."

Noting that President Nixon seeks to require Medicare patients to pay about three times as much as they now pay for an average hospital stay and a substantial increase in the personal payments required under Medicare medical insurance (Part B), the Executive Board warned: "This means denial of needed health services to a vast number of men and women who can barely meet the present Medicare out-of-pocket payments."

We strongly believe, the enactment of the President's proposal would constitute a most serious barrier to health care for older Americans!

NCSC's views echoed by the Nation

This nation's elderly are not alone in their opposition to the President's proposal; they are joined in opposition by their sons and daughters who are currently making the payroll contributions for Medicare.

The National Council of Senior Citizens has always taken pride in the fact that its membership is concerned with the welfare of people of all ages, members or not. We have often said in testimony to this Committee and other Committees that our members place their responsibility as parents and grandparents before their own self-interest.

Medicare could not have been enacted without the whole-hearted support of our younger working population who saw this program as protection badly needed by their aged parents now and by themselves in their own old age. Just as the population of all ages won the battle for the enactment of Medicare in 1965, the population of all ages can be expected to fight the battle against Mr. Nixon's proposed cutbacks. As evidence, we would cite the recent Harris Survey that showed that 92 percent of all people questioned about Mr. Nixon's various proposals for major changes in federal spending disagreed with his proposal to "make older people pay more than they now pay for Medicare"; only 5 percent agreed.

Of the various proposals, this was the one on which the population most strongly disagreed.

Although agreeing two to one that inflation cannot be controlled unless federal spending is cut to the bone, the public's response to cutbacks in Medicare and other needed social welfare programs indicates the President is very out of step with his spending priorities. In a related question, Harris also found an almost 3 to 1 public agreement with the recently increased Social Security payments. Clearly, President Nixon does not have a mandate to maim and kill basic social welfare programs!

The National Council of Senior Citizens is therefore counting strongly on the support of all our people in defeating the drastic cutbacks in Medicare sought by Mr. Nixon.

A "paper saving" for the President's budget

But the public is not upset only by the proposed cutbacks; they are also upset because the elderly sick and the workers are being used by the President to effect a paper reduction in the budget deficit.

Mr. Nixon, while urging massive cutbacks in Medicare benefits for the workers' elderly parents, made no recommendation to cut back on the payroll taxes the worker pays or the premium the elderly pay to support the Medicare program. By maintaining the Social Security tax as it is, the President is making available as a paper surplus in his unified budget, in effect, another $1.7 billion a year which is now going to support benefits that the proposes to abolish.

To be sure, Mr. Nixon cannot expend this money for anything else. But it is not being spent for the purpose for which Congress imposed the tax—and is therefore a deceitful misuse of the Social Security trust funds. It releases other money the Administration can use to boost the Pentagon budgets.

Thus under the President's budget proposal the elderly sick and the working people would be the victims of a double-edged assault—increases in taxes and premiums accompanied by reductions in health protection.

The proposed cutbacks

As you know, under the guise of reducing what is termed "unnecessary utilization of hospital services," the President proposes that the present deductible of $72 for the first day under hospital insurance be increased to the actual first day charge for room and board. In addition, each Medicare patient would be required to pay a "co-insurance" amount equal to 10 percent of his subsequent hospital bill. In contrast there is no additional charge currently under Medicare for the first 60 days, $18 per day for days 61–90, and $36 per day for "lifetime reserve days" from 91–150.

The financial implications of such a change would be grave. This change would shift an additional burden of an estimated $345 million in hospital costs, during the last six months of Fiscal Year '74, onto the backs of an estimated 5.4 million hospital insurance beneficiaries, or an average out-of-pocket increase of $64.

With this proposal there would be a sharp increase in out-of-pocket expenses for almost all hospital stays. (The great majority of hospital stays are well below 60 days in duration; only about 5 percent of the hospital insurance beneficiaries report total annual hospital days in excess of 60.) Using the rounded-off current average hospital charge under Medicare of $100 per day, the President's proposal would provide relief for only the handful of patients requiring hospital stays of 105 days or more. But for most stays the out-of-pocket costs would soar:

Three-fold increase for an average hospital stay, from $72 to $220 for a 13 day stay.

Almost ten-fold increase for a 60 day stay, from $72 to $690.

While providing relief to an extremely small number of patients, the Nixon proposal would have the accompanying disadvantage of removing the financial disincentives to utilize a hospital as a long-term care facility. This situation would occur because of the change from the progressively higher out-of-pocket per diems currently under Medicare to the President's flat rate of 10 percent.

Another criticism of the Nixon proposal is that the out-of-pocket hospital costs would vary across the country, in accordance with local hospital charges. In other words, in those areas where hospital charges are high, such as California, Northeastern States, and large central cities, a patient would have to pay significantly more for his hospital care than a patient in Wyoming or a rural area.

Medicare patients currently pay the same rate for identical care, regardless of the hospital's normal charge. But under the President's proposal the out-of-pocket charge would vary among hospitals for identical care, since it would be always one-tenth of the hospital's normal charge. The President's proposal could result, therefore, in a disparity between out-of-pocket expenses of as much as 150 percent for identical care in two different hospitals. The burden of this hospital coverage cutback would fall much more heavily on the elderly in high hospital cost areas than in low cost areas.

The budget message also includes less severe proposed cuts in the Supplementary Medical Insurance Program (Part B). The proposal would increase the deductible by 42 percent, from $60 to $85, and the coinsurance of the subsequent cost to the beneficiary by one-fourth, from 20 percent to 25 percent. The increased burden due to this change during the last six months of Fiscal Year '74 is estimated to be $171 million for 11.6 million SMI beneficiaries, or an average out-of-pocket increase of about $15.

The increasing personal burden which would be shifted to the elderly sick under the Nixon proposal for SMI is exemplified by a person with a $200 bill of covered medical expenses. Currently, the person only has to pay $88, whereas with the Nixon proposal he would have to pay $113.75, an increase of 29 percent. In fact, because of raising both the SMI deductible and co-insurance nobody would benefit.

The related problem of assignment

A related problem is apparently not touched in the President's budget message—the erosion of SMI coverage due to the increasing refusal of doctors to take "assignment". Under the "assignment" method of payment the doctor agrees to accept the "reasonable charge" as payment in full. The proportion of doctors taking assignments has decreased in the last few years from some 60 percent to 41 percent and can be expected to decrease still further if Medicare is weakened.

Table 1 illustrates progressive erosion of Medicare coverage as the doctor's bill moves from "reasonable charge" (or assignment charge) to 10 percent above "reasonable charge," and to 20 percent above "reasonable charge."

TABLE I.—CURRENT MEDICARE

[Illustrative percentages of total charges for covered medical and hospital services reimbursable under Medicare, by size of medical bill and days in hospital (at $100 per day)]

Medical charges	Days in hospital					
	0	5	10	20	40	80
A. Cases where the medical charge does not exceed the reasonable charge:						
$50	0	77.8	88.4	94.0	97.0	94.0
$100	32.0	76.6	87.3	93.3	96.6	93.8
$200	56.0	77.1	86.7	92.7	96.2	93.7
$400	68.0	77.7	85.7	91.7	95.5	93.3
$800	74.0	78.5	84.4	90.0	94.2	92.7
$1,600	77.0	79.0	83.1	87.8	92.1	91.7
B. Cases where the medical charge is 10 percent above the reasonable charge:						
$50	0	77.8	88.4	94.1	97.0	94.0
$100	24.7	75.5	86.6	93.0	96.4	93.7
$200	48.7	75.1	85.5	92.1	95.8	93.5
$400	60.7	74.5	83.6	90.5	94.8	93.0
$800	66.7	74.0	81.7	87.9	93.0	92.1
$1,600	69.7	73.5	78.6	84.6	90.1	90.5

Medical charges	Days in hospital 0	5	10	20	40	80
C. Cases where the medical charge is 20 percent above the reasonable charge:						
$50	0	77.8	88.4	94.1	97.0	94.0
$100	18.7	74.4	86.1	92.7	96.3	93.7
$200	42.7	73.3	84.5	91.5	95.6	93.3
$400	54.7	71.9	81.9	89.4	94.2	92.7
$800	60.7	70.3	78.5	86.2	91.9	91.5
$1,600	63.7	68.9	74.9	81.9	88.3	89.4

The reduction of Medicare coverage due to the lack of control over medical charges can be exemplified by the hypothetical case of a man who has received 5 days of hospitalization and $800 of Part B medical care. If the $800 is billed under "assignment," Medicare will pay 78.5 percent of his total bill. However, his coverage is eroded if that medical bill is 10 percent above "reasonable charge" to 74.0 percent, and only 70.3 percent if 20 percent above "reasonable charge."

The table also displays:

The more extensive coverage of hospital charges vs. medical charges.

The more extensive coverage of hospitalization for 60 days or less vs. over 60 day stays.

It should also be borne in mind that the medical expenses in the tables are not total expenses for an illness in a typical case since they include only *covered* expenses and do not include, therefore, such items as out-of-hospital drugs. If such items were included the percentages in the table in almost all cases would be smaller.

The disastrous combination of President Nixon's proposed Medicare coverage reductions and the increasing refusal of physicians to accept the "reasonable charge", that is to take "assignment", for medical care is graphically outlined on Table 2. Using again the hypothetical case of the man with 5 hospital days and $800 medical bill, under "assignment" in Nixon's proposal he would get further reductions to 68.9 percent coverage, 64.8 percent if 10 percent above "reasonable", and 61.3 percent if 20 percent above "reasonable".

TABLE 2.—NIXON PROPOSAL

[Illustrative percentages of total charges for covered medical and hospital services reimbursable under Medicare under terms of changes proposed in Nixon budget, by size of medical bill and days in hospital (at $100 per day)]

Medical charges	Days in hospital 0	5	10	20	40	80
A. Cases where the medical charge does not exceed the reasonable charge:						
$50	0	65.5	77.1	83.4	86.7	88.3
$100	11.3	61.9	74.7	82.0	85.9	87.9
$200	43.1	63.8	74.7	81.7	85.6	87.8
$400	59.1	64.4	74.7	81.1	85.1	87.5
$800	67.0	68.9	74.8	80.2	84.3	86.9
$1,600	71.0	71.3	74.9	79.1	83.0	85.9
B. Cases where the medical charge is 10 percent above the reasonable charge:						
$50	0	65.5	77.1	83.4	86.7	88.3
$100	4.4	60.7	74.0	81.6	85.7	87.8
$200	36.3	61.8	73.6	81.0	85.3	87.6
$400	52.2	63.2	72.8	80.0	84.5	87.1
$800	60.2	64.8	71.8	78.3	83.2	86.3
$1,600	64.2	66.1	70.7	76.0	81.0	84.8
C. Cases where the medical charge is 20 percent above the reasonable charge:						
$50	0	65.5	77.1	83.4	86.7	88.3
$100	0	60.0	73.6	81.4	85.6	87.8
$200	30.6	60.2	72.6	80.5	85.0	87.5
$400	46.6	60.7	71.2	79.0	84.0	86.9
$800	54.5	61.3	69.2	76.7	82.2	85.8
$1,600	58.5	61.7	67.2	73.5	79.4	83.8

The real effects of deductibles and coinsurance

Many studies have been conducted on the utilization of health services under deductible and coinsurance provisions. Common conclusions cited by these studies are that the only circumstance which leads to reduced utilization is when the deductible and coinsurance are set high. But at high levels they are found to create a financial hardship and discourage prudent health service utilization. On the other hand, smaller rates are nothing more than administrative nuisances and will hardly act as a utilization control

President Nixon's record on part B premiums

Mr. Nixon, after repeated promises to eliminate the Part B premium for doctors insurance—a premium that will increase to $6.30 in July—now proposes to retain this premium while simultaneously making deep slashes in Medicare benefits.

Part B premiums bear heavily on the low incomes of older people who are attempting to insure against some portion of their medical costs. Since January 1, 1966 when the program began, premiums have more than doubled, an 110 percent increase. Coupled with the recent raise in the Part B deductible to $60, the new increase means participants in the voluntary program will have an annual out-of-pocket cost of $136 before they will get even limited reimbursement for medical bills!

Mr. Nixon first recognized the injustice of this burden in his 1971 Health Message when he proposed the elimination of Part B premiums. At that time he also proposed a decrease in Medicare benefits to make up the loss in premiums. He repeated his pledge to eliminate Part B premiums to a White House Conference that had made this an important plank in its recommendations for improved health security for the aged and again in his March 23, 1972 message on Aging. But by then he apparently intended that the loss be made up by raiding one of the Social Security trust funds of money needed to pay cash benefits or by increasing the Social Security tax on workers and employers. Needless to say, the nation's elderly would be worse off under these proposals, regardless of how attractive the President made them sound.

Again, Mr. Nixon in campaigning for reelection, and the Republican Party Platform made much of this proposal to eliminate the monthly premium required under Part B of Medicare—"the equivalent of more than a three percent social security increase."

In fact, the claims made for the President by the Committee to Re-elect the President in the pamphlet called "The President Cares" far outstepped this pledge, making it sound like an accomplished act. Lamenting the fact that the President had failed to stop the increase in medical fees, the pamphlet said:

"The $5.80 monthly permium for Medicare Part B (doctor) insurance is henceforth to be paid for by the government—worth another $1.5 billion to the nation's elderly."

The same pamphlet gave Mr. Nixon credit for increases in social security cash benefits, increases passed by the Congress over a threat of Presidential veto. But the falseness of the claims with respect to Part B premiums must have been evident to every older person who has to pay the premiums—and increasing premiums—every month. What he may not have known is that the President had never even proposed that this premium be paid for by the government.

And once reelected Mr. Nixon has withdrawn from his proposal for eliminating the premium. His proposal now is to continue this heavy burden on the older individual at the same time that Medicare benefits would be drastically slashed.

Nixon proposals flaunt White House Conference recommendations

Mr. Nixon, in his speech to the closing session of the White House Conference on Aging, promised that he would make sure that the recommendations of the December 1971 Conference would not gather dust in the National Archives. Right now the dust covering those recommendations must be inches thick! And his proposals for Medicare cutbacks not only ignore the recommendations for improvement but drastically reverse the course recommended by the Conferees!

One of the major recommendations of the Conference called for making comprehensive health care available to all Americans, including the elderly, without deductibles and without any other coinsurance or out-of-pocket payments, financed under Social Security. Pending National Health Insurance for the total population, the Conferees called for improvements in Medicare and Medicaid. Specifically, benefits should be increased immediately to include, at a minimum, out-of-hospital drugs; care of the eyes, ears, teeth and feet; improved services for long-term care and expanded and broadened services in the home and other alternatives to institutional care. There should be no deductibles, co-payments, or co-insurance under either program. Medicare should be financed through Social Security payroll taxes and a greatly expanded use of Federal revenues, not through ever-rising premiums paid by the elderly

In conclusion

The President's proposal is clearly an attempt to strip the elderly of their hard-fought gains, to turn back the clock of health care progress!

Special note should be made of Nixon's tricky method of making the impact of his proposed cutbacks appear only half as bad as reality. The yearly added burden to the elderly sick is effectively twice what the budget suggests since the proposed changes would only be in effect during the last six months of Fiscal Year '74. The President wants, in effect, to cut back Part A and B coverage more than $1 billion a year! By including other cutbacks obscured in the budget message, the total added burden to the elderly is about $1.7 billion a year.

To add insult to injury, the President makes no proposal to pass this "saving" on to those who contribute to the health insurance trust funds. There is no attempt to use this budget "saving" to reduce the one percent hospital insurance payroll tax, raised in January from 0.65 percent, or reduce the announced increase in SMI premiums from $5.80 per month to $6.30, as of July, 1973. By maintaining the tax and premium, President Nixon is making available as a paper surplus in his unified budget another $1.7 billion a year which is now going to support benefits that would be abolished.

We trust the Congress will never find acceptable this outrageous and unconscionable scheme to steal from the elderly sick and give to the rich, the Pentagon, and the special interests!

SUCCESS OF THE ALL-VOLUNTEER FORCE

Mr. HUMPHREY. Mr. President, I was most pleased to learn that the administration will not seek an extension of the President's Selective Service induction authority. This step represents a small but important recognition of the constitutional prerogative of Congress to raise and support armies.

This announcement also signifies the success of the volunteer force program. In a comprehensive report issued last week, Secretary of Defense Elliot Richardson made the following important points:

The trend in "true volunteer" rates has increased the number of enlistments to the point where the draft is no longer necessary;

Despite decreasing draft pressure, the quality of new recruits has remained steady;

The supply of officers has been adequate;

Opportunities for women in service are being greatly expanded; and

An increasing number of support jobs now performed by military personnel will be handled in a more effective and economical fashion by civilians.

The report also shows that the cost of the volunteer force is within the range predicted by the Gates Commission. While we must reduce overall personnel expenditures, it is important to note that the volunteer force increment for fiscal year 1974 is only $400 million, as compared to an increase of $4.1 billion in the defense budget as a whole.

Secretary Richardson's report lists several technical concerns that must be addressed to insure efficient management of the Armed Forces in the absence of the draft. A key proposal is the Special Pay Act, which I have cosponsored. This cost effective measure—introduced by the Senator from California (Mr. CRANSTON), the Senator from Texas (Mr. BENTSEN), and others—will maintain the strength of the Reserves and Guard, provide an adequate supply of military physicians, and establish meaningful compensation for young men and women of outstanding skill and ability.

I am sure that all who are interested in military personnel problems will want to read this report, and I ask unanimous consent 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:

THE ALL-VOLUNTEER FORCE AND THE END OF THE DRAFT

(Special report of Secretary of Defense Elliot L. Richardson, March 1973)

(NOTE.—Charts referred to are not printed in the RECORD.)

THE SECRETARY OF DEFENSE,
Washington, D.C.

On January 27, 1973, Secretary of Defense Melvin R. Laird announced that "the Armed Forces henceforth will depend exclusively on volunteer soldiers, sailors, airmen and marines. The use of the draft has ended." Three days later I became Secretary of Defense. Let no one doubt that I count it as among my most compelling tasks to make the All-Volunteer Force a working reality.

This Special Report updates the August 1972 Report of my able predecessor and describes the remarkable progress made by the Military Services in eliminating the draft without weakening our military forces or impairing our ability to deter threats to the peace. It also describes remaining problems and their solutions.

The goal of an All-Volunteer Force was set by our Commander-in-Chief, President Richard M. Nixon, in October, 1968. In March, 1969, the President appointed a distinguished Commission on the All-Volunteer Force under the Chairmanship of the Honorable Thomas S. Gates, Jr., former Secretary of Defense. After a year of intensive study, the Gates Commission concluded that:

"We unanimously believe that the nation's interest will be better served by an all-volunteer force, supported by an effective stand-by draft, than by a mixed force of volunteers and conscripts . . ."

The material in this Report is evidence that the historic goal of having an All-Volunteer Force can, indeed, be reached by this generation of Americans. Accordingly, on behalf of the Administration I have advised the Chairman of the Armed Services Committees of the Senate and of the House of Representatives that it will not be necessary to extend the draft induction authority beyond its expiration date of July 1.

Finally, I have asked Congress to promptly pass legislation to help us solve special manning problems, and thus assure that it will not be necessary for us to request reinstatement of the induction authority at some future time to meet our peacetime manpower needs.

ELLIOT L. RICHARDSON.

CHAPTER I—ACCOMPLISHMENTS

The enactment of the draft extension bill in 1971 provided two years to make the transition to an All-Volunteer Force. The transition has been made in 18 months and further extension of induction authority beyond July 1, 1973, will not be required.

In part, this remarkable achievement has been made possible by continuing reductions in Active Force strength required to meet national security commitments. From a Vietnam War peak of 3.55 million, Active Forces have declined to the end-FY 1974 baseline strength of 2.23 million.

Elimination of the draft

From the level of 299,000 in 1968, at the height of the Vietnam War, draft calls have rapidly declined to zero. Inductions ended in December 1972.

Enlistment trends

The favorable trend in male enlistments for all Services and especially the trend in true volunteers, coupled with the decline in required Active Force strength, have eliminated the need to continue the draft.

Despite the sharp drop in draft calls, overall enlistments DOD-wide have increased and the proportion of true volunteers among those who enlisted has increased from 59 percent in FY 1971 to an estimated 84 percent in FY 1973. With the termination of draft calls in December, virtually all current enlistees are true volunteers.

Several factors contributed to this improvement. Certainly the increase in military entry pay provided by the Congress in Public Law 92–129, which became effective in November 1971, attracted additional volunteers.

Improving the conditions of Service life, modernizing the training of personnel, and renewing the emphasis on professionalism in the Services—and communicating these changes to the public—also have attracted additional volunteers.

But the factor which may have contributed most to these volunteer increases is the improved recruiting program. During the years of heavy draft pressure, military recruiting was often little more than "order taking." The draft induced many young men to enlist, and gaps in enlistments were made up by drafting more young men. The draft served as an ever-present crutch to support unaggressive recruiting.

A great and successful effort has been made to improve the quality of military recruiting and to expand the recruiting force. Highly qualified officers and NCOs are seeking and being assigned to recruiting billets. Increasingly the military recruiter is capable of describing the challenges and satisfactions of military service, and of competing effectively in the labor market with those who offer other job options. Thus, he reflects to the prospective enlistee the best of Service life.

The individual services

The Army, faced with the highest enlistment requirements, has made great progress. To meet its accession requirements of 162,000 new men in FY 1974, the Army must enlist 11,000 more than its expected level of true volunteers for FY 1973. The enlistment trend, which can be visualized on the following chart, indicates that with continued improved the Army will meet its FY 1974 enlistment requirement.

The Navy experienced recruiting shortages in late FY 1971 and early FY 1972, partly due to shortages in its recruiting force. The Navy has overcome these early difficulties and now is attracting sufficient volunteers to meet its requirements.

The Marine Corps "needs a few good men" and gets them. The consistently high quality of its recruiting program, combined with stable force requirements, angur well for the Marine Corps meeting its enlistment requirements in FY 1974 and beyond.

During the entire period of transition to the All-Volunteer Force, the Air Force has met its manning requirements with high caliber enlistees. Its effective recruiting system, and the popularity of the Air Force with young people, assure its capibility in meeting enlistment requirements in the future.

Ground combat arms enlistments

The impact of aggressive and creative recruiting is illustrated by the Army's experience in enlisting men for the ground combat arms—infantry, artillery, and armor. During July to December 1970, enlistments for these specialities averaged 227 a month compared with requirements averaging 5,000 a month. Most of the men assigned to ground combat jobs were either draftees or men who enlisted without selecting a military specialty. During July to December 1971, ground combat enlistments reached a one-month high of 3,900 and averaged slightly over 3,000 a month. Enlistments continued at this level in 1972. This spectacular rise was achieved by offering the choice of overseas locations and unit assignments to combat arms enlistees, by advertising these new options, and by aggressively recruiting candidates for them.

With Army combat arms enlistments stabilized at 3,000 a month for one year, a test of the combat arms bonus authorized earlier by Congress was initiated on June 1. A bonus of $1,500 was offered to Army and Marine Corps ground combat volunteers who enlisted for four years. Before the bonus test there were some Marine Corps four year ground combat enlistments, but none in the Army.

The test was originally scheduled for three months. However, its initial success in increasing combat arms enlistments and the proportion of four-year enlistments resulted in the bonus test being extended. To date Army ground combat arms enlistments have averaged 3,825 a month—an increase of 26 percent over the pre-test period. This number of enlistments would be sufficient to fill Army combat arms requirements in FY 1974.

The longer enlistment of four years associated with the bonus, rather than two or three years without it, is significant. It will have the effect of substantially reducing the high cost of training and reducing personnel turnover in the future. It is also an indication that an enlistment bonus can be used effectively to attract people for longer enlistments in hard skills that require long training, thus further reducing the cost of training.

Quality of enlistments

There have been some dire predictions that ending the draft would produce an organization of substandard volunteers. Our experience does not support this claim. The quality objectives for military enlistments are being met as well or better than during earlier periods of high draft calls. These objectives are:

To enlist people whose learning capacities match the requirements of military jobs.

To enlist people who display self-discipline and control.

To maintain efficiency and effectiveness of the Armed Forces.

To minimize military manpower costs.

Because of the importance of maintaining the fine balance among the quality of the force, its mission requirements, and its costs, we monitor quality factors closely. Mental ability of people entering military service is one of these factors.

The trends in mental ability of new entries by fiscal year show a modest decline in

men coming into military service having above average mental ability. However, the number is adequate to fill jobs requiring complex technical training and the ability to complete such training successfully. There has been a steady increase in the proportion of men entering service with average mental ability, which is adequate for most military jobs. The declining trend in Mental Group IV personnel is the result of emphasis placed on recruiting people with greater mental ability. Overall, the learning capacity of new entries is adequate in meeting job requirements when the proportion of Mental Group IV personnel does not exceed about 22 percent. Conversely, when the overall proportion of Mental Group IV personnel falls below 15 percent, there is a tendency toward many people being under-challenged by their job assignments.

High school graduates have consistently performed better is their military jobs, and have had fewer disciplinary problems, than those who have not graduated. Hence, special emphasis is placed on attracting a high proportion of young men who have completed high school.

Because of a sharp decline in the percentage of high school graduates among Army enlistees during the first half of FY 1973, the overall percentage of high school graduates among enlistees for all of the Armed Services combined dropped from 71 percent in FY 1972 to 63 percent in the first half of FY 1973. Starting February 1, 1973, the Army placed a ceiling of 30 percent non-high school graduate enlistments each month. Army recruiters will direct more attention toward high school graduates and this shift in emphasis should increase the Army percentage of high school graduates to the 70 percent level which is desirable.

Because of the very significant increase in total enlistments during the first seven months of FY 1973 compared to the same period in FY 1972, the total number of high school graduates actually increased from 167,000 during July 1971-January 1972 to 172,000 during July 1972-January 1973.

The overall goal is to obtain people who have the capacity and will to perform the required jobs in a completely satisfactory manner. It may be necessary to offer bonuses to attract people in sufficient numbers for the more difficult jobs, or to use reenlistment bonuses to selectively retain them. Authority for the payment of such bonuses is contained in the Uniformed Sevices Special Pay Act which awaits action by Congress.

Use of women in the military services

Along with increasing enlistments of men, more women are volunteering for military service as the individual Services implement plans to increase the number of women serving in a wide variety of job specialties. Currently, more than 80 percent of job specialties Defense-wide are open to women.

In FY 1972, 14,000 women enlisted in the four Services combined. FY 1973 goals call for enlisting 21,700 women—an increase of more than 50 percent. Enlistment trends for the first seven months of the fiscal year indicate that the goals for women will be achieved. They are all high school graduates, or have GED equivalents, and have average or above average mental ability.

An important consideration in implementing the All-Volunteer Force is the potential trade-off between men and women. By enlisting more women, fewer men have to be enlisted. Also, because the proportion of women in the Armed Forces is much smaller than men, it is comparatively easy to maintain high quality standards among women entries.

It is likely that the planned end-strengths for women shown on the chart will be substantially exceeded in the process of their broader utilization within the Services.

Officer supply

The Military Services met their requirements for 43,000 new commissioned officers in FY 1972.

In meeting these requirements for new officers, the Services drew on the supply of ROTC graduates who had enrolled in the program in previous years when draft pressure was high. Legislation, which in FY 1973 increased the number of ROTC scholarships and subsistence payments, has thus far been effective in abating any serious decline in ROTC enrollment.

By FY 1974, requirements for new commissioned officers will drop to about 20,000 per year, except for medical officers. Attracting this number, compared with the 280,000 qualified men who will graduate from colleges, should not be a difficult task.

The Uniformed Services Special Pay Act, discussed later, would provide upon enactment variable incentive pay that would be useful in raising retention of officers in such fields as nuclear submarines and aviation. With higher retention, any problems in attracting sufficient new officers in these specialized fields would be soluble.

As with enlisted women, there are many more qualified women who seek military service as officers than there are vacancies for them to fill. Increased use of women in the officer ranks will substantially facilitate the procurement of qualified officers.

Physicians

Since World War II, retention of military physicians, dentists, and other health professionals has been among the most difficult personnel problems for the Services. At present, only one-sixth of the physicians on active duty are serving voluntarily. Another one-sixth serve because of obligations incurred through medical training programs subsidized or provided by DOD. The remaining two-thirds serve because of the "doctor draft." Since the latter group serve for two years, this means that one-third of our physician force turns over each year. The inefficiencies and costs of such a system are obvious.

This problem is made especially critical by two factors. First, there is currently a national shortage of health professionals. Second, there is a big gap between the pay of most military health professionals and their civilian counterparts, particularly in the initial years of practice following completion of their professional training.

Most of the physician entries in recent years have been obtained through the draft or the draft-motivated Berry Plan. This is a program under which an intern defers his obligated military service until completion of specialty training, generally a period of from two to five or more years. A number of physicians are currently in various phases of training under this program and may still be called upon to perform their military service as Reserve officers. Even assuming continued reliance on those who will be completing their deferments under the Berry Plan, there will be a shortage of physicians by end-FY 1975. We estimate that the shortage by end-FY 1976 would be 2,200 unless there is early action on special pay legislation. Without the use of the Berry Plan participants there could be a shortage of 6,900 physicians by end-FY 1976.

Essentially no real progress has been made since the previous report toward solving the future problem of shortages of physicians since legislation to overcome the pay gap between military and civilian physicians was not enacted by the 92nd Congress. Neither have the Military Medical Services yet accomplished the efficiencies possible in modern hospital care through new techniques, greater use of paraprofessionals, tri-Service regionalization of military health care, etc.

The Uniformed Services Special Pay Act embodies corrections to bring pay of military physicians to competitive levels. It is essential that this legislation and other actions be accomplished at an early date so that military health care will not suffer. If these actions, particularly those relating to increased pay, are delayed, the military departments can be expected to lose a large number of experienced military health specialists in the immediate future.

Guard and Reserve strength

Measures to revitalize the Guard and Reserve described in the August report have continued, and with good results. Yet, Guard and Reserve Forces are just now receiving their severest test.

By June 1972, the combined National Guard and Reserve Forces strengths were 49,000—or about 5 percent—below the Congressionally mandated minimum of 972,674 at that time. In FY 1973 mandated strength increased by about 4,000 to 976,559. Despite this increase and substantial losses of reservists, though greatly increased recruiting efforts the Reserve Forces managed to end calendar year 1972 with approximately the same shortage. High losses projected over the next five months will offset most of the enlistment gains, so it is expected that there will be some shortage of Selected Reserve personnel at the end of this fiscal year.

On June 22, President Nixon announced the creation of the National Committee for Support of the Guard and Reserve and named Mr. J. M. Roche, Former Chairman of the Board of General Motors Corporation, as its Chairman. The efforts of this Committee have improved public understanding of the Guard and Reserve role in our nation's security system, and have enlisted the cooperation of those who employ present and prospective members of Guard and Reserve Components. Though its efforts, the Committee has sought to make the American taxpayer realize that a well equipped, fully manned, and readily deployable Guard and Reserve is potentially the most economical part of our national defense system—and that without it, his and the nation's security are in peril.

While better recruiting and fuller public support are essential for the Reserve Forces, these actions alone are not enough. Needed also is the authority to pay enlistment and reenlistment bonuses to men and women in the Guard and Reserves. These would be provided under a key provision of the Uniformed Services Special Pay Act. The bill would authorize bonuses of up to $2,200 for an enlistment or reenlistment of six years in a critical skill.

Long-time experience with variable reenlistment bonuses in the Active Forces, and experience since June 1972 with the enlistment bonus for ground combat arms in the Active Army and Marine Corps, continue to be favorable. Without a draft, and in order to be effective and fully manned, the Selected Reserve needs the same kinds of financial incentives which have been made available for use in the Active Forces.

Civilian substitution

Many support-type jobs now filled by military men can be performed effectively and economically by civilians. The expanded use of this alternate source of manpower can further reduce the requirement for male recruits.

When the August 1972 report was published, studies of civilian substitution were underway. In December 1972, the Secretary of Defense instructed the Military Services to initiate immediate programs to civilianize at least 31,000 military positions by end-FY 1974.

CHAPTER II—REMAINING ALL-VOLUNTEER FORCE NEEDS

As observed earlier in this report, there has been tremendous progress in increasing the number of volunteers, while maintaining quality standards. This has made it possible

to end the draft, and it will not be necessary to extend the induction authority beyond its expiration date of July 1, 1973.

Uniformed services special pay legislation

It is important that Congress act promptly in passing special pay legislation to assure that it will not be necessary to request reinstatement of the draft at some future time to meet our peacetime manpower requirements.

The Uniformed Services Special Pay Act passed the House of Representatives of the 92nd Congress during the final weeks of its session, but failed for lack of action in the Senate.

Each provision of the current Special Pay Act, like its predecessor bill in the 92nd Congress, addresses a specific All-Volunteer Force need. Not every provision would be employed immediately or in the full amount. None would be used if all problems could be solved by other means. However, the provisions would be selectively employed to overcome shortages or deficiencies which remain or develop in the future.

The total FY 1974 cost of the Special Pay Act, assuming all provisions are authorized and are used to the maximum extent from July 1, 1973, would be approximately $225 million.

All-Volunteer Force costs

Some early estimates that an All-Volunteer Force would be prohibitively costly have proven incorrect. Many of the costs associated with the All-Volunteer Force program should not even be charged against the program since they are expenditures that would have been prudent to make under any conditions. Prior to enactment of Public Law 92-129 in November, 1971, first term enlisted men and women did not enjoy competitive pay scales with their civilian peers. As a result, every young soldier, sailor, airman, or marine—inductee and volunteer alike—was paying a large implied tax while serving his country.

If the costs of the November 1971 pay increase (the law was not put into effect immediately) and two subsequent cost-of-living increases on January 1, 1972, and January 1, 1973, are subtracted from the total costs associated with the All-Volunteer Force, the additional annual costs do not exceed $1 billion.

CHAPTER III—SUMMARY

The draft has ended, and induction authority will expire July 1, 1973. With the help of special legislation and continued public support, it should not be necessary to reinstate the draft in the future to meet our peacetime manpower needs.

Enlistment levels reached during the past year match total requirements through FY 1974. The Services have demonstrated the capability of maintaining and exceeding these levels.

The quality of enlistments has been maintained. Moreover, as favorable enlistment trends continue, the Services will be able to reduce the number of disciplinary problems by increasing the proportion of high school graduates among future enlistees.

Increases in the number of highly qualified women enlistees, and the replacement of military members by civilians in support-type jobs, will further reduce the requirement for enlisting men into the Armed Forces.

The effectiveness of an enlistment bonus, as a means of attracting new members to skills that are in short supply, has been demonstrated by the successful Army and Marine Corps test of the ground combat arms bonus. More extensive experience with the reenlistment bonus has established its usefulness in obtaining higher retention of personnel who possess critical skills. The authority to use special bonuses for attraction and retention in critical skills is important insurance against having to reinstate the induction authority at some future time to meet peacetime manpower needs.

Shortages in the Guard and Reserve have stabilized at about 5 percent of the mandated strength of the Selected Reserve. These shortages will decline gradually through continued improvements in Reserve recruiting, in the effectiveness of Reserve training, and in the public support of the Guard and Reserve. However, the Reserve bonus provisions of the Special Pay Act are needed also to assure that Selected Reserve requirements will be met in the future.

As indicated, there will be a shortage of military physicians unless special pay incentives are provided. The Military Services will reduce the health services shortage by improving the efficiency of military health care. Such improvements, combined with additional medical scholarships and special pay incentives, should be sufficient to solve this problem.

Moving to an All-Volunteer Force from a thirty year-old draft system in less than four years is indeed an historic and major achievement. As noted by my predecessor in his August, 1972, progress report on this subject, great credit is due our military leaders for moving to convert from "conscript" to "volunteer" promptly, aggressively, and with such a high degree of success.

With their leadership, and with continued improvement in the management of our human resources, I am confident that the nation's security during peacetime will be best served by the All-Volunteer Force.

BUSINESS AND THE CONSUMER: PUBLIC OPINION CALLS FOR A MORE POSITIVE STANCE

Mr. PERCY. Mr. President, several years ago, while discussing ways to meet the public needs of the United States, President Nixon urged that "we take a new road, one that taps the energies of the greatest engine of productivity the world has ever known—the engine of American industry and private enterprise." The President's statement is often quoted today, but the response from the business community has been disconcerting and not entirely consistent.

Few would disagree that American business and industry have enormous power for social good. The thrust of the engine to which the President referred has been steadily gaining momentum with industry's new willingness to revise marketing techniques and to sponsor diversified social programs and services. There are numerous examples of private industry's honest attempts to generate a reciprocal goodwill with the rest of society by confronting the difficult social problems which plague and divide American society.

Examples which come to mind of American industry's concern for improved community relations are the industrial skills training program for high school dropouts directed by Motorola Inc., and the social service employee leave program recently established by the Xerox Corp. Many companies are responding to consumer pleas for social activism with policies that go far beyond any imposed standards. Just last month, Sears, Roebuck & Co. voluntarily introduced a new flame-retardant sleepwear line for children's sizes, 7 to 14, while Quaker Oats will soon implement a learning program for young children printed on "Life" cereal boxes.

Other noteworthy examples of corporate concern for the public well-being include Zenith Radio Corp.'s 48-hour complaint reply system, Reynolds Metals' aluminum recycling campaign with reclamation centers in 11 major cities, and Pillsbury's project in cooperation with the Office of Economic Opportunity which offers protein-rich lysine flour to low-income families.

Such foresight and concern deserves recognition, and other companies should be encouraged to adopt similar programs.

One area, however, in which some businesses have been noticeably lax and unresponsive to public feelings is consumer relations. The following paradox exists: Even though businesses are increasingly realizing that community relations and social activism enhance the free enterprise system, too many nonetheless continue to reject the theory that consumer consideration is good for business. This paradox became quite clear to me during the consideration of the Consumer Protection Agency legislation last year. The lobbying effort directed against this bill by several segments of the business community exemplifies the dual standard which prevails. On one hand, business and private industry are opening the throttle and proceeding under full steam to create a recognizable social consciousness, while on the other, too many continue to neglect the legitimate needs and demands of consumers.

There are, however, some notable exceptions. Leo Schoenhofen, chairman of the board of Marcor, the parent company to Montgomery Ward and the Container Corporation of America, has expressed his belief in the value of business sensitivity to consumer pleas. In a letter to me dated September 25, 1972, Mr. Schoenhofen stated Marcor's enlightened position as follows:

> There is a growing body of opinion that sees a close correlation between the belief of numerous consumers that they don't yet have adequate protection in some important circumstances and today's less than optimum public confidence in business, the declining interest of some talented young people in business careers, and other ills that currently plague the marketplace. Because we believe a fair and effective Consumer Protection Agency law would be a positive step toward correcting some of these problems and because we believe it would advance the vital cause of providing all Americans with fair and effective consumer protection, we are pleased to announce our support.

Mr. Schoenhofen's views were seconded 2 weeks ago by John Nevin, president of the Zenith Radio Corp., who wrote to Senator Moss endorsing S. 707, the Consumer Protection Agency bill, because "the interests of the public and the business community would be served."

I believe that Mr. Schoenhofen and Mr. Nevin will be joined shortly by several other farsighted businessmen who realize that the consumer's voice must be heard by both private industry and the Federal Government.

When all the inflammatory rhetoric is swept aside, the consumer's demands are relatively modest. He asks only for a free consumer choice in a competitive market; the prevention of unfair or deceptive trade practices; fair advertising, promotion and sales practices; adequate product information and warnings; and pro-

tection of his legal rights and those of other consumers.

On February 1, 1973, Senators RIBICOFF, JAVITS, and I, joined by Senators MAGNUSON, MOSS, and COOK, reintroduced this critical Consumer Protection Agency legislation.

Now, 24 additional Senators have joined in cosponsoring that measure. At the time of introduction, I addressed this body on the principles underlying this legislation and the necessity for prompt action by the whole Senate during the 93d Congress. Four recent public opinion surveys have shown very clearly that consumers are tired of neglect by both industry and government. These surveys, one conducted by two marketing professors at the University of Georgia, and three taken by the Harris survey, support what would appear to be the good business judgment underlying Mr. Schoenhofen's reasoning and the points my colleagues and I advanced during the fight to save this legislation last year.

The results of these surveys, which I shall request be printed in their entirety at the conclusion of my remarks, should alert the business community and Members of this body that the public will no longer accept the traditional excuses for such abuses as the marketing of potentially harmful drugs or unsafe automobiles. They indicate that the public expects more credibility and responsiveness from business, but is disappointed because it feels the opposite course is being followed.

For example, the random mail sampling poll conducted by Hiram D. Barksdale, Chairman of the Department of Marketing and Distribution, and William R. Darden, associate professor of marketing at the University of Georgia, supports the dismaying conclusion that the public has "more confidence in government enforcement than in voluntary business efforts to meet consumer expectations." Specifically, over 73 percent of those responding believed that the Government should test competing brands of products; 73.7 percent stated that the Government should set minimum standards for all consumer products; 77.1 percent indicated that a Federal Department of Consumer Protection is needed—a point that I would have to take exception with, in that I believe a small "fat-free" cadre of advocates for the consumer would be sufficient—and 74.9 percent believe that the exploitation of consumers by business firms deserves more attention than it receives.

I cite these figures only to point out that the clear majority of those responding to the survey support our recent efforts, and by these standards, other moderate efforts in the field of consumer protection. Commenting on the results of their study, the authors concluded:

> The high level of agreement suggests that consumers are ready to accept legislative solutions to their problems.

I also wish to comment on the results of three recent polls conducted by the Harris survey. Since 1966 the Harris survey has asked cross sections of American people to rate the credibility of American business on 16 key issues. The results of this long project have been published recently by Mr. Harris in three articles appearing in his syndicated column. In every area sampled, the public's confidence in business today rates far below that of just a few years ago.

While the public expects more intensified social involvement by business, they believe at the same time that too little participation is actually taking place. Over the last 7 years, the proportion of the population which believe that industry should provide special leadership in air and water pollution control has increased from 69 percent to a remarkable 92 percent. Similar increases were recorded in all 16 categories sampled. For example, there is a 37-percent increase in the number of people who believe that American industry should help to improve living standards around the world; a 31-percent rise amongst those who think that business should help to prevent and control crime; and a 22-percent increase in the number who think that the business community should provide better leadership in cutting down highway accidents.

The consistency should demonstrate to the business community that socially oriented programs are not only necessary but expected. However, the public also believes that business is doing less for society than it was 7 years ago. In 1966, 66 percent felt that business was setting a good example of citizenship for our young people, while only 42 percent hold that belief today. Similarly, there is a 22-percent slippage in the public's belief that business is concerned about the problems of the elderly, a 33-percent decline in public respect for the overall quality of the goods and services produced, and a 27-percent drop amongst those who feel that business is keeping profits at reasonable levels.

Most disturbing of all, there has been a 28-percent drop—from 70 to 42 percent—among those who think that the business community is working for good government.

Clearly, the public's view of social involvement by business does not accurately reflect the current attitude of many companies nor my own high regard for a great deal of enlightened thinking that I know is going on in many segments of the business community. Business has been expanding both its participation in social programs and its support for community action projects. It is difficult to define the causes for this disenchantment expressed by the public. A growing dissatisfaction with—and sometimes alienation from—our economic and governmental systems, coupled with consumer frustrations, are two major factors. What the public believes, though, is very likely to have a direct effect on any future governmental action or regulation. The public is beginning to think that these problems will not be solved by either government or private enterprise acting alone. Surprisingly, they now seem to feel that only by a joint relationship between business and government can the society's ills and technology's shortcomings be effectively overcome.

Mr. Harris cites this evident lack of confidence in business as the chief reason underlying the survey's most noteworthy statistic: over 77 percent of the sample indicated that Federal regulatory policies should be more restrictive toward business.

Only 1 percent sampled thought the Federal Government should go easier on business.

I personally do not believe "easier" and "tougher" to be the only criterion, nor even the proper one. Federal regulatory policy should be made more effective with respect to that small percentage of firms which callously—sometimes arrogantly—cut corners and in so doing endanger public health and safety or defraud consumers. Most of the business community would not benefit from the imposition of simply more Federal regulation. Nor would consumers.

But, it seems clear to me from the aforementioned results, that this Congress has received a mandate from the public, requiring it to act affirmatively in order to insure that the consumer's concerns will be represented by a non-regulatory agency of Government specifically directed to protect consumer interests that are now overlooked by both industry and Government.

Mr. Harris further deduces that—

> A failure to realize the public's expectation at the community level ultimately would lead to a reversal of public opposition to severe governmental controls over business.

Strict Government control is not the intent of S. 707. Enactment of this legislation would establish a new agency to complement the existing Federal regulatory machinery by providing for a consistent and full-time advocate for consumers in the deliberations of Federal agencies and courts that substantially affect their interests.

At this stage, an extension of the Government's regulatory powers can be avoided, but cooperation by all concerned parties is necessary. Industry has already proven to itself that community involvement and concern for the public is essential to the free enterprise system. Now that the public expects and desires greater public interest participation by American industry, I urge the business community to carry that policy to its next logical step. I urge that they join with my colleagues and myself to guarantee a fair and effective consumer policy for this Nation through the creation of a Consumer Protection Agency as contemplated by S. 707.

This is not to say that anything the business community does on its own in the way of improving the quality of products and services to consumers is not to be encouraged. Some of the examples I earlier cited of individual company responses to communal and marketplace problems should be extended industry-wide. Two other developments are especially gratifying in this context.

First, President Nixon's National Business Council for Consumer Affairs has been working assiduously over the past 2 years in formulating guidelines for responsible business practices and proce-

dures to be recommended for industry-wide adoption. I understand that Tom Brooker, former chairman of that group and former chairman of the executive committees of Marcor, together with Don Perkins, chairman and chief executive officer of the Jewel Companies, Inc.—two sterling Illinois companies—continue to be prime movers in this noteworthy manifestation of corporate responsibility.

I also look with genuine satisfaction to the effort now being organized by Henry Ford II to enlist 1,300 of the largest companies in the Nation to support an organization known as the Committee for Constructive Consumerism, based in New York City. According to reports, Mr. Ford's effort arises from much the same concern as I have expressed, that the image of American business has become all too tarnished in the views of such a large segment of the American public. His purpose is to upgrade voluntary self-regulation by business in such a way that it becomes meaningful again.

I heartily agree with the aim of both of these efforts; namely, that by improving voluntary efforts, more heavy-handed Government regulation can be avoided. However, I do not believe that either the work of the Committee for Constructive Consumerism, nor that of the National Business Council for Consumer Affairs, can ever be a substitute for a nonregulatory Consumer Protection Agency within Government whose primary and overriding function is to permit consumers for the first time to have their voice consistently heard in the deliberations of agencies of Government, regulatory or otherwise.

The latter does not amount to more regulation, it is an alternative to regulation. In the long run, it should be of considerable help to responsible businesses who are concerned about their reputations being besmirched by the irresponsible practices of those few companies which seem to be impervious to the best interests of consumers.

Mr. President, because of the importance of the several public opinion surveys I have referred to, I ask unanimous consent that the full text of these polls and the articles accompanying them be printed in the RECORD at this point. I further ask to have printed an article appearing in the Chicago Tribune, March 15, 1973, titled "Business Acts to Quench Consumer Fire," describing the effort to launch the Committee for Constructive Consumerism. Finally, I also would like to include a staff analysis—prepared by the Senate Commerce Committee's Consumer Subcommittee, under the outstanding direction of Senator FRANK MOSS—of letters submitted by major businesses explaining their initiatives in consumer responsibilty.

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

MORE REGULATION WANTED TO PROTECT CONSUMERS

(By Tom Walker)

The consumers are restless.

And while a lot of their discontent may be pent up frustration at the general state of the world—particularly its institutions—a great deal of it is aimed specifically at the business establishment in the United States and many of its practices, such as advertising.

And when both political conservatives and political liberals agree that more government regulation is needed to protect the consuming public, something must really be wrong.

This agreement among both conservatives and liberals giving overwhelming support to the idea of further government involvement in the American marketplace is, in fact, the most important result of a recent study by two University of Georgia marketing professors in the College of Business Administration.

The survey, which sampled opinion by mail in a nationwide distribution, was conducted by Hiram C. Barksdale, chairman of the Department of Marketing and Distribution, and William R. Darden, associate professor of marketing. They explained that increasing concern has been shown in the last decade over the rights and interests of the consumer, with mounting criticism by consumer advocates directed against American business and its marketing practices.

But, they noted, relatively little information was known about the attitudes of consumers themselves towards marketing practices, even when a lot was known about the views of the advocates.

In studies of this type, the views of those who respond to questionnaires are sometimes mistaken—but what people believe to be true is very often at least as important as what is actually true, particularly in an area as sensitive as the relationship between the buying public and the industries which produce the goods they buy.

Barksdale and Darden mailed questionnaires to 785 households in the summer of 1971. The national sample was randomly selected within each state in proportion to its population. In the end, they found 45 per cent of the questionnaires had been returned and were useful—a significant response.

The questionnaire consisted of 40 statements with which the respondents were asked to agree or disagree in varying degrees, or to show uncertainty about an answer. The questions were grouped around business philosophy, the quality of products, advertising and other marketing activities, consumer responsibilities, the consumerism movement and government regulation of business.

It was in the latter category that Barksdale and Darden found what they described as perhaps the most significant response on the part of consumers, who, they noted, had considerable experience as shoppers and purchasers of consumer goods. "Over two-thirds of the sample agreed that additional government regulation is needed to protect consumer interests," they said in their analysis.

Furthermore: "Over 73 per cent believed that the government should test competing brands of products and make the test results available to consumers; 73.7 per cent stated that the government should set minimum quality standards for all consumer products; 77.1 per cent indicated that a Federal Department of Consumer Affairs is needed, and 68.3 per cent agreed that there should be greater government control over advertising, sales and marketing activities."

A small proportion of the respondents expressed strong disagreement with the need for increased government control, to be sure, but Barksdale and Darden concluded: "The high level of agreement suggests that consumers want help and are ready to accept legislative solutions to their problems." Not only that, the answers to these specific questions did not include very large percentages in the "uncertain" column, which means the consumers not only had opinions on this subject, but strong opinions.

More remarkable than this, Barksdale and Darden reasoned, was the response of consumers when they were divided into political persuasions: namely, conservative and liberal.

It was to be expected that liberals would take a generally more critical view of the marketing practices of businessmen, and to be more optimistic about the consumerism movement. "Both groups, however, expressed strong support for a Federal Department of Consumer protection," they said.

In effect, 41.8 per cent of the "conservatives" agreed there is a need for such an agency, and 29.3 per cent agreed "strongly" there is such a need, for a total of 71.1 per cent. Among the "liberals," 47 per cent expressed favor for such an agency, and almost as many—42.6 per cent—strongly expressed such an opinion, for a total of 89.6 per cent.

"Business leaders may have definite reasons for opposing protective legislation for consumers, but apparently the buying public does not agree," Barksdale and Darden declared. They drew this significant implication: "Business appears to be facing the choice of voluntary or legislative control."

That, frankly, is putting it mildy, as the authors themselves suggest in their concluding remarks. They noted that consumer discontent in the study must be viewed in the light of a general mood of discontent prevailing against all institutions. But nevertheless, consumers were responsive to legislative solutions to their problems. Indeed, it suggests they have more confidence in government enforcement than in voluntary business efforts to meet consumer expectations, the study concludes.

"The apprehension expressed about particular aspects of business and marketing constitute an important message to corporate officials and marketing executives and should not be ignored," caution the two authors. "Consumers seem to have some specific complaints that demand constructive and corrective action."

Not only that: "Until there is visible progress in alleviating these conditions, the consuming public is likely to continue the search for solutions through government action."

This, of course, raises a question not posed directly by the report: namely, what reason do consumers have to believing that government will do a better job of looking out for their interests than will private business itself?

Indirectly, they consider this question by noting that the respondents "do not appear to understand that government intervention will not solve all consumer problems and certainly will not prevent problems created by consumers who are unwilling to accept their responsibilities in the marketplace."

It is the responsibility of business to do a better job of educating the public to the advantages of the free marketplace and the free enterprise system, the authors suggest, but it is also their responsibility to straighten up their own house so the consumer won't have a motive to run to the government for help.

"The consumer movement has emphasized the responsibility of consumers to complain when justified," they write. "This situation has created a responsibility for business to increase the attention given to consumer problems and to initiate programs that will improve customer relations. If businessmen do not voluntarily respond to consumer problems and complaints, they may be faced with further government control through legislation."

WHAT BUYERS SAID

Following is the complete list of questions which the University of Georgia Marketing Department put to a nationwide sampling of consumers to get their attitudes on business, advertising, marketing, consumerism and government regulations.

PHILOSOPHY OF BUSINESS

Statements	Level of agreement (percent)				
	Strongly agree	Agree	Uncertain	Disagree	Strongly disagree
1. Most manufacturers operate on the philosophy that the consumer is always right	2.0	21.5	15.8	47.2	13.6
2. Despite what is frequently said, let the buyer beware is the guiding philosophy of most manufacturers	5.6	32.5	24.6	34.2	3.1
3. Competition insures that consumer pay fair prices	12.4	44.9	12.1	25.7	4.8
4. Manufacturers seldom shirk their responsibility to the consumer	.8	20.3	20.3	46.6	11.9
5. Most manufacturers are more interested in making profits than in serving consumers	21.8	52.3	11.9	12.4	1.7
PRODUCT QUALITY					
6. In general, manufacturers make an effort to design products to fit the needs of consumers	5.4	73.2	8.8	11.9	.8
7. Over the past several years, the quality of most products has not improved	11.9	38.1	12.1	35.3	2.5
8. From the consumer's point of view, style changes are not as important as improvements in product quality	33.6	48.0	5.1	11.3	2.0
9. Manufacturers do not deliberately design products which will wear out as quickly as possible	4.0	31.6	22.6	31.9	9.9
10. Manufacturers often withhold important product improvements from the market in order to protect their own interests	11.3	37.9	34.7	15.5	.6
11. The wide variety of competing products makes intelligent buying decisions more difficult	8.5	1.3	7.1	21.2	2.0
12. For most types of products, the differences among competing brands are insignificant and unimportant to consumers	1.1	31.9	6.5	50.3	10.2
ADVERTISING					
13. Most product advertising is believable	.6	30.2	13.8	42.4	13.0
14. Manufacturers' advertisements are reliable sources of information about the quality and performance of products	2.0	14.7	12.4	44.1	26.8
15. Generally advertised products are more dependable than unadvertised ones	4.2	34.2	19.2	33.9	8.5
16. Manufacturers' advertisements usually present a true picture of the products advertised	1.7	18.6	12.7	50.8	16.1
OTHER MARKETING ACTIVITIES					
17. Generally speaking, the products required by the average family are easily available at convenient places	27.1	67.2	1.4	3.4	.8
18. In general, the quality of repair and maintenance service provided by manufacturers and dealers is getting better	2.8	18.1	20.1	43.5	5.5
19. Generally, product guarantees are backed by the manufacturers who make them	4.2	59.6	15.8	15.8	4.5
20. The games and contests that manufacturers sponsor to encourage people to buy their products are usually dishonest	13.6	4.6	38.7	32.0	1.1
21. The American marketing system operates more efficiently than those of other countries	11.0	38.7	44.6	5.1	.6
CONSUMER RESPONSIBILITIES					
22. The problems of consumers are less serious now than in the past	2.0	18.4	16.7	54.0	9.0
23. The information needed to become a well informed consumer is readily available to most people	3.7	39.5	13.6	37.3	5.9
24. The average consumer is willing to pay higher prices for products that will cause less enviornmental pollution	9.0	32.8	27.7	27.7	2.8
25. The problems of the consumer are relatively unimportant when compared with the other questions and issues faced by the average family	4.2	21.8	13.6	53.7	6.8
26. Many of the mistakes that consumers make in buying products are the result of their own carelessness or ignorance	12.4	62.4	5.9	16.9	2.3
27. Consumers often try to take advantage of manufacturers and dealers by making claims that are not justified	6.5	25.4	22.0	39.3	6.8
28. For most types of products, consumers do not find it worthwhile to shop around to find the best buy	5.1	31.4	4.0	48.9	10.7
29. Concern for the environment does not influence the product choices made by most consumers	5.4	56.2	18.6	18.4	1.4
CONSUMERISM					
30. Manufacturers seem to be more sensitive to consumer complaints now than they were in the past	3.4	42.9	18.4	26.8	8.5
31. When consumers have problems with products they have purchased, it is usually easy to get them corrected	1.7	14.1	15.3	51.7	17.2
32. Most business firms make a sincere effort to adjust consumer complaints fairly	3.7	52.8	21.5	17.8	4.2
33. From the consumer's viewpoint, the procedures followed by most manufacturers in handling complaints and settling grievances of consumers are not satisfactory	13.3	53.7	16.4	16.1	.6
34. Consumerism or the consumer crusade has not been an important factor in changing business practices and procedures	2.5	27.1	22.0	41.8	6.5
35. Ralph Nader and the work that he has done on behalf of consumers has been an important force in changing the practices of business	22.3	38.7	28.8	7.9	2.3
36. The exploitation of consumers by business firms deserves more attention than it receives	24.6	50.3	14.1	9.6	1.4
GOVERNMENT REGULATION					
37. The government should test competing brands of products and make the results of these tests available to consumers	28.2	45.5	8.5	14.1	3.7
38. The government should set minimum standards of quality for all products sold to consumers	25.1	48.6	9.9	13.6	2.8
39. The government should exercise more responsibility for regulating the advertising, sales, and marketing activities of manufacturers	25.1	43.2	12.4	16.7	2.5
40. A federal department of consumer protection is not needed to protect and promote the interests of consumers	5.1	8.8	9.0	43.5	33.6

[From the Washington Post, Feb. 5, 1973]

UNITED STATES LENIENT ON BUSINESS, MOST FEEL

(By Louis Harris)

Compared with the 23 per cent of the American people who predict the second Nixon administration will be "tougher" on business, a much higher 77 per cent of the public think there should be tougher policies toward business on the part of the federal government.

One of the lingering doubts about the stewardship of Mr. Nixon in the White House has been the charge that the Republican regime is "too close to big business," a worry expressed by a 57-to-29 per cent majority. These doubts and suspicions take on added significance with the advent of the Phase III Nixon economic controls program, which relies more on voluntary compliance from business to keep within stated guidelines on price increases.

Behind the concerns the public has about government and business are the continuing decline in the marks accorded by public opinion on "the job American business is doing."

One of the phenomena in America in the early 1970s is suspicion about almost all parts of the establishment. This is so deep that business will probably have to prove its effectiveness on many specific dimensions before confidence is restored.

In periodic surveys since 1966, the Harris Survey has asked cross-sections of the public to rate American business on 16 key dimensions; the latest was conducted among 1,501 households nationwide in late December. The cross-section was asked:

"I would like you to keep in mind the companies and management that make up American business For each area I ask about, I wish you would tell me your impression of the job that American business is doing in that area—excellent, pretty good, only fair, or poor?"

	Positive rating		
	1972 percent	1966 percent	Change percent
Developing new products through research	69	92	−23
Putting in latest improvements in machinery	59	89	−30
Building new plants to make economy grow	55	78	−23
Providing enough steady jobs for people	48	76	−28

	Positive rating		
	1972 percent	1966 percent	Change percent
Providing job openings for minorities	49	57	−8
Paying good wages and salaries	48	72	−24
Paying out adequate dividends to stockholders	42	56	−14
Providing stockholders with sound investment opportunities	42	56	−14
Bringing better quality products to American people	42	75	−33
Offering young people chance to get ahead	41	73	−32
Dealing fairly with labor unions	41	56	−15
Allowing people to use their full creative abilities	34	62	−28
Really caring about the individual	22	39	−17
Helping care for workers displaced by automation	19	40	−21
Keeping profits at reasonable levels	19	46	−27
Keeping down cost of living	10	21	−11

The areas of greatest slippage in business reputation can be found in a perceived deterioration of the quality of products and services offered to the public—the root of the current surge of consumerism in the country.

At the bottom of the business credibility list are two highly sensitive items: its record on keeping down the cost of living and keeping profits at reasonable levels. Never a source of high credibility for business, its reputation on prices and profits has now reached its lowest level since 1966.

These specific areas of public doubts concerning American business are chiefly responsible for the overwhelming feeling in the country that the federal government should be "tougher" rather than "easier" on business in the next four years.

The cross-section was asked:

"In the next four years, do you think the Nixon administration will be tougher on big business, easier, or about the way it was in the first four years?" and

"Do you feel the Nixon administration in the next four years should be tougher on big business, easier, or no tougher or easier than it was in the first four years?"

[In percent]

	Will be	Should be
Tougher	23	77
Easier	10	1
About same	56	13
Not sure	11	9

[From the Chicago Tribune Feb. 8, 1973]

BUSINESS' COMMUNITY ROLE FAULTED

(By Louis Harris)

As well as being broadly criticized for the way it runs its affairs, as the Harris Survey has reported, American business is more severely criticized for what is perceived as a lack of contribution to the communities in which business is located.

In a recent survey, questions were asked about 12 areas of community activity by businesses. Business only received credit from a majority of the public for "being a real help" in three areas: "building up the community" [59 percent], "backing scientific progress" [53 per cent], and "supporting colleges and universities" [51 per cent].

In all three areas, however, as in every other area, public confidence levels today are far below those of a few years ago.

The greatest slippage since 1966 in business' rating as "being a real help" has been most acute in these categories: *"working for good government" [from 70 to 42 per cent]*; "supporting education [from 73 to 48 per cent]! "setting an example of good citizenship for the young" [from 66 to 42 per cent]; "helping the needy" [from 61 to 39 per cent]; and "supporting hospitals" [from 64 to 43 per cent].

The lowest civic marks for business centered on "controlling air and water pollution," where, by 57 to 24 per cent, the public thinks business has been "not much help." Along with what the public sees as deterioration of product quality and consumer services, a low rating for its efforts to protect the environment is at the center of the public confidence crisis now confronting American business.

[In percent]

	1972	1966	Change
Building up community	59	80	−21
Backing scientific progress	53	64	−11
Supporting colleges	51	68	−17
Supporting education	48	73	−25
Supporting cultural activities	45	62	−17
Supporting hospitals	43	64	−21
Working for good government	42	70	−28
Setting example of citizenship for young	42	66	−24
Helping the needy	39	61	−22
Helping minority groups	37	43	−6
Controlling water pollution	25	26	−1
Controlling air pollution	24	26	−2

Periodically since 1966, the Harris Survey has asked nationwide cross sections of the public to assess the part business plays in the local community. Most recently, a cross section of 1,502 was asked in late December:

"In most communities, businessmen are active in many civic activities. Do you think businessmen have been a real help, or not much help, here in these areas?"

There were signs of some positive public response to new environmental programs by some businesses. But more significant is the fact that while the economy has been recovering and public worries about unemployment and prices have abated, public opinion of the contributions of business to local communities has not been rising.

A key question is whether the public thinks business should take the lead in civic and community affairs. When the public was asked this question, the answer was in the affirmative, 78 to 19 per cent. Asked why they felt that way, more than 50 per cent indicated that business has the power to get things done and therefore ought to be active.

Some of the public's disenchantment with business in the community might be related to similar disenchantment with local government and politicians.

It is ironic that at a time when people want business to become more active in community leadership, they also believe business is doing less than before. This creates a sense of public frustration that breeds alienation, a development that may prove important in the politics of the 1970s.

For business, the stakes are particularly high. A failure to realize the public's expectations at the community level ultimately could lead to a reversal of public opposition to severe government controls over business. In this event, business could find itself under intensified attack from consumer groups advocating stricter government regulation of major business functions.

[From the Chicago Tribune, Feb. 12, 1973]

UNITED STATES WANTS MORE FROM BUSINESS

(By Louis Harris)

It is for "errors of omission" that the public is critical of American business these days. Public aspirations for business are directed as much toward humanistic goals—such as "raising moral standards," "raising living standards around the world," or "enabling people to use their talents creatively"—as they are toward improving the quality of goods and services turned out by business.

This is why 77 per cent of the public want the Nixon administration to be "tougher on business" in the next four years.

The sharp rise in public expectations for business in a wide assortment of areas hitherto regarded as public responsibilities is one of the most significant developments in modern American public opinion.

Its origins can be traced directly to the sharply diminished confidence the public has in politics and government, as well as to the fact that people prefer to see many of society's problems solved by joint private public efforts.

Periodically, since 1966, the Harris Survey has asked nationwide cross sections of the public about the propriety of business being involved in 16 key public areas.

Here are the trends in the answers to this question, asked again recently of a cross section of 1,501 households nationwide: "Do you think [read list] is a problem that businessmen and companies should give some special leadership to, or not?"

[In percent]

	Should give leadership		
	1972	1971	1966
Controlling air, water pollution	92	89	69
Eliminating depressions	88	83	76
Rebuilding cities	85	84	74
Enabling people to use creative talents fully	85	85	73
Eliminating racial discrimination	84	81	69
Wiping out poverty	83	81	69
Raising living standards around the world	80	74	43
Finding disease cures	76	70	63
Giving college education to all qualified	75	70	71
Controlling crime	73	64	42
Cutting highway accidents	72	67	50
Raising moral standards	70	64	48
Reducing threat of war	68	61	55
Eliminating religious prejudice	63	52	37
Cutting government redtape	57	50	34
Controlling population growth	44	43	17

The change over the last seven years in every case has been toward wanting to see business more involved in every area. Basically, this public mandate centers on three types of perceived business responsibility:

Those areas where business can do a job directly within its own companies, such as controlling pollution; using people's talents creatively; eliminating racial and religious discrimination; or producing safer cars.

Those areas where business in the aggregate can have an impact on the rest of the country and world, such as raising living standards around the world, rebuilding cities, or eliminating economic depressions.

Areas in which business can set an example for others to follow, such as raising moral standards and controlling crime.

A majority of the public now thinks modern corporate leadership should have a point of view on nearly all major issues facing society—whether or not they are under the direct control of business—including war, education, and finding cures for disease.

This is a far cry from the past, when such matters were not identified as the responsibility of the private sector.

At the same time that the public has expected more from business, however, it also has rated business leadership lower on its performance in these broad social areas: "As far as you know, has business helped solve the problem of [read list] or not?"

[In percent]

	Has helped		
	1972	1971	1966
Rebuilding cities	60	62	76
Raising living standards around world	52	54	61
Eliminating racial discrimination	50	49	58
Finding disease cures	47	53	71
Enabling people to use creative talents fully	41	46	65
Eliminating depressions	41	36	75
Giving college education to all qualified	40	38	65
Controlling air and water pollution	36	28	35
Wiping out poverty	35	39	63
Cutting highway accidents	29	28	29
Eliminating religious prejudice	28	24	34
Controlling crime	23	24	32
Raising moral standards	21	23	29
Controlling population growth	21	19	23
Reducing threat of war	18	18	23
Cutting Government redtape	11	12	19

Again, the trend has been almost uniformly down in the respect people hold for the job business is doing in the broader social areas. A slight turnaround was registered last year on protecting the environment and, in a year of economic recovery, on eliminating depressions.

The subject might be debated long and hard whether these broad areas of public responsibility are a proper basis on which to judge American business in 1973.

But the people themselves have made up their minds that they are. And, if business leadership does not speak out on them and offer more in the way of possible solutions, American business may find itself even more on the defensive than it is today.

[From the Chicago (Ill.) Tribune, Mar 15, 1973]

BUSINESS ACTS TO QUENCH CONSUMER FIRE

WASHINGTON, March 14.—Big business is mounting a national campaign to improve relations with the man on the street and blunt increasing federal involvement in consumer affairs.

Invitations have been issued by Henry Ford II to the country's 1,300 largest companies to support an organization called the Committee for Constructive Consumerism, which has headquarters at the offices of the Council of Better Business Bureaus, in Manhattan.

Leo Beebe, executive vice chairman of the committee, said it was started in part because "the image of American business is so low you can hardly see it.

"Businesses are not saints and the customer may get damned disenchanted with some of their action, so the committee was set up to act as sort of the rubber mat around the spittoon."

Beebe said "Consumerism started from poor goods and services to become a fire that has got to be put out."

But the way to quench it, he insisted would be by better performance by American business, rather than government intervention in the marketplace.

"Voluntary self-regulation is worth trying in spaces in consumerism, but one of the insidious things is that there has been less and less voluntary self-regulation and a substitution of collective government action," he said.

The committee's budget for its first year is $7.2 million, of which $3 million is for a national advertising campaign. The remainder is being turned over to the 134 local better business bureaus in the nation's largest cities.

Robert Pearson, a vice president of the council, said the $4.2 million is to be spent as "pump priming money" to strengthen local programs and personnel.

Education programs to increase the sophistication of consumers are being conducted in Toledo and Detroit, he said, while in Buffalo the local Better Business Bureau has assisted in bringing local consumer protection agencies together into a unit with a single phone number "to eliminate confusion."

"This is a move that we're actively supporting thru the council and the committee that could well be copied elsewhere" Pearson said.

He conceded that both consumer advocates and businessmen have in recent years criticized the local Better Business Bureau for not acting forcefully enough on behalf of complaining customers.

"Even Henry Ford had his doubts at first," Pearson said. But a decision was made to use the local bureaus "as a platform on which to build, altho it is generally acknowledged that the Better Business Bureau needs to be honed up."

"It's too early to tell how successful it [the campaign] will be, but it's certainly worth trying," Beebe, a retired vice president of Philco-Ford, said. "If we can't get the job done voluntarily lets do it with something like a Consumer Protection Agency."

Congressional efforts to create a federal consumer protection agency were defeated last year, but advocates are trying again in this session. Outlook for passage is uncertain.

INITIATIVES IN CORPORATE RESPONSIBILITY

(Prepared by the Consumer Subcommittee of the Senate Commerce Committee)

STAFF ANALYSIS OF THE RESPONSES

Replies numbering 181 were received in response to Senator Moss' invitation. Approximately 20% of these replies came from firms whose primary business concerns the manufacture of corporate and industrial goods rather than consumer merchandise; thus they were able to include little information directly applicable to the scope of this project. In addition, 5 companies not listed in the 300 requested the opportunity to participate in the survey and their contributions have also been printed in Appendix D.

Nearly all of the companies that replied expressed gratitude at the opportunity extended by Senator Moss. The consensus among corporate leaders in the nation seems to reflect the Senator's view, as expressed in the original letter, that too little attention is paid to the "good guys" in industry and commerce, and the chance to detail consumer-oriented programs was received enthusiastically in almost every instance. Many letters offered the view that meeting the challenge of consumerism was integral to sound business practice, and that success in the marketplace is reflected in the willingness and ability of manufacturers to produce quality goods and services and respond to consumer demands outside the areas of research, development and production.

Not all of the replies were particularly cooperative, however. One major steel company declined to offer any positive steps taken in behalf of the consumer, instead merely reiterating an old position against consumer class action legislation. Except for an outstanding report submitted by Philip Morris, companies engaged in the manufacture of cigarettes declined to participate. Other letters carried unfavorable messages regarding consumerism in general—specifying that consumers are not usually qualified to speak out against corporate irresponsibility, are not sufficiently knowledgeable about the intricacies of industrial production and management, or refuse to acknowledge existing consumer-oriented programs and policies. Overall, however, the responses were well-prepared and a genuinely helpful contribution to the goal of the project.

The report is designed to bring to the attention of the general public and industry the more unique and noteworthy projects undertaken by various industrial organizations in behalf of consumers, not only for purposes of publicizing these worthwhile ventures, but to encourage consumer programs among all industrial manufacturers. The body of the report is limited to a discussion of impressive programs reported by the participating companies. Except for one section on product safety, no specific attention has been devoted to potential consumer benefits arising out of product improvement and development, new technologies, streamlined production techniques, etc. The focus of the report is instead upon the efforts of the major corporations toward special programs and efforts of service to the consuming public.

The report is divided into 8 subsections dealing with areas of consumer concern in which leading manufacturers have produced viable programs and solutions. Several companies sent no specially prepared report or memorandum, instead relying on previously produced pamphlets, brochures and/or policy statements as representative of their efforts. In such cases selected sections of these pamphlets and statements were gleaned from the original sources and printed in Appendix C. It proved impossible and unproductive to print each contribution in its entirety, considering the huge quantities of such materials received by the committee. Also, no pictures, prints or other graphics have been included. Reports prepared particularly for the use of the committee were printed in full in Appendix C, however.

PRODUCT SAFETY

Although the focus of this report is not directed towards product development, there do exist some noteworthy examples of manufacturing efforts geared specifically to consumer safety in the use of products. Several examples of how corporate responsibility can be interpreted in this vital area of concern are discussed in this section of the report.

Deere and Company reported that its efforts in pioneering tractor roll-guards were finally rewarded by a million dollar giveaway program designed to publicize their roll-over protection product. Late this year the company expects to introduce a simple, functional and full-shielded power take-off coupler to replace traditional power take-off shields which have proved unwieldly. Farmers have apparently found these traditional coupler shields inconvenient, and have removed them from tractors, thus exposing themselves to possible injury. Deere's shield, according to the company, does not interfere with the operation of the coupler and will reduce the hazards to farmers.

Saab-Scania perfected a new bumper for installation on its 1972 model cars that will withstand damage to the auto's safety systems in impacts of five mph in the front, and rear collisions of two and one-half mph. These meet the National Highway Traffic Safety Administration standards which will go into effect on 1973 automobiles. Saab maintains that in tests no damage has been recorded to either the safety systems of the car or to the car itself, and that this accomplishment exceeds federal standards one year ahead of time.

In the area of food products, Delmonte reported that its cans now carry a safety warning concerning the potential hazards of sharp, raw-edge can lids. The company introduced on June 1, a guard bead lid designed to remedy potential hazards, and is working toward a triple-fold lid that would completely eliminate the raw edge on all cans. This new lid will reportedly be test marketed in the near future.

H. J. Heinz has pioneered efforts to safeguard baby food containers by promoting development of a new vacuum button. When the button is depressed, the baby food jars are safely sealed; when it is up, food may be spoiled or otherwise unsafe for consumption. The company reports that adequate instructions detailing the proper use of the vacuum button are included on each food container.

Manufacturers can also bring pressure to bear within industry for safe consumer products, or practices that will ensure consumer safety. Pittsburgh Paint and Glass helped organize the Consumer Safety Glazing Commission in 1970, which helped to promote home safety by supporting enactment of legislation at the state level requiring use of safety glazing materials in certain hazardous locations. Glazed materials are less apt to cause injury because of a reduced tendency to shatter or splinter on impact. The CSGC has already supported passage of legislation in 15 states, and will support seventeen more bills in 1972–3.

ENVIRONMENTAL PROTECTION

The challenge of environmental protection has become a crucial issue among con-

sumers, and various manufacturers reported their efforts to meet consumer demands for a clean, waste free environment. For example, the major aluminum manufacturers recently initiated efforts to reclaim and recycle all-aluminum products. In 1970 Reynolds Metals began an intensive aluminum recycling campaign with reclamation centers in Miami, Los Angeles, San Francisco, Phoenix, Houston, New York City, Newark, Tampa and Jacksonville, Florida. The newest center was opened in Seattle in 1972. In addition eleven mobile reclamation centers have begun operation in the New York City area, the middle Atlantic states, and the northwest. The company maintains that its 500 collection points cover the areas of the United States in which some 95% of all aluminum cans are consumed. Reynolds also noted that the number of aluminum cans that have been turned in since they began the program has jumped from 10 million in 1968 to some 750 million in 1971. The company pays 10¢ a pound for aluminum cans or clean household scrap aluminum.

Alcoa began reclamation and recycling test programs in 1970 in San Diego, Dallas, and Fort Worth. Through the program, entitled "Yes We Can", scrap aluminum is purchased by metals dealers and resold to Alcoa. The scrap value of aluminum is $200 per ton, a price that the company believes encourages participation by both consumers and secondary scrap dealers. Two other major can producers, American Can and National Can reported that they have opened scrap collection centers at each of their manufacturing locations. The Miller Brewing Company, a subsidiary of Philip Morris, uses all aluminum cans which are fully recyclable, and plans to initiate grants to minority entrepreneurs to start reclamation centers.

Improved waste disposal techniques also contribute to environmental protection. In its paper mill in Halsey, Oregon, American Can has opened an experimental process to transfer recycled water to cornfields for irrigation purposes. The National Can Company reported its participation, in cooperation with other industries, in preparing waste disposal demonstration projects in San Francisco and Madison, Wisconsin. Proctor and Gamble reported a program directed at environmental preservation involving the combination of domestic sewage with pulp mill waste in a single plant in Green Bay, Wisconsin. The company reported that this project was considered a success. Another Philip Morris subsidiary, the Nicolet Paper Company, has built a waste water treatment facility to clean industrial waste water before it returns to the Fox River near its plant in Wisconsin, and Philip Morris' American Safety Razor division has constructed a filtration system that returns waste water to Virginia's Middle River cleaner than when it was removed for industrial use.

Several manufacturers reported participation in reforestation programs. The Saint Regis Paper Company grows and distributes seed to independent tree farmers principally in the south. The company reported that more than 10 million seedlings are distributed every year under this program. United States Gypsum is also involved in a reforestation program in Mississippi which would provide replanting of 1250 acres of flood-ravaged land over the next 25 years. The Hunt-Wesson Foods Division of Norton Simon Incorporated has also cooperated with the Forest Service in establishing three National Children's Forests, special areas in existing national forests that will be replanted with trees donated by Hunt-Wesson in the name of consumers who send in proof of purchase seals from nine Hunt-Wesson products. Over one million trees have been purchased for planting in response to this program.

Landscape beautification programs have been implemented by several companies in response to consumer demands for environmental protection. Most of the major oil companies reported some form of program or policy designed to upgrade both appearance and service of their retail outlets.

Recent pollution problems have led to new efforts on the part of the industry to develop systems designed to detect and prevent pipeline and drilling well blowouts. Phillips Petroleum Company has developed a new inspection tool designed to detect both internal and external corrosion in domestic pipelines. The company has installed metal plates into the lines which aid in detection of corrosion at certain sections in the lines and hopefully will head off pipeline bursts and prevent oil pollution. Tenneco Incorporated described a system designed to control oil blowouts in off shore drilling wells. By implementing a crimping device in the tubing which transfers oil to the well head, a sealing plug can be formed which halts the flow of the oil to a head that has been damaged. After the plug is properly placed the well is "killed" by pouring drilling mud through the tubing to the core of the oil well.

To combat the growing problem of air pollution National Distillers has shifted to low sulphur fuels for steam generation in its power plants. They also maintain that the water taken from Kentucky streams for distilling purposes is returned to the streams "cleaner than when it was taken out."

Leading manufacturers discussed many other programs dealing with environmental preservation which are of interest to consumers. In the area of pesticides control, the Agway Chemical Corporation has produced control guide lists containing information about the proper use of pesticides, the correct time and place for application, and other relevant information designed to combat chemical abuses. Delmonte included a comment regarding their use of non-chemical pesticides whenever and wherever practical. Alternative methods to pest control include cultural control, cultivation of crops where pests are not present, physical controls such as field flooding and use of ecological barriers, insect resistant plants and other biological control methods.

The Atlantic-Richfield Oil company sponsors a Clean Air Caravan in large metropolitan areas around the country. Vans equipped with pollution measuring devices offer pollution control information to interested consumers, and present demonstration programs and automotive pollution tests for the public. U.S. Gypsum reported that employees at its Alabaster, Michigan plant converted a dumping area into a nine hole golf course. The Ingersoll-Rand company noted its various efforts to combat noise pollution by muffling demolition tools and contributing articles on noise pollution control suggestions for consumers through its Compressed Air Magazine subsidiary.

The Lever Brothers company has taken an interesting approach to the prevention of water pollution by launching a "Clean Water Campaign" in Wisconsin. One of the highlights of the Lever campaign is the company commitment of two cents from each package of its ten leading detergent brands sold in Wisconsin to the University of Wisconsin Extension program for the study of water pollution abatement methods. Lever made an initial $10,000 contribution against sales to get the program started, and reported that a favorable public response in Wisconsin could lead to continuation and expansion of the campaign into other areas.

Heinz listed a number of pollution abatement studies and projects designed to produce better waste disposal methods in locations such as Tracy, California and Los Angeles.

CONSUMER EDUCATION

Labeling procedures—Food products

Among consumers today there exists a growing demand for informative labeling of ingredients, nutrients and calories contained in packaged and processed food products. Most of the participating food manufacturers are adopting, if they have not already adopted, labeling policies geared to meet some of the needs. Nutritive and ingredient information is now printed on the side panel of each package of Kellogg's cereals, along with a chart detailing vitamin and mineral values of the product with and without milk and sugar. The Coca-Cola company has adopted a policy of ingredient labeling on all carbonated beverage products and fruit drinks. Coke's Food Division has begun labeling fruit juice percentages contained in each of its Hi-C products.

Other major food producers, such as Quaker, Delmonte, Libby's and Campbell's list ingredients on packages, as well as an offer to consumers for further information upon request. The Best Foods division of CPS has instituted a policy of nutritional labeling on products such as Hellman's mayonnaise and Skippy peanut butter, foods that are produced under standards of identity. CPC also offers a booklet containing nutritional analysis of the company's food products. An informative, free product analysis of the company's food products. An informative, free product analysis booklet is produced by Delmonte, and includes nutritional and caloric values of most of their products, as well as recommended daily nutritional requirements according to age, sex, height and weight and a summary of the functions of various nutrients contained in Delmonte products.

According to their report, General Foods follows basically the same nutrition labeling policy as its competitors. The company did mention labeling of caloric content, and grams of protein, carbohydrates and fats that appear in each average serving of each product. General Foods also has adopted a policy of explaining the function of each additive and ingredient in its food products.

H. J. Heinz has published extensive information detailing nutritional composition of its food products which is available upon request from the company. One of the Heinz publications, entitled *Nutritional Data*, has become an integral teaching aid in a large number of American medical schools.

Labeling—Cleaning products

Ingredient labeling on cleaning products also assists consumers in finding the most suitable product for household needs. The Armour-Dial division of Greyhound reported that it prints all ingredients on three of its major products. The company has adopted a labeling policy for new products that provides for information regarding the proper use of the cleanser, plus an analysis of what the product will not do, as well as what it can accomplish.

Labeling—Pharmaceuticals

Precise labeling of prescription drugs helps to assure their safe use by both medical personnel and consumers. Several of the leading manufacturers reported identification policies designed to maximize the amount of information available to consumers in order to promote proper use of the product.

Eli Lilly prints a code symbol on each tablet, and all labels of suppositories and oral suspension powders identify the ingredients in the particular product which according to the company, allows for immediate antidotal analysis in case of emergencies. Trademarked Identi-code, this system appears to be one of the more precise coding policies in effect in the industry.

Lilly also has instituted a system of unit dosage known as Identi-dose by which single doses of selected medicines are individ-

ually packaged. The company maintains that this system provides for easier, safer and less wasteful distribution of medicines in hospitals and offices which handle large quantities.

Schering-Plough prints color codes on the labels of all its prescription products, and code letters on tablets and capsules in order to facilitate identification.

Dating procedures

Open dating of food products has become more widespread due to consumer demand. Code dating is being phased out in favor of comprehensible open dating aimed more specifically at the consumer rather than the retailer. Land O' Lakes and the Continental Baking Division of ITT are two corporate concerns currently experimenting with open dating policies on all food products. Manufacturing dates are clearly marked on both shipping cartons and individual packages of Kellogg's cereal products. Oscar-Mayer prints a freshness expiration date on all units.

In most cases, consumers respond favorably to an open, legible dating system which provides the freshest available food products on grocery shelves. Code dating and restriction of manufacturing dates to shipping containers leaves the responsibility for product freshness in the hands of the retailer rather than the individual consumer. Hopefully more manufacturers will adopt open dating policies where and when feasible, as a response to the consumer demand for high quality food products.

Nutrition education and enrichment

Several leading food manufacturers offer programs designed to meet the nutritional needs of consumers. The Pillsbury company is cooperating with the Office of Economic Opportunity in a program offering protein-rich lysine flour to low-income consumers. The effectiveness of this particular effort, which has been initiated in three test cities, is currently under review by the Department of Agriculture. Hunt-Wesson, a division of Norton-Simon, has continued its successful low-cost cookery program, which offers information on nutritional values of its products, meal preparation plans, and advice about smart buying in the marketplace. Hunt's Computerized Menu Plan is a unique program geared toward family meal planning with emphasis upon nutritional food preparation according to family size, life style, food budget and personal preferences of each family subscribing to the program.

Other impressive policies and programs exist to combat malnutrition among low-income groups. CPC organized a Food Improvement Nutrition Development program to produce low cost, high nutrition foods for use in developing areas where malnutrition is a serious problem. A cereal for young children and infants was produced for distribution in Colombia; another high nutrition product for children is being used in Brazil.

In its efforts to combat malnutrition the Star-Kist division of Heinz cooperated with the Southwestern Engineering Company of Los Angeles in formation of the Ocean Harvest Company. Ocean Harvest has been responsible for the pilot production of fish protein concentrates designed for incorporation into other food sources as a remedy for nutritional deficiences. No test site for those products was listed. Ralston-Purina also reported experiments in protein enriched cereal product designed to alleviate nutritional deficiencies. Quaker Oats has sponsored a series of nutrition education messages for distribution to educational television stations. Delmonte cooperated with the University of California in production and distribution of public service films for viewing around the state. The company has also participated in nutrition counseling to the San Francisco Bay Area alcoholism program, and has designed a low-cost menu and assisted in food purchasing, storage and preparation measures as a contribution to the rehabilitation program.

The Nabisco Company has produced public service announcements designed to stimulate consumer education regarding nutritional needs. A series of two-minute messages is in the final stage of production and will be distributed to all U.S. radio stations. The series includes interviews with noted nutrition experts and deals with general topics such as vitamin and nutritional requirements. Some of these messages will be directed at specific audiences—teenagers, businessmen, housewives, older persons, and other particular segments of the overall consumer market. The entire series will be translated into Spanish prior to distribution.

General Foods has been sending nutrition information to schools for use in home economics classes. The company also sponsors the National 4–H Food Nutrition Program, involving over 700,000 club members in nutrition education projects each year.

SAFETY EDUCATION

Efforts of leading manufacturers in promoting the safety of the general public represent a genuine public service. Illinois Central's Safety Department has produced films designed to demonstrate to children the hazards of playing along railroad tracks and in freight yards. Prints of the film have been presented to each state governor and each state education commissioner for distribution.

Illinois Central also reported its creation of a Fire Prevention Bureau to teach fire prevention and emergency preparedness to interested members of local communities. Special attention is devoted to explanation of emergency procedures should a railroad accident lead to chemical fires or explosions.

Whirlpool produces a "Color Me Safe" coloring book for children designed to instruct youngsters about general household safety rules. The company noted that the book is available free of charge and has been used in schools and day care centers, as well as by families, in teaching safety habits.

Avis Rent-A-Car has prepared a special auto safety driver training program in cooperation with the Highway Safety Foundation. The program will be tried on an experimental basis in Mansfield, Ohio, and if sufficient citizen enrollment is realized, Avis plans to extend the training sessions to other locations. Under the program, student drivers of all ages will be instructed in tactical driving techniques, how to deal with road emergencies such as skidding, tire blow-outs, and auto maintenance.

GENERAL EFFORTS

Other leading corporations listed various programs and policies created to instruct consumers in product use and maintenance. Whirlpool produces a "Home Care Package", a short booklet containing household tips and ideas, prepared by a team of home economists and service personnel. Late in 1971, the company worked together with the Celanese Fibers Marketing Company in production of seminars on the technology and maintenance of washable knit clothing. The seminars were held in Los Angeles, San Francisco, Dallas and Chicago, and were attended by home economists, educators and members of the press.

Whirlpool introduced its Care-a-Van program in 1969. One of the most unique approaches to consumer education listed in the survey, Care-a-Van involved a company of Broadway actors and performs in a ninety minute stage show oriented toward construction, care and proper use of appliances in the home. Care-A-Van included a series of slides and films in addition to the stage show. The success of the show prompted the company to produce a motion picture, which is currently available to civic groups and schools.

Bristol-Myers reported a contribution to public education through production of a series of health programs. Last year's program, entitled "How to Stay Alive", demonstrated various physical fitness regimens designed to combat heart disease. This year the company produced a new program aimed specifically at women, "Life, Death and the American Woman," containing several exercises for women.

Bristol-Myers also sponsors model anti-drug abuse programs in Yorkville and East Harlem. The project, known as ACTION, involves peer groups in educating youths about drug abuse.

General Electric operates a Consumer's Institute in Louisville, Kentucky comprised of five home economists who travel around the country holding workshops concerned with new and better approaches to cooking, dishwashing, laundering, more efficient waste disposal and other home-making skills. The Institute also publishes bulletins as references to home economists and other professionals in the field.

GE designs point-of-purchase tags for attachment on certain appliances offering valuable information about what the product can be expected to do, and physical and electrical characteristics. The tag is designed to assist potential customers in ascertaining for themselves whether a product meets their demands and specifications.

Although this report was directed at manufacturers and did not specifically include retailers, the Committee received information about a unique and beneficial customer service program from one retailer, Market Tire, with a chain of outlets in the Washington, D.C. area. Market Tire is providing consumers with relevant tire test information on the 22 lines of tires which they carry. Testing results of tire endurance, high speed performance strength and bead unseating, indicating the resistance of tires under various loads and impacts, have been made available in a pamphlet entitled "A Guide to Aid You in Tire Selection." The Department of Transportation's Safety Standard Number 109 provided minimum requirements for tire testing, and Market has extended these tests to provide customers with important comparative data.

Market also reported that when DOT finishes modifying its tire quality grading proposal, they will participate with the Department in conducting these tests in compliance with the new standards.

CONSUMER SERVICE

Customer relations

Several companies reported intensive follow-up relations procedures designed to ensure that consumers receive satisfactory performance from company products and services. Motorola's post-sale customer relations procedure appeared unique in its sponsorship of a special summer program in 1971 through which college students were hired to conduct interviews with Quasar color set owners. After an education program that oriented the students to Motorola's quality control programs, they were assigned to work out of company distributorships in the District of Columbia, Jacksonville, Salt Lake City and service facilities in Newark and Franklin Park, Illinois.

General Electric conducts a monthly survey known as the Consumer Market Information System which queries customers about their satisfaction with all brands of home appliances. The survey reaches about 1,000 people every month and includes three separate interviews, one in person and two over the telephone, over a year-long period. GE attempts to track down appliance repair records, product performance and overall en-

thusiasm, or lack of it, for different products.

Procter and Gamble also reported an involved customer relations program through which over one million customers were contacted during 1971. These interviews were conducted over the telephone and through mailed questionnaires and personal interviews in households where company products were used. The company did not indicate whether such interviews were being continued in 1972.

When several customers wrote the Merck corporation with complaints that their Calgonite dishwashing soap product had created a foaming problem when used in certain brands of dishwashers, the company authorized voluntary compensation for all customers who had suffered machine damage. Merck informed the committee that Calgonite has since been refined to correct for the sudsing problem.

Sunbeam responded to the original subcommittee letter in a unique manner, by providing some eighteen letters relating consumer satisfaction with the Sunbeam repair and replacement program, from consumers across the country. A number of other leading manufacturers reported similarly favorable responses from the public toward customer relations and complaint policies, emphasizing the importance of maintaining favorable relations and providing good service as a prerequisite to success in the business world. The increasing numbers of consumer service departments created or planned in the nation's leading manufacturing enterprises indicates the substantial concern for corporate relations and public image in the marketing sector.

Advertising practices

Responsible, informative advertising benefits the consumer and contributes to a positive corporate image among the buying public. With all the complaints and criticisms that have been leveled at advertising practices, the Committee did receive evidence that some companies are concerned with promoting advertising directed at consumer education and understanding of the products on the market.

The Flintkote Corporation provided excellent examples of consumer-oriented advertising. Flintkote ads offer consumers helpful information regarding building materials, proper construction of swimming pools, backyard patios, driveways, home additions, and roof repairing techniques. The advertisement concerning patio-building, for example, includes pointers on concrete mixing, placement, finishing and curing, as well as some possible hazards inherent in the processing, the importance of proper water drainage, the best time of the day for pouring concrete and how to handle irregularities in the mix. Helpful illustrations are scattered throughout the ad. Complete texts of several Flintkote advertisements have been printed in Appendix C.

There are other examples of advertising which contains information directed at consumer education. General Telephone prepared an advertisement with information geared to consumer complaints about telephone charges. The ad contains tips on how to check a phone bill for billing errors, and what to do and who to call in case of erroneous charges. Consumer-oriented advertising can be especially efficacious in the print media as a substitute for the usual appeals to vanity and irrationality. Such rational, responsible ad policies are bound to elicit praise and support from consumers, and will hopefully be adopted on a larger scale in the near future.

WARRANTIES

All the major automobile and appliance manufacturers who responded to the survey listed some form of warranty or guarantee applicable to their product or products. Most of these do not vary in substance and manufacturer responsibility to any great degree, except for a few outstanding agreements which have been highlighted below. The ongoing problems of customer misunderstanding of difficult legalities and loopholes often lead to dissatisfaction and may be alleviated by conscientious attempts to improve product warranties.

One of the most generally accepted attributes of any product guarantee among consumers is a broad scope. The American Motors Buyer Protection Plan, issued in August 1971 for effect on 1972 autos, is the only one of its kind in the U.S. automobile industry, and the scope of this guarantee exceeds basic warranties issued by major home appliance manufacturers. In essence, the plan stipulates that under normal driving use during the first year or 12,000 miles of customer ownership, any defective part or evidence of faulty assembly will be corrected at company expense. American Motors has thus far expressed satisfaction with the customer response to the plan, stating that some 95% of new car owners have been satisfied with the performance of their product. The full text of the AMC warranty is included in Appendix C, along with some brief descriptions of new quality control practices instituted by the company in conjunction with the warranty.

Among warranties issued with household appliances and similar products the O. M. Scott Company guarantee exemplifies a more satisfactory form of consumer protection agreement stating that any customer dissatisfied with his lawn spreader may receive a full refund simply by providing proof of purchase to the company. Other manufacturers have similar warranty plans through which dissatisfied customers may be refunded after producing proof of purchase and the defective or otherwise unsatisfactory product.

Another positive approach to the problem of consumer understanding of guarantees is reflected in the policy of the Corning Glass Company. Corning has altogether rejected the complicated warranties and guarantees that confuse customers with legal jargon and complicated loopholes, and has adopted a concise, straightforward "promise" to its customers. The "promise" states that the company will "replace without charge any piece of Corelle Livingware that should chip, break, craze or stain during two years of normal household use." Another Corning guarantee stipulates that any Corningware product that breaks from extreme temperatures will also be replaced free of charge. Corning has thus far been pleased with consumer response to the new "promises."

PUBLIC SERVICE LEGAL CONTRIBUTIONS

Another area of public concern in which major companies are making contributions is in public service law. Seven of the leading industrial corporations participate in pro bono work, providing counsel for indigent defendants, helping to prepare public service litigation, or aiding the Legal Aid committees of local bar associations. Information on participating corporate law departments was provided for publication in this document by the American Bar Association Pro Bono project, which queried 200 major manufacturing, insurance and retail companies, and utilities, in order to ascertain the breadth of participation in public legal aid work. The ABA has published their results in an in-depth study. Their contribution has been printed in full in Appendix A.

E. I. DuPont has initiated a legal assistance program through which fifty-two DuPont lawyers were recruited by the Delaware Public Defender for volunteer work. The Public Defender's Office held training sessions, instructing the lawyers on all aspects of criminal law, then provided a Criminal Law Clerkship program designed to prepare the lawyers for effective defense work by allowing their attendance at preliminary hearings and as second attorneys at criminal trials.

IBM began in 1971 to assign a lawyer to work full-time for a three-month period with the Legal Aid Society in Westchester, New York. IBM, Union Carbide, Dow Chemical and Standard Oil of Indiana encourage the participation of their lawyers in pro bono work of their own choosing by providing ample time and compensation. Goodyear Tire has adopted a similar policy by offering the assistance of its lawyers in community and social projects, and providing to the Akron, Ohio Bar Association a list of company attorneys willing to represent juveniles or indigents in criminal proceedings.

Caterpillar Tractor has also reportedly granted time and money to company attorneys to defend indigents. Caterpillar lawyers have aided the Illinois Civil Liberties Union in preparing litigation opposing granting of state education funds to nonpublic schools in Illinois, and have assisted state environmental protection personnel in holding off a project to fill in the shoreline of the Illinois River near Peoria for industrial purposes.

Whirlpool has also been involved in pro bono work in Michigan on projects such as establishment of black enterprises, review of local housing conditions, and provision of capital to "disadvantaged" businessmen who have been unable to obtain loans from conventional sources. Whirlpool noted that a group of its company lawyers has established a community house in Benton Harbor, Michigan in order to provide information and leadership to those who need help on financial or community improvement projects.

In a similar effort, Avon is working with the Federal Trade Commission in New York City on production of a pamphlet for low income groups containing information about their legal rights. Avon has provided staff people to help with this project.

PUBLIC BROADCASTING CONTRIBUTIONS

Several of the leading industrial corporations have underwritten public broadcasting or sponsored public service programming in attempting to provide more meaningful and responsive television productions for the public. With the assistance of the Corporation for Public Broadcasting we have compiled a brief list of corporate efforts in this area.

Xerox has long been recognized for its role in promoting public television through grants and subsidies. Kenneth Clark's "Civilisation" series is their latest and most adventurous effort. Mobil Oil also merits recognition for ongoing sponsorship of the Masterpiece Theatre. Quaker Oats and General Foods have underwritten the Sesame Street series, one of the most successful children's educational programs on the air.

General Foods has also adopted a policy outlining corporate desire to sponsor quality local public service programming, and a number of local stations have produced special shows through General Foods contributions. Among them are "Black African Heritage," over KDKA in Pittsburgh, "The Noise Around Us," WTEV in Providence and "The Potential for a Power Shortage," KTAR-TV in Phoenix, Xerox, Kraftco, Bristol Myers, Crown Zellerbach and other manufacturing leaders have also underwritten local programming efforts.

Support of at least $50,000 and up to as much as $1,500,000 has been individually granted by these leading corporations for national public television program underwriting:

Celanese—The Great Teachers

Ciby-Geigy—The Restless Earth
Coca-Cola—General Programming
Faberge—General Programming
General Electric—International Performance
General Foods—Sesame Street repeats
General Telephone & Electronics—Helen Hayes Special; Joan Sutherland, opera plus other dramatic specials
IBM—Hansel & Gretel
Martin-Marietta—Boston Pops
Minnesota Mining & Manufacturing—The Quiet Epidemic, "V.C."
Mobil Oil—Masterpiece Theatre
Polaroid—French Chef
Quaker Oats—Sesame Street repeats
Schlitz—July 4 Parade
Sears, Roebuck—Mister Rogers
Standard Oil (New Jersey)—Vibrations & Age of Kings
Trans-World Airways—EEN Newsfront
Xerox—Civilisation

In addition, local stations have received support at this level from corporations for general operations, underwriting or capital:

International Nickel—WETA
Xerox—Rochester, WXXI
Kraft Co.—WNET
Bristol Myers—WNET
Bank of America—KQED
Metro Media—KQED
Helena Rubinstein—WNET
Crown-Zellerbach—KQED
Champion Sparkplugs—WGTE, Toledo
Owens Illinois—WGTE, Toledo
Illinois Bell Western Electric—WTTW

SPECIAL EFFORTS

Several major companies have undertaken the responsibility for meeting the demands of consumers during and following emergencies, natural disasters and others, by providing services, equipment or other assistance. Maytag's flood relief program represents industry responsibility in this area. Under this program, the company provides repair parts at half price to Maytag product owners who have suffered damage to washers or drying units during natural disasters. The company also dispatches personnel from headquarters and branch offices to assist local dealers in repair operations. In conditions of extreme adversity Maytag offers to replace whole washers or dryers at half price to residents of affected areas who have suffered total losses of cleaning appliances.

Texaco reported that following hurricane Celia, in Texas in 1970, and again after the February 1971 earthquake in California, the company decided to defer the payments of credit card customers affected by the disasters. Texaco's report offered no indication of the length of the deferred period, or whether this type of offer has become company policy. The idea is a good one, however, and worth emulation in similar circumstances.

Special services to blind or otherwise handicapped consumers deserve mention. There are several companies which currently organize and operate assistance programs aimed at segments of the population with extraordinary physical or social handicaps. Hunt-Wesson assisted Spanish-speaking families in El Modena, California in translating old family recipes into English for publication in a community fund-raising cookbook. Hunt-Wesson also developed exact written measurements of ingredients for recipes which had been handed down through word of mouth for generations.

General Mills reports a new marketing program directed at persons with special eating habits resulting from metabolic imbalance or kidney disorders. A low protein wheat starch known as Paygel P and protein substitutes such as Chono, an egg product free of cholesterol, have been developed through the program.

As a special service to blind customers Campbell's has printed one of its more popular cookbooks, "Easy Ways to Delicious Meals," in braille. The book is available from the company upon request. In addition, Campbell's has provided funds for a study of food preparation for the aged and handicapped.

Among programs designed to deal with the problems of low-income groups such as migrant workers the plan of the Coca Cola Company is worth special attention. The company reported its efforts to improve the living conditions of its Minute Maid migrant workers in the Florida orange groves by ensuing the protection of employees not already covered by the National Labor Relations Act. Coke's activities in this area of public concern reflect the success of public pressure upon industry in the ongoing effort to promote the theme of corporate responsibility in helping improve the quality of life throughout the nation.

Philip Morris and their subsidiary, the Miller Brewing Company, have increased their deposits in minority-owned banks. Philip Morris reported that it now holds deposits in nearly every minority bank in the United States. To illustrate their commitment to the rehabilitation of U.S. cities, the company decided to build an $80 million manufacturing plant inside the city limits of Richmond rather than moving to the suburbs.

MISCELLANEOUS PROGRAMS

Abbott Laboratories offers through its Ross Laboratories Division, free counsel to hospitals to assist in the planning of pediatric wards. Abbott is also active in the production of films for medical personnel concerning surgery, cell life, hospital procedures and other related topics.

Schering-Plough maintains a permanent staff assigned the responsibility of answering questions from medical personnel about proper application of prescription products. The Plough division has opened up a telephone line for both consumers and medical personnel to obtain prompt information concerning medical problems.

The Pfizer Chemical Corporation noted in its report the institution of its project Great Concern, designed to combat venereal disease through distribution of educational pamphlets and posters.

In 1971 the company sponsored monthly training institutes in cooperation with medical schools and associations. Held throughout the U.S., these programs were designed to train doctors and medical students in combating drug abuse.

The B.F. Goodrich company claims to be a leader in aid to low-cost housing and urban development, through its four million dollar contribution to Opportunity Park in Akron, Ohio. Goodrich has also developed a vinyl plastic pipe which can be installed in old apartment buildings for thirty-five to fifty per cent less than conventional piping. In addition, the company stated in its report that technical assistance is provided to minority contractors who decide to install the new vinyl piping in their apartment units.

General Mills reported some new ideas for back-of-package offers that appeared unique for their potential educational value. The "Adventure-in-Learning" offers, which appeared in the early months of 1972, included foreign coins, stamps and insect collection kits as well as a miniature garden offer. During the fall of 1972 the company plans to feature a free coloring book to educate children to the proper use of medicines and other household products. This offer has been planned in cooperation with the Justice Department.

North American Rockwell's Hatteras division builds yachts for more affluent consumers, and includes with each unit an owner's hull file containing a permanent record of owner's data, warranty claims and dealer correspondence concerning the particular hull. Hull records are passed on by the owner when he sells his yacht. Inclusion of a special hull file represents an important effort by the company to ensure accurate maintenance data.

Philip Morris reported a distinctive approach toward the entire concept of the social responsibility of manufacturers by undertaking a massive audit of all previous and planned efforts in order to ascertain the strengths and failings of their programs and policies and extend efforts where necessary. Along with their social audit policy, Philip Morris decided to create a Board of Directors committee to review progress and management of corporate contributions. The company noted that they have received several requests for information about their social audit policy from other manufacturers interested in the concept.

APPENDIX A

PRO BONO WORK IN CORPORATE LAW DEPARTMENTS: A SURFACING SIGN OF SOCIAL RESPONSIBILITY

A number of forces are presently at work which seem to be pushing large corporations into a reappraisal of the social implications of what they are doing. Since the Spring of 1970, serious questions have been raised both inside and outside the corporate world about whether their traditional role goes far enough—or if it needs to be broadened to include a host of non-economic and social concerns. Such matters as human conditions, consumerism, pollution of the environment, and even international relations are being thrust upon the corporate conscience with disquieting intensity.

The whole question of a corporation's involvement in social considerations is coming to a head: the National Council of Churches is working on a new formalized structure for redirecting the investments of many denominational groups into more socially-oriented areas; the late Saul Alinsky's nationwide "Proxies for People" campaign plans to solicit proxies from foundations, union welfare funds and other institutions to put more pressure on management to consider the social consequences of their actions; the mayors of ten large U.S. cities are presently laying plans for making a formal presentation to leading auto makers to stress their concern about what the companies are doing to curb pollution of the environment; and the Project on Corporate Responsibility which staged Campaign GM in efforts to reform the corporate structure of General Motors, has plans for proposals requesting Ford, Chrysler, and AT&T to expand their boards to include women, minorities, and representatives of consumer and employee groups. The Ford and Chrysler proposals also call for further disclosure in auto safety, pollution control and minority hiring.

Within the corporate legal departments, signs of "social responsibility" are also surfacing. In a recent study by the ABA *Pro Bono Project*, 200 major corporations were surveyed to determine to what extent the legal departments were involved in *pro bono* and public interest work. The results show that 14 of the 32 corporations responding, presently have or are in the process of developing some type of public interest program.

Most of the corporations that participate in *pro bono* activities work with an existing legal services or public defender program by

providing volunteer time. The policy of the amount of time to be provided varies from company to company. In a manner similar to private law firm *pro bono* programs, some companies allow their attorneys released time for an extended period of up to three months, whereas others simply allow attorneys to represent indigents using a "reasonable" amount of company time.

The extent of participation varies with the amount and type of encouragement the company has provided.

All in all, very few companies have taken steps to engage their lawyers in *pro bono* work, and of those who have, very few have developed innovative approaches for use of their manpower. Of those companies responding to the questionnaire, but who had no program, it appeared that there is great interest in developing programs, but that no organized push has taken place to move the interested corporations along the path of developing one.

If a lesson can be learned from the experience that private law firms' *pro bono* involvement has provided, it is that energetic lawyers from within the company will have to take the initiative to move the corporations further along. The task is by no means hopeless, as the outside pressures that are helping to make corporations more socially responsible have plowed a fertile field.

The survey also revealed that several problem areas can arise that may be peculiar to corporate attorneys engaging in *pro bono* activities.

In many corporations, the lawyers are not members of the bar of the state where they are working, and therefore, cannot appear in court. The Public Defender's Program in Wilmington, Delaware, faced this problem when trying to solicit the assistance of Du Pont Corporation lawyers for their program. DuPont has approximately 130 attorneys on their staff, but only 30 of these are members of the Delaware Bar, which greatly limited the number of attorneys eligible to participate in the Public Defender's Program. Successful steps were taken to change a Supreme Court of Delaware ruling, which now allows volunteer attorneys doing work for either the legal aid society or the Public Defender to appear in court if they are admitted to active practice in another jurisdiction. When the rule was changed, the Public Defender contacted DuPont and as a result obtained the volunteer support of 52 of the corporation's attorneys.

Such arrangements may be impossible for a company to make, depending on the rules of court or statutes that control admission to practice in a particular jurisdiction. But such arrangements are worth investigating.

Another interesting problem involves the situation that since corporate attorneys are not ordinarily insured against legal malpractice actions, it might be necessary for the company to procure malpractice insurance for each attorney participating in a *pro bono* project. Of course, a company could leave that decision to the individual attorney, but some corporations have borne this expense to affirmatively encourage the participation of their lawyers.

Some corporations have raised the question that *pro bono* practice performed by the corporate lawyer during regular business hours might be engaging the corporation in the unauthorized practice of law. This issue does not appear to be a real problem, because, in most instances the individual attorney will be providing representation, but the local rules in each jurisdiction concerning corporate practice, unauthorized practice and conflict of interest should be carefully complied with.

Finally, some companies have found dissatisfaction among their lawyers who are participating in public interest activities, because they feel that full-time legal services attorneys tend to retain the more challenging legal cases and the volunteers receive only routine cases. This problem can eventually be alleviated by corporate lawyers making more extensive time commitments to these local programs so that the programs can depend on them and can assign difficult matters to them. Also, as more expertise in poverty law is developed, more challenging cases seem to follow.

The following companies have lawyers engaged in *pro bono* work, and the corporate commitment is more formalized:

Aetna Life Insurance Co. in Hartford, Conn. has had a *pro bono* program since 1967 which allows its attorneys up to 15 hours per month for *pro bono* work while receiving full salary and retaining the use of office and secretarial backup. If a lawyer wishes to participate in an activity for an extended period on a more substantial or full-time basis, the matter is presented to the General Counsel for approval. Projects have included Circuit Court Volunteer Defender Program, assistance to the local Hartford Neighborhood Legal Services, Inc. and litigation on behalf of student lawyers for the University of Connecticut Legal Aid.

Consolidated Edison Company of New York, Inc. in New York City has four attorneys working in the Community Law Offices program. Additionally, the company's Community Relations Department has established a program called Con Ed Volunteers for Minority Businessmen. Personnel of the company furnish legal, accounting, sales promotion, electric lighting, layouts and designs, financing advice and other services to minority businessmen who qualify for the program.

E. I. duPont de Nemours & Co. in Wilmington, Delware, has traditionally had a few lawyers volunteering assistance to the Public Defender's Program. When the Supreme Court of Delaware court ruling was changed to allow attorneys admitted to active practice in a jurisdiction other than Delaware, to appear in court to do volunteer work for the Public Defender's and the legal aid society, the Public Defender contacted duPont and recruited 52 of the corporation's lawyers for volunteer work.

A training program was established, with a staff member from the Public Defender giving a series of lectures on Delaware criminal law. In addition, a syllabus of leading Delaware criminal law cases was compiled and supplied to each participating DuPont attorney. The second phase of the program is a Criminal Law Clerkship Program, with the Public Defender's office compiling a list of suggested activities such as attending preliminary hearings and arraignments, and participating as a second attorney in court trials, in order to prepare the DuPont volunteers for effective participation in the Public Defender Program.

International Business Machines Corporation in Armonk, N.Y. initiated a program in Westchester County in 1971 where one lawyer is assigned full-time for a three month period to the Legal Aid Society. One IBM lawyer is working full-time with Legal Aid at all times, while continuing to receive full salary and other benefits from IBM. Additionally, IBM affirmatively encourages *pro bono* work by providing its lawyers with a reasonable amount of time off with pay to engage in *pro bono* work of their own choosing. The company also provides active assistance to its lawyers by advising all IBM lawyers of the availability of poverty law expertise developed by some of the lawyers, particularly those who have worked with the Legal Aid Society, and by distributing an updated list of materials in their centralized law library to assist their lawyers in handling *pro bono* matters.

Massachusetts Mutual Life Insurance Company in Springfield, Mass. instituted its program two years ago, permitting attorneys within the Company's training program to spend up to four working hours each week performing legal services for low income persons through the Neighborhood Legal Services office. Participation is on a voluntary and individual basis. Seven of the nine attorneys within the company training program have chosen to take part in the program by undertaking legal research projects in conjunction with full-time Legal Services attorneys and representing individual indigent clients.

Currently, the company is reviewing the local situation as to how they can best make a contribution toward the provision of legal services to the residents of the Springfield area.

The Travelers Insurance Co. in Hartford, Conn. provides technical and professional assistance both formally and through volunteers to various minority enterpreneur and business associations. Employees requests for legal assistance in personal matters are referred to a member of the Law Department. Matters which have been handled include landlord-tenant, real estate, consumer fraud, traffic violations, and immigration problems.

Members of the Law Department also participate in programs of the Office of Consumer Information which was created to provide a better understanding of company products, services and methods of operation.

Union Carbide Corporation in New York City has a released time policy of permitting lawyers in their legal department to work with the Legal Aid Office in New York City for periods of a month at a time.

Whirlpool in Benton Harbor, Michigan has been involved in public service activities for approximately four years. Two to 3 lawyers are generally active in this work at a given time. Projects have included: the establishment of a "black enterprise" program; review of local housing conditions, and researching what can be done to alleviate bad conditions; establishing a funding medium for advancing loans to capable disadvantaged businessmen in need of additional funds but unable to obtain them at traditional borrowing sources; the establishment of a community house to provide leadership and advice to disadvantaged persons in regard to housing and neighborhood improvement and financial management.

The following companies have lawyers engaged in *pro bono* work, but the extent of formalized activity is somewhat limited:

Caterpillar Tractor Co. in Peoria, Illinois, grants its attorneys time for engaging in non-company legal activities such as post-conviction proceedings involving indigent criminal defendants, working with the ACLU on litigation opposing the granting of state aid to non-public schools in the state, and preparation of a brief with state environment authorities which was instrumental in forestalling a substantial filling of the shoreline of the Illinois River in the vicinity of Peoria for industral purposes.

The Dow Chemical Company in Midland, Michigan, permits some members of its legal staff to participate in *pro bono* work on an individual non-formalized basis. Some attorneys have accepted court appointments to represent indigents and provided volunteer legal work for the Legal Aid Committee of the local Bar Association.

The Goodyear Tire and Rubber Company in Akron, Ohio, has offered the services of its lawyers to the local Akron Bar Association which maintains a listing of attorneys will-

ing to volunteer services for indigent representation in juvenile and municipal court. The general policy of Goodyear is to make available people in all departments for community and socially-oriented work within reasonable limits, this service being at the expense of the company, with adequate time off to handle the work in a professional manner.

The Prudential Insurance Co. of America in Newark, N.J., encourages their lawyers to participate in *pro bono* activities on an individual basis. Company lawyers have tried criminal cases on behalf of the Public Defender's Office, served on the Board of Trustees on an O.E.O. Legal Service Project, acted as legal advisor to a newly formed Committee of Black Churchmen, and assisted with the legal work to establish two non-profit corporations involving minority groups.

Standard Oil Company (Indiana) in Chicago, Ill. encourages their legal staff to participate on an individual basis in public interest activities through their relationships with various bar associations and other public interest groups by permitting a reasonable amount of time to be taken from the individual's company responsibilities, although this is not done on a programmed basis.

J. C. Penney Company, Inc. in New York City, has recently created a *Pro Bono* Committee to develop plans for effective involvement of the legal department in *pro bono* work.

The corporate role in *pro bono* work is expanding. The ABA *Pro Bono* Project would like to hear about any new or additional corporate developments so that we may keep our readership abreast. Since the survey included 200 of the country's largest corporations, undertakings by smaller corporations have not been compiled or included. We would like to know about them and to report on them also.

HOMICIDE AND SUICIDE IN A METROPOLITAN COUNTY

Mr. STEVENSON. Mr. President, the February 19 issue of the Journal of the American Medical Association contains a well-documented article entitled "Homicide and Suicide in a Metropolitan County." The authors are Doctors Charles Hirsch and Lester Adelson, of the Laboratory of the Cuyahoga County Coroner's Office and the department of pathology at Case Western Reserve University in Cleveland, Dr. Norman Rushforth of the department of biology and biometry at Case Western Reserve, and Dr. Amasa B. Ford of the department of community health and medicine, also at Case Western Reserve.

The article reports on a study, a statistical analysis of homicide and suicide victims in Cuyahoga County, Cleveland, Ohio, and its suburbs from 1938 to 1971 inclusive. The study examined the homicide and suicide rates in the county from such perspectives as the sex and race of the victims, the weapons involved, and the classification of the homicides as justifiable or nonjustifiable.

The results of the study are startling. Cleveland and Cuyahoga County serve as a microcosm to show us the growing crime and violence in our society over the last decade.

Between 1938 and 1962, there were about 87 homicides per year in Cuyahoga County with firearms involved in anywhere from 50 to 60 percent of them. Today, however, the rate has grown to over 300 homicides annually with guns claiming 80 percent of the victims.

In 1963 the firearms homicide rate was 3.6 per 100,000, as compared to 2.9 per 100,000 for all other methods combined. In 1966 the corresponding rates were 6.2 and 3.3, and the 1970 rates were 14.7 per 100,000 for firearms and 3.7 for all other modalities.

The conclusions are obvious, and the authors state them well:

Thus, the rapid increase in homicide rates in the latter 1960s clearly is attributable to homicides involving guns. Since approximately 90% of firearms homicides are handgun fatalities, we interpret this as an unmistakable and tragic consequence of the availability and abuse of handguns.

One again, the evidence is clear: the rising tide of violence—the death, the bloodshed—is directly attributable to "the availability and abuse of handguns."

The article speaks for itself. It does not need to ask the obvious questions:

When are we going to end the needless bloodshed and control the availability and abuse of handguns?

When are we going to enact reasonable Federal handgun control legislation?

When are we going to stem the still rising tide of crime and violence in our society?

I would urge my colleagues that the time to act is now—before too many more lives are lost.

I ask unanimous consent that the article be printed in the RECORD at the conclusion of my remarks. Unfortunately, the RECORD cannot reflect all the tables and figures included in the original article, and I would urge those who want this detailed information in the article to consult the February 19 issue of the Journal of the American Medical Association.

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

HOMICIDE AND SUICIDE IN A METROPOLITAN COUNTY

(By Charles S. Hirsch, M.D.; Norman B. Rushforth, PhD; Amasa B. Ford, M.D.; and Lester Adelson, M.D.)

(NOTE.—Tables and figures referred to are not printed in the RECORD.)

Because homicide represents the ultimate deterioration of personal interactions, its frequency in a given population furnishes an objective index of violent reactions to the cumulative stresses in the group. Moreover, problems generated by these tragic losses of life are larger than a simple summation of individual misery. Ultimately, a high rate of homicide disrupts almost every facet of society. Since homicide has such extensive social, legal, and medical ramifications, its study possesses an immediacy matched by comparatively few other aspects of life on the current scene in the United States.

Previous studies in Cleveland [1] and elsewhere [2-4] all show that the incidence of homicide is correlated with poverty, with an intimate acquaintance between victim and assailant, and with a preponderance of nonwhite male victims. A marked increase in the local and national [5] homicide rates during the past decade prompted us to restudy homicide in the Cleveland area, partly in order to identify related and rapidly changing variables.

Before attempting to come to grips with some of the many questions and problems associated with the causes, adjudication, and, hopefully, prevention of homicide, an introductory survey of its dimensions and trends over a span of years will give a valuable perspective. This study, the first of a series, is a statistical analysis of homicide and suicide victims in Cuyahoga County, Ohio (Cleveland and suburbs), from 1938 to 1971 inclusive, a period encompassing the middle third of the 20th century. Suicide rates are included for comparison and contrast.

METHODS

Cuyahoga County (county) is subdivided into the centrally located city of Cleveland (city) and an adjacent aggregate of 36 cities, 20 villages, and four townships (suburbs). The deaths of all homicide and suicide victims dying in Cuyahoga County are investigated by the Coroner's Office. Autopsies invariably are performed in homicide cases unless the slaying is abated by suicide of the killer (eg, the man shoots his wife and then turns the gun upon himself). Autopsies are done in suicide cases if there is any question about the circumstances surrounding death, if the cause of death is not demonstrable by viewing the body (eg, drug ingestion), if the decedent's family requests an autopsy, or if the victim was in detention when he killed himself. When the suicidal manner of death is obvious and the cause of death can be documented accurately by viewing the body (eg, contact-range gunshot wound of the head), autopsy is not performed; this is the case in approximately 65% of suicides. Criteria for the verdicts of homicide and suicide in this jurisdiction have been consistent over the entire study period because one man (Samuel R. Gerber, MD, LLB) has been the county coroner since 1936.

Fatalities are tabulated by geographic subdivisions of the county according to place of occurrence of the incident. Deaths in the Cleveland area where the injuries were sustained outside Cuyahoga County are classified as "out of county." The latter classification and those instances in which the location of the incident are unknown comprise 0.9% of the homicides and 1.0% of the suicides in this study. Data supplementing the anatomic, toxicologic, and other objective findings of the coroner's staff are supplied by official police reports, eyewitness accounts, and hospital records.

We calculated homicide and suicide rates from data in the coroner's records (to determine the number of victims) and from population figures in Census Bureau publications. The decennial censuses (1940 through 1970) were used for city and suburban population sizes in the respective years, and for the city of Cleveland there was a special census in 1965. Traffic manslaughters are not included in the homicide data.

Total population figures are used as the denominator to determine all rates. This is entirely appropriate for nonjustifiable (culpable) homicide because the victims' ages range over the whole life-span. However, only with rare exceptions are victims of justifiable homicide or suicide younger than 15 years old; and, for practical purposes, only the population older than 15 could be con-

Footnotes at end of article.

sidered at risk in calculating these rates. Nonetheless, in the interest of presenting data which are comparable to other published material, we calculated all rates on the basis of total population.

Justifiable homicides typically are those in which an individual kills while defending himself or his property or in which the decedent was committing a felony. In practice, a verdict of justifiable homicide is a consensus of the coroner and police prosecutor. The latter is an appointed official who is not an employee of the police department. If an incident is controversial, the county grand jury determines whether or not a homicide is justifiable.

Homicide and suicide rates are analyzed with respect to (1) location of the incident (city, suburbs), (2 and 3) sex and race of the victim, and (4) method of lethal violence (firearms, nonfirearms). Justifiable homicides were subdivided on the basis of the person who killed (police officer, civilian).

For purposes of graphic description, we used three-year average rates per 100,000 population. Estimates of the populations for individual years were calculated by linear interpolation of census figures. The rates center around each decade year and the third and sixth year of each decade for 1940 through 1970. (The eighth year of each decade is dropped.) This representation gives greater detail than a portrayal restricted to decade years, and random fluctuations in yearly rates are obliterated.

RESULTS

County Population and Numbers of Victims.—Table 1 shows the population and racial composition of the city and suburbs for each decennial census from 1940 through 1970 and a special census in 1965 for the city. The city population peaked in 1950 while the suburban population has grown steadily since 1940. The nonwhite population was 99.4% Negro in 1940 and 97.3% Negro in 1970. Annual numbers of homicide and suicide victims in the city and suburbs are shown in Table 2.

Homicide and Suicide Rates.—Cuyahoga County homicide rates increased slightly during the 20-year period from 1940 to 1960, ranging from 5.5 to 6.6 victims per 100,000 population. (All rates are expressed per 100,000 population, and hereafter denominators are omitted.) By the mid-sixties the homicide rate reached 9.4 and then climbed precipitously to 18.4 by the end of the decade. The rate for the city of Cleveland rose gradually during the 1940 to 1960 interval. In the latter half of the sixties, the city rate began to climb dramatically, reaching 38.4 in 1970. Suburban homicide rates were much lower during the entire time span. They also increased in the sixties, and reached a high of 2.7 in 1970 (Fig. 1).

Figure 1 also depicts changes in suicide rates for the city and suburbs. Suicide rates for the city are greater than those of the suburbs, but the difference, although statistically significant ($P = .05$, paired t-test), is much less marked.

Sex and Race of Victim.—Figure 2 shows sex- and race-specific homicide rates for the city of Cleveland and sex-specific homicide rates for suburban whites. Meaningful comparable rates for nonwhites in the suburbs cannot be calculated because the suburban population was more than 99% white until 1960. Nonwhite males always have had the highest homicide rate, and now this continues by a fivefold order of magnitude greater than the rate for white males. White females have always had the lowest homicide rate. Currently nonwhite females are homicide victims at a rate 4½ times that for white individuals in the city are much higher than for white suburbanites.

During the period from 1946 to 1953, the homicide rate for nonwhite males was high and relatively stable (average, 71.8). This rate declined in the mid and latter fifties to a value of 44.0 in 1960. However, the homicide rate for nonwhite males soared in the sixties, and reached 135.4 at the end of the decade. In the 1940 to 1960 interval, homicide rates for the white population in the city were relatively stable. An increased rate for white males began in the mid-sixties. The absolute magnitude of this rate is much less than that for nonwhite males, but the relative increase from 1960 to 1970 for white males was more than 600% compared to 200% for nonwhite males.

Sex- and race-specific suicide rates for the city and suburbs are shown in Fig. 3. As with homicide, the nonwhite suburban population was too small to calculate meaningful data. Rates for men are always higher than corresponding rates for women of the same race; and those for white persons are uniformly higher than Negro rates in both sexes. Suicide rates are similar for white women in the city and suburbs, but the rates for white men are much higher in the city than in the suburbs. In 1970, the suicide rate for white men in the city was double that of their suburban counterparts. During the past decade, suicide rates have increased for men and women of both races in the city.

Firearms in Homicide and Suicide.—To determine if a common method might be implicated in the slight rise in suicide rates over the sixties and the large increase in homicide rates in the latter part of the decade, rates were determined for victims killed by firearms (Fig. 4). On all but one of the ten time-points (1940), rates for homicide by firearms are higher than those for all other modalities combined. The differences, however, are not great until the latter sixties, when there begins a slight increase in homicide rates by instruments other than firearms along with a large increase in the firearms rate.

Modalities other than firearms have been used more frequently for committing suicide over the past 33 years (Fig. 4). However, during the sixties, while suicide rates due to methods other than firearms were quite stable, rates for suicide by means of firearms rose from 3.1 in 1960 to 4.5 in 1970.

Data on the types of firearms are not available for the entire study period, but our current experience is that approximately 90% of homicides by firearms and 80% of suicides by firearms are due to handguns rather than shotguns or rifles.

Classification of Homicides: Justifiable vs Nonjustifiable.—During the first two decades of the study period, homicide rates were relatively stable, with little change for nonjustifiable homicide (average, 5.2, 1940–1960), justifiable homicide by civilians (average, 0.6), and justifiable homicide by police officers (average, 0.4). The latter rate remained at about the same level throughout the sixties (Fig. 5), but justifiable homicide rates for civilians rose to 1.7 by the end of the decade. Nonjustifiable homicides increased markedly in this period, rising to a value of 16.2 in 1970.

COMMENT

Cuyahoga County, Ohio, experienced a large increase in homicide rates in the latter 1960s, primarily due to a disproportionate and astronomical rise of homicide frequency in the city of Cleveland. Most (86%) of the homicides were nonjustifiable, but an upward trend in justifiable homicides is noteworthy. This latter increase is small in absolute magnitude compared to the leap of nonjustifiable homicides, although the relative increases of each are comparable.

Justifiable homicide by police officers has not shown an increase in rate over three decades; thus the recent increase of justifiable homicides has resulted entirely from civilians killing each other with legally executable provocation (eg, self-defense). An upward trend in justifiable homicide in Cuyahoga County, therefore, is another valid index of the totality of criminal behavior and of violent response to stress in the community.

Suicide rates also increased during the latter 1960s, although this trend was slight compared to the dramatic rise in homicide rates during the same period. Relative proportions of homicide and suicide in a given population may provide an interesting contrast of the frequency of self-destruction vs. killing of another person. Based upon five-year averages centered around 1940 and 1969, suburban suicides formerly outnumbered homicides by 10.7 to 1; the ratio is now 4.4 to 1. Homicide is now 2.4 times as frequent as suicide in the city, whereas formerly the situation was reversed with 1.9 suicides per homicide.

The controversy over firearms control, especially as it relates to handguns, has many passionate advocates on both sides. Public debate is sure to continue. The experience of a single medicolegal investigative agency, which has collected data in a uniform manner over a 33-year period, is particularly instructive in this regard.

From 1938 to 1962, there was an average of 87 homicides per year in Cuyahoga County with firearms involved in 50% to 60%. We now have more than 300 homicides annually, and guns claim 80% of the victims! In 1963 the firearms homicide rate was 3.6 per 100,000 compared to 2.9 for all other methods combined. Corresponding homicide rates were 6.2 and 3.3 in 1966, and in 1970 the comparison shows a rate of 14.7 for firearms and 3.7 for all other modalities. Thus, the rapid increase in homicide rates in the latter 1960s clearly is attributable to homicides involving guns. Since approximately 90% of firearms homicides are handgun fatalities, we interpret this as an unmistakable and tragic consequence of the availability and abuse of handguns.

This communication provides a perspective of long-term trends in homicide and suicide in Cuyahoga County. Comparable metropolitan areas in the United States have had similar recent experience. Many important facets of homicide and suicide are untouched by this general survey, and we recognize a need for future work to focus in greater detail on such variables as the role of alcohol and drugs, age, relationship of victim and assailant, socioeconomic factors, and the legal follow-up of homicide.

(This investigation was supported in part by grant GM–12302 from the National Institutes of Health.

(Otto Morgenstern did the computer programming.)

FOOTNOTES

[1] Bensing RC, Schroeder O: *Homicide is an Urban Community.* Springfield, Charles C. Thomas, 1960.

[2] Harlan H: Five hundred homicides, *J. Criminal Law Criminol Police Sci* 40:736–752, 1949–1950.

[3] Bullock HA: Urban homicide in theory and fact, *J Criminal Law Criminol Police Sci* 45:565–575, 1954–1955.

[4] Wolfgang ME: *Patterns in Criminal Homicide,* Philadelphia, University of Pennsylvania, 1958.

[5] Hoover JE: *Crime in the United States, Uniform Crime Reports—1970.* US Government Printing Office 1970.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER FOR ADJOURNMENT UNTIL 11:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 11:30 a.m. tomorrow.

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

VOCATIONAL REHABILITATION ACT—VETO

The PRESIDING OFFICER (Mr. STEVENSON). Under the previous unanimous-consent agreement, the hour of 12 o'clock having arrived, the Chair lays before the Senate the President's veto message on S. 7, the Vocational Rehabilitation Act which the clerk will state.

The assistant legislative clerk read as follows:

A veto message on S. 7, the Vocational Rehabilitation Act.

(The text of the President's veto message is printed on page 9597 of the CONGRESSIONAL RECORD of March 27, 1973).

The Senate proceeded to reconsider the bill.

The PRESIDING OFFICER. The question is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding?

The time for debate on this question will run until 2 p.m. and is to be equally divided and controlled by the distinguished Senator from California (Mr. CRANSTON) and the distinguished Senator from Pennsylvania (Mr. SCOTT), or his designees.

Who yields time?

Mr. SCOTT of Pennsylvania. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 10 minutes.

Mr. SCOTT of Pennsylvania. Mr. President, this is a good bill, but that is not what is wrong with it.

What is wrong with it is that it is duplicative, that notwithstanding the very large increase in the program plus an increase in the administration's program for fiscal 1974, the bill undertakes to duplicate the actions of other agencies and establish a large new group of categorical grants. It enters into the medical field and, thereby, preempts other programs of the administration.

Generally, it suffers from the fault of offering to promise more than can be delivered and to offer false assurances to the people who would expect to be the benficiaries of things that will be done for them, which will, in fact, not be done.

We are being asked today to act upon a veto, well knowing that if the veto is overridden, an appropriation bill will follow, and if it falls anywhere near the form of the authorization bill, then it will be vetoed and we will again have to face the same question.

Thus, Mr. President, I rise to urge the Senate to sustain the President's veto of this bill. I urge the Senate to do so in the economic interest of the American people.

Mr. President, I very much fear that Congress is preparing to indulge itself in yet another spending binge—and we all know by now that a spending binge means an economic hangover. It means more inflation or higher taxes. That is the price the Nation will have to pay on "the morning after" if we persist in excessive spending beyond our ability to pay the bills.

Certainly, Mr. President, one drink will not cause a hangover any more than enactment of this bill would, all by itself, cause economic dislocation. But it is quite clear that we in Congress—in legislation which has already been passed, in bills that are in conference and in committee—have quite a bit more in the bottle. I think that once we have finished off that bottle, we will be headed for a massive hangover and major economic problems. It is not going to be any easier to stop on the second, third, or fourth drink than it is to stop right now.

As with every Senator, I am certain, I support vocational rehabilitation. I have introduced bills myself for aid to the handicapped and for vocational rehabilitation generally. I support the goals of this legislation, and I would support funding it at an even higher level than the one incorporated in the bill we sent to the President—if we could afford it. And I will support alternative legislation which has already been introduced in this body at a higher spending level than in previous fiscal years. But it is quite clear that we cannot afford this bill without raising taxes or precipitating another round of inflation—which would be just as effective and burdensome as new taxes in depriving the taxpayer of his earnings.

The taxpayers, too, I think, at this period, when April 15 is approaching, are extremely conscious of the tax burdens being placed on them and their families.

There are a great many programs which we would all like to see expanded, just as there are a great many problems which could be dealt with better if we had unlimited resources to devote to them. But we do not have these unlimited resources. Despite the fact that our dreams for a better world may be infinite, tax dollars are not, and we must face that fact.

What is the good of spending more money on programs, a dozen or more programs, each good in themselves, but each duplicative and excessively costly, if the result of that spending is simply to bust the budget and bump taxes up?

We must discard the old illusory concept that more spending and more categorical grants piled one upon another necessarily result in greater good.

We are limited in what we can spend for any given program, and, to that degree, every level of funding is arbitrary. In the present case—vocational rehabilitation—we are talking about a field in which spending has been increased by 75 percent over a 5-year period. I think that, given the other obligations of the Federal Government, this has been a very real gain. In the present case, as in so many others, I think that we need to be satisfied with the substantial progress we are making, even if it falls short of what we would have wished under ideal circumstances and with unlimited resources.

I, therefore, will vote to sustain the President's veto.

I would like to note further that, unfortunately, this bill may be only the first in a series of bills which we will pass in excess of budgetary limits, and that, consequently, it may mark only the first in a series of Presidential vetoes which we will be called upon to override or sustain. This process represents something less than government operating at its most efficient. Moreover, I believe that it tends to act as a social irritant. It pits one group of potential beneficiaries under a given program against others. It raises expectations which cannot be realized. The one thing which it does accomplish is that it permits Members of Congress to say to any given group of beneficiaries, "I voted to give you more money," even though those Members have known all along that the money would not be forthcoming.

This is a time-honored charade, but it is one which we should bring to a close. We should stop passing bills which are funded at excessive levels. We should stop the necessity of forcing Presidential vetoes. We should stop having votes to sustain or override vetoes of excessively costly bills. We should stop pulling the taxpayer's leg and start passing good, constructive, social legislation that will not break his back.

Mr. President, I reserve the remainder of the 10 minutes that were allotted to me.

Mr. CRANSTON. Mr. President, I ask unanimous consent that from this point throughout the consideration of the question on the override of the veto on S. 7, and during the vote thereon, the following staff members of the Committee on Labor and Public Welfare and Phil McGance of Senator RANDOLPH's staff and Michael Francis of Senator STAFFORD's staff be accorded the privileges of the floor:

Jonathan Steinberg, Robert Humphries, Roy Millenson, Lisa Walker, and Patria Forsythe.

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

S. 7: VOCATIONAL REHABILITATION ACT OF 1972: OVERRIDE AN UNWISE, IRRESPONSIBLE VETO

Mr. CRANSTON. Mr. President, I am saddened that the bill before us today—

which offers sensible and humane programs to assist handicapped Americans to become self-dependent—has become a pawn in a much larger battle. The bill itself, and the program it would authorize, on the merits deserve the overwhelming approbation of the Congress, the American people, and the President.

Yet, here we are today locked head-to-head in apparently mortal combat with the President over the very future of this highly successful program which we seek to improve substantially and expand modestly.

What has happened to bring us to this impasse, Mr. President? What has happened is that someone downtown has fed the President of the United States some unmitigated balderdash.

What has happened is that the President of the United States—himself a former distinguished legislator in both Houses of Congress—sends us a veto message which has no real relevance to the substance of the legislation we are considering. These quotes from the President's message should suffice to demonstrate the temperament of those downtown, those who want to continue to spend $30 billion on foreign military bases, $17 billion on the NATO Alliance alone, and $10 billion more on foreign aid and military assistance, but who think we cannot afford to give aid and assistance inside our country to Americans to help them to learn to take care of themselves financially.

Here are some choice catch phrases from the veto message: "Bad legislation," "poor legislation," "badly constructed," "unwise legislation." Now, Mr. President, this is just preposterous. This bill has received about the most painstaking scrutiny of any bill I know of since I have been a Senator. Of course, it is not perfect. We in the Congress have never pretended to be able to achieve perfection. Democracy does not really permit it, with the give and take it fosters and the spirit of accord and compromise which is so essential to our system of Government and democratic values.

But, I for one, would like to go on record with our three volumes of hearing record behind us, and assert that this is a darn good piece of legislation—one I would stack up against any we have dealt with here over the last 4 years on any standard of measurement anyone would like to propose. It has passed the Houses of Congress eight times within the last year. I think if the President ever stopped to read the bill, or even an unbiased summary of it prepared by someone other than this OMB adviser who screen out the truth by screening him off from the public, he would recognize this.

What is really bothering OMB? That is not too hard to find out by filtering out the rest of the rhetoric in the veto message: It refers to "a congressional spending spree," "a massive assault upon the pocketbook of millions * * * in this country," "throwing money at problems," "fiscally irresponsible," "open the floodgates on the Federal budget," "extravagant price tags," "big spenders," "raising taxes substantially—perhaps as much as 15 percent," "hefty boost in consumer prices and interest rates," "big spending bills," "inordinately expensive."

You see, Mr. President, I have read the message very carefully. I just cannot find any substance to it.

You would think this was a tax bill, or an appropriation bill, or a pension bill. But it is none of these.

I share President Nixon's desire for fiscal responsibility, a ceiling on spending, no new taxes, and no broader deficits. But none of these commendable concerns have any relevance to this bill.

The truth is that the epithets in the message have absolutely nothing to do with this bill, S. 7, the Rehabilitation Act.

As the Washington Post editorial so correctly states this morning, this is an "authorization measure—the bill does not mandate the outlay of a nickel." That is the simple fact. No amount of rhetoric can obscure it. Mr. President, I ask unanimous consent that the full text of the editorial be set forth in the RECORD at this point.

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

VOTING ON THE REHABILITATION ACT

The Senate is scheduled to vote this afternoon on whether to override or sustain President Nixon's veto of S. 7, the vocational rehabilitation act. If the Senate votes to override, the question will be taken up in the House shortly thereafter. The issue has become much larger than the bill itself, for this will be the first showdown between Congress and President this year in what the administration has styled "the battle of the budget." As Caspar W. Weinberger, Secretary of Health, Education and Welfare, makes clear in an article on the opposite page today, the executive branch is asking the legislators not just to uphold this veto, but to make of it a test case in the developing conflict over the President's fiscal program—limiting spending, curbing inflation, rejecting tax increases, and all the rest.

It is unfortunate that the vote on S. 7 should be made to carry such freight, for the legislation itself is hardly budget-busting and the legitimate arguments over the substance of the bill are limited. The first and all-important point is that, contrary to the impression Mr. Nixon and Mr. Weinberger have tried to create, S. 7 is *not* in itself a spending bill. It is an *authorization* measure which establishes certain vocational rehabilitation programs and sets ceilings for subsequent appropriations. The bill does not mandate the outlay of a nickel.

Nor are the authorizations in S. 7 as extravagant as the administration claims. To continue the 52-year-old program of grants to the states for vocational rehabilitation programs, the bill authorizes $700 million for fiscal 1973 and $800 million for fiscal 1974; the President's own budget contains about $600 million for this purpose for fiscal 1973 and $610 million for fiscal 1974. The difference, while debatable, is hardly astronomical. Mr. Weinberger also objects to new programs in S. 7 which are intended to meet the particular needs of groups such as the severely handicapped, older blind and deaf persons, and those suffering from spinal cord injuries. But the amounts authorized in these areas are quite modest, given the undeniable human pain and anguish to be relieved.

All in all, this appears to be a meritorious bill which has become a pawn in the bitter struggle between an obstinate Congress and an equally stubborn President.

It is true that if such matters are decided by reflex votes for or against Mr. Nixon, the country will be in for a long season of rancor and rhetorical excess. But the immediate question is the merits of S. 7.

On those merits, the veto should be overturned.

Mr. CRANSTON. Mr. President, this bill has no impact on the Federal budget, on Federal outlays or, therefore, on the need for any tax increase. The veto message in sum and substance is a red herring.

The fact is that even as a piece of legislation authorizing certain appropriations levels, it is fiscally sound, moderate measure.

First, it authorizes for this fiscal year $97 million less in total appropriations than were in the law for fiscal year 1971—2 fiscal years ago. It is hard to find the fiscal irresponsibility in that, Mr. President.

Second, it authorize total appropriations of $881 million less than were contained in H.R. 8395, last Congress' vetoed bill—a cut of more than 25 percent. The Congress has met the President more than half way. But our efforts at reasonable compromise did not satisfy an administration that is more obsessed with confrontation with the Congress than it is concerned about handicapped people.

Third, what the President wants is open-ended authorizations of appropriations—that is, unlimited dollar authorizations. This bill sets dollar ceilings on every program it authorizes. That has long been the policy of the Labor and Public Welfare Committee in setting appropriations authorizations levels: To fix a dollar figure that represents an estimate of what could be spent effectively to meet a given social or economic need, so as to provide guidelines to the appropriations committees and the Congress itself in the ensuing appropriations process.

Fourth, Mr. President, the President's message describes the great increases in funding for vocational rehabilitation over the last 5 years. It is true there is more money now than 4 years ago. But the facts are that the growth rate of expenditures for vocational rehabilitation programs has slowed down enormously. The 4-year average before Mr. Nixon prepared his first budget—for fiscal year 1971—was 29.5 percent. Under his four budgets—fiscal years 1971 through 1974—it would be an 8.5-percent increase, and the bill proposes an increase in the authorization levels exactly in between these two figures—19 percent.

Finally, Mr. President, and most significantly, this program is actually a revenue raiser not spender. As the material Senator RANDOLPH and I have placed on each desk states, the benefits of the national rehabilitation program relative to costs are conceded by all to be extremely high. Over 3 million handicapped Americans have been returned

to productive and meaningful lives because of assistance from the program. In fiscal year 1972 alone, the estimated annual earnings of the 326,138 individuals rehabilitated total $1 billion—a net increase of $750 million in earnings from the time these individuals entered the rehabilitation system.

The Rehabilitation Services Administration estimates that, in addition to this contribution to the GNP, these individuals, at a minimum, will be contributing approximately 5 percent of their income—or $58 million each year—in taxes to Federal, State, and local governments. And these figures do not reflect the approximately $33 million in savings to Federal and State governments in 1972 caused by removal of many rehabilitated persons from the public assistance rolls.

This $91 million figure over 20 years would return more than $3 for every $1 of the $560 million spent in fiscal year 1972.

So, Mr. President, the veto message insofar as it tries to make this bill out as a grab at the taxpayer's pocketbook is pure nonsense. What this bill aims to do is increase revenues by getting handicapped individuals off welfare rather than keep them on, and to help handicapped individuals earn their own way and pay their own taxes—as they fervently wish to do—rather than to consume the tax dollars of others.

So let us put all of this budget busting talk to bed once and for all. This is not a tax bill, not an appropriations bill, not in any way a spending bill. The programs it would authorize, if they are subsequently funded later in the legislative process in an appropriations bill—are themeslves enormously cost effective.

Mr. President, I ask unanimous consent that there be set forth in the RECORD at this point material we have placed on each Senator's desk, including comparative authorization charts and a chart showing the numbers of handicapped persons served and rehabilitated and the dollars spent in each State in fiscal year 1972 and the total number of persons requiring services and the dollars which could be spent in each State if the basic program were fully funded at $700 million for this fiscal year—just $90 million more than the President requested in his original fiscal year 1973 budget.

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

REASONS CONGRESS SHOULD OVERRIDE THE PRESIDENT'S VETO OF S. 7, THE REHABILITATION ACT OF 1972

Support for the Bill.—For over 50 years, the Vocational Rehabilitation program has had broad bipartisan support. In 1972, both the House and Senate passed the Rehabilitation bill *unanimously*.

In 1973, the Senate (by a vote of 86–2) and the House (by a vote of 318–57) passed S. 7. The appropriations authorization is nearly $900 million *below* the amount in the 1972 vetoed bill. (The House Education and Labor Committee had reported the 1973 bill by a 33–1 vote; the Senate Labor and Public Welfare Committee by a 16–0 vote).

Bill Summary.—The Rehabilitation Act (S. 7) revises, extends and improves programs for the handicapped previously authorized under the Vocational Rehabilitation Act. Established by Congress in 1920 and extended six times since, the vocational rehabilitation program provides a variety of services as needed to physically and mentally handicapped persons to prepare them for employment. These continuing services include, among others: hospital diagnosis and care for the handicapped; placement services to assist handicapped individuals to secure and maintain employment; maintenance and transportation as appropriate during rehabilitation.

Title III of the Rehabilitation Act of 1972 creates new programs to assist States in establishing programs for blind and deaf persons and those suffering from spinal cord injury and kidney disease. Title II provides for services to individuals with the most severe handicaps to assist them in living more independent lives.

Benefits of Vocational Rehabilitation.—Benefits of the national rehabilitation program relative to costs are conceded by all to be extremely high. Over three million handicapped Americans have been returned to productive and meaningful lives because of assistance from the program. In fiscal year 1972 alone, the estimated annual earnings of the 326,138 individuals rehabilitated total $1 billion—a net increase of $750 million in earnings from the time the individuals entered the rehabilitation system.

The Rehabilitation Services Administration estimates that, in addition to this contribution to the GNP, these individuals, at a minimum, will be contributing approximately 5 percent of their income, or $58 million each year, in taxes to Federal, state and local governments. And these figures do not reflect the aproximately $33 million in savings to Federal and state governments in 1972 caused by removal of many rehabilitated persons from the public assistance rolls. This $91 million figure over 20 years would return more than $3 for every $1 of the $560 million spent in fiscal year 1972.

Need for Rehabilitation Bill.—There are an estimated seven to twelve million handicapped individuals in the nation who have not realized their vocational potential. With the level of funding authorized in S. 7, rehabilitation services could be provided to a total of approximately 2.8 million handicapped individuals over the next two fiscal years using today's per case cost. This would leave at least *four million* handicapped persons who, at today's spending level, *would not be served*.

The simple fact is that we have a long way to go to meet the needs of our disabled fellow citizens.

ADMINISTRATION OBJECTIONS AND ANSWERS

Objection.—The veto message argues S. 7 is "fiscally irresponsible."

Answer.—In order to meet Administration objections, the authorization was reduced nearly $900 million—from $3,481 billion to $2.6 billion—a cut of more than 25 percent. Furthermore, the authorization for fiscal year 1973 ($913 million), is almost $100 million *LOWER* than the authorizations for Fiscal Years 1971 and 1972 ($1.010 billion each).

Objection.—The veto message argues that it diverts rehabilitation from its basically vocational objective.

Answer.—The basic Vocational Rehabilitation program is changed in no way. The bill merely makes explicit a commitment to persons with severe handicaps that the Administration itself expressed during Committee hearings.

Many people covered by the new programs are today refused assistance under the present program because they are difficult to rehabilitate for employment. It should be made clear that the vocational goal for these people has not been eliminated by the modest program for the severely handicapped. If a vocational goal is found possible, these individuals will be provided services under the regular state program. For the few who are incapable of employment, the new program will hopefully assist them in becoming more self-sufficient, often enabling other members of the family to re-enter the work force.

This new program is authorized separately and the appropriation authorization amounts are less than 5 percent of the total for the basic Vocational Rehabilitation program

APPROPRIATIONS AUTHORIZATIONS, REHABILITATION ACT OF 1973, S. 7 (93D CONG.) COMPARED TO H.R. 8395 (92D CONG.), FISCAL YEAR 1972 EXPENDITURES, AND BUDGET REQUESTS

[In millions of dollars]

	Fiscal year 1972 authorizations	Actual fiscal year 1972 spending levels	Fiscal year 1973 budget request	Revised fiscal year 1973 budget request	H.R. 8395 fiscal year 1973	S. 7 fiscal year 1973	Fiscal year 1974 budget request	H.R. 8395 fiscal year 1974	S. 7 fiscal year 1974	H.R. 8395 fiscal year 1975	S. 7 fiscal year 1975
Title I—Vocational rehabilitation services:											
Part B—Basic services	700	[560]	[610]	[590]	800.0	700	[610]	975	800	0	0
Part C—Innovative and experimental grants	10	[41.8]	[49.35]	[35.86]	50.0	50	[30]	60	60	75	75
Title II—Comprehensive rehabilitation services					30.0	10		50	25	80	50
Title III—Special Federal responsibility:											
Construction grants (301)		[.55]	[.55]	[.55]	35.0	10	[.5]	40	10	45	10
Vocational training services (302)	30	[12.85]	[12.30]	[10.3]	30.0	15	[8.3]	35	25	40	30
Mortgage insurance (303)					(1)	(1)		(1)	(1)	(1)	(1)
Annual interest grants (304)					1.0	1		3	2	7	4
Special project and demonstrations (305)		[3.2]	[12.2]	[12.2]	[2] 50.0	[2] 22.5	[13.7]	[2] 125	[2] 50	[2] 150	[2] 75
Center for deaf-blind (306):											
Construction		[.6]	[.6]	[.6]	5.0	5	[.6]				
Operations					.8	.5		1.2	.6	2	.7
Centers for deaf industries (307)					2.0	2		4	3	7	5
Centers for spinal cord injuries (308)					15.0	8.5		25	25	30	30
Renal disease (309)					25.0	8.5		25	20	25	25
Older blind individuals (310)					10.0	5		20	15	30	30
National advisory counsel (311)					.1	.05		.15	.10	.15	.15
State advisory counsels (312)					2.0	.15	.15	2	.5	2	.75

Footnotes at end of article.

APPROPRIATIONS AUTHORIZATIONS, REHABILITATION ACT OF 1973, S. 7 (93D CONG.) COMPARED TO H.R. 8395 (92D CONG.), FISCAL YEAR 1972 EXPENDITURES, AND BUDGET REQUESTS—Con.

[In millions of dollars]

	Fiscal year 1972 authorizations	Actual fiscal year 1972 spending levels	Fiscal year 1973 budget request	Revised fiscal year 1973 budget request	H.R. 8395 fiscal year 1973	S. 7 fiscal year 1973	Fiscal year 1974 budget request	H.R. 8395 fiscal year 1974	S. 7 fiscal year 1974	H.R. 8395 fiscal year 1975	S. 7 fiscal year 1975
Title IV—Research and training: (4)	140										
Research (402)		[35.26]	[31.69	[20.346]	75.0	40	[19.996]	100	75	150	100
Training (403)		[22.26]	[27.7	[27.7	50.0	32.5	[17	75	50	100	75
Title V—Administration and evaluation					[3] 2.0	[3] 1		[3] 2	[3] 1	[3] 2	[3] 1.5
Title VI—Office for the handicapped					1.0	1		2	1.5	2	2
Title VII—Miscellaneous:											
Interagency employment committee (701)					1.0	0		1.25	1.25		
Compliance board (703)					1.0	.5		1.25	1.5	1.5	1.5
Rehabilitation facility improvement	30										
Vocational evaluation	100										
Yearly total	1,010	[676.52]	[744.390]	[697.556]	1,185.9	913.2	[700.096]	1,546.85	1,171.45	748.65	515.60

[1] Such sums; limit of $250,000,000 on total mortgages insured.
[2] Plus amounts for migrants.
[3] Or ½ percent of appropriations under titles I to IV, whichever is greater.
[4] Includes demonstration and expansion grants.

NOTES

Grand total:
H.R. 8395 ..... 3,481.40
S. 7 ..... 2,600.25
3-year difference 881.25

The figures in brackets represent expenditures or budget requests.

TOTAL DISABLED POPULATION VERSUS NUMBER SERVED AND REHABILITATED IN FISCAL YEAR 1972, BY STATE

State or territory [1]	Total number disabled	Number served by (fiscal year 1972) vocational rehabilitation	Number rehabilitated, fiscal year 1972	Fiscal year 1972 vocational rehabilitation dollars spent	Amount available 1973 under S. 7
Total	9,778,942	1,111,045	326,138	$547,782,565	$700,000,000
Connecticut [2]	110,000	9,319	2,438	4,419,988	5,879,651
Maine [2]	35,245	3,201	829	2,131,468	4,568,820
Massachusetts [2]	180,325	16,934	5,148	11,360,714	14,819,711
New Hampshire	33,719	3,158	765	1,886,846	2,845,044
Rhode Island [2]	36,450	6,653	1,622	2,095,214	3,078,035
Vermont [2]	15,757	2,394	655	1,388,272	2,000,000
New Jersey [2]	569,000	26,729	9,900	13,105,065	16,416,386
New York [2]	816,930	53,316	13,717	30,770,834	36,706,857
Puerto Rico [1]	135,600	20,518	4,289	16,124,320	19,246,119
Virgin Islands [1]	8,000	370	121	340,557	442,349
Delaware [2]	51,444	3,371	734	1,148,032	2,000,000
District of Columbia [1]	158,000	10,261	3,638	4,318,323	5,308,295
Maryland	205,000	26,353	8,788	8,288,376	10,705,890
Pennsylvania [2]	858,000	74,138	21,145	31,966,879	37,730,293
Virginia [2]	355,135	35,039	12,782	15,163,406	17,398,097
West Virginia	88,208	17,271	7,297	7,667,121	8,539,513
Alabama	210,000	26,898	7,770	15,750,809	17,815,743
Florida [2]	245,200	46,284	13,253	20,668,031	26,135,217
Georgia	111,546	37,058	12,592	16,971,584	19,455,633
Kentucky	284,410	24,838	10,534	11,107,798	15,306,676
Mississippi [2]	97,717	18,340	6,353	11,520,065	12,865,653
North Carolina [2]	185,863	45,512	14,605	19,184,417	23,039,218
South Carolina [2]	143,214	34,855	11,002	11,250,405	13,230,108
Tennessee [2]	94,372	26,080	7,265	11,045,036	18,773,664
Illinois	383,500	39,443	14,315	20,704,483	25,774,125
Indiana [2]	508,000	13,588	3,140	5,408,043	17,452,187
Michigan [2]	312,758	38,657	10,642	$19,809,266	$24,697,820
Minnesota [2]	128,540	25,552	6,072	10,673,096	12,953,299
Ohio [2]	370,000	34,256	10,092	23,990,307	32,963,240
Wisconsin	332,000	32,379	9,896	12,270,770	15,942,314
Arkansas [2]	73,085	17,945	5,850	9,023,266	10,132,556
Louisiana [2]	223,922	29,047	5,737	14,629,484	17,536,186
New Mexico [2]	12,000	5,078	1,498	4,056,540	4,928,953
Oklahoma	215,349	30,471	7,560	9,337,877	11,134,334
Texas [2]	539,206	80,505	24,735	37,677,025	44,432,830
Iowa [2]	144,890	18,680	4,143	8,152,485	10,100,156
Kansas [2]	98,845	6,516	2,305	4,459,331	7,179,962
Missouri [2]	197,370	19,321	7,299	13,357,605	16,731,881
Nebraska	126,891	7,839	1,917	4,137,523	5,125,685
Colorado	62,138	11,895	3,287	6,300,698	7,809,327
Montana [2]	43,500	6,783	1,265	2,440,247	2,904,644
North Dakota	50,000	5,405	1,363	2,410,718	2,799,838
South Dakota [2]	12,525	4,882	913	2,415,917	3,017,098
Utah	35,700	11,666	2,486	4,011,796	4,969,069
Wyoming	21,011	2,067	573	1,045,873	2,000,000
Arizona [2]	68,425	6,658	1,932	5,688,546	7,156,951
California	370,922	56,708	12,990	35,287,323	49,148,065
Guam [1]	8,219	332	116	533,927	603,215
Hawaii	56,335	3,987	873	1,864,125	2,000,000
Nevada [2]	27,465	2,435	738	1,000,000	2,000,000
Alaska	63,376	2,045	390	1,000,000	2,000,000
Idaho [2]	60,920	4,385	1,030	2,609,470	3,301,906
Oregon [2]	58,763	9,557	2,297	5,918,251	7,589,068
Washington [2]	144,152	15,093	3,460	7,895,103	10,416,648

[1] Including District of Columbia, Guam, Puerto Rico, and Virgin Islands.
[2] Separate blind agency.

ANNUAL TOTALS COMPARISON: H.R. 8395, S. 7, FISCAL YEAR 1972 AUTHORIZATION, FISCAL YEAR 1972 APPROPRIATIONS, AND FISCAL YEARS 1973 AND 1974 BUDGET REQUESTS

[In millions of dollars]

Fiscal year—	Authorization	Actual expenditures	Authorizations		Budget request	Revised budget request
			S. 7	H.R. 8395		
1972	1,010.0	676.52				
1973			913.2	1,185.9	744.390	697.556
1974			1,171.45	1,546.85	700.096	
1975			515.60	748.65		
3-year total			2,600.25	3,481.40		
S. 7 total			−881.15			

ANNUAL VOCATIONAL REHABILITATION APPROPRIATIONS PERCENTAGE INCREASES FROM FISCAL YEAR 1967 THROUGH FISCAL YEAR 1973 AND FISCAL YEAR 1974 BUDGET REQUESTS AND AUTHORIZATION PERCENTAGE INCREASES IN S. 7 FOR FISCAL YEARS 1973–75

Fiscal year—	Percent increase or decrease
1967	46.0 Average 4 yrs=29.5.
1968	22.0
1969	21.0
1970	29.0
1971	15.0 Average 4 yrs=8.5.
1972	11.0
1973 (budget request)	5.0
1974 (budget request)	3.0
1973, 1974, 1975: [1] S. 7 authorization increases.	−9.6 Average 3 yrs=19. +28.1 +39.0

[1] Where comparable authorizations exist.

Mr. CRANSTON. Mr. President, the veto message reiterates the tired old saw of "medical services," "categorical," "overlapping" programs, "rigid organizational structures," and accuses the Congress of "cruelly" raising "the hopes of the handicapped." Mr. President, I need not dwell on these playbacks of the specious reasons asserted in last year's memorandum of disapproval. Our committee report carefully considered each of these points, and I explained our analysis at length on the floor when the Senate passed S. 7 the first time on February 28. I ask unanimous consent, Mr. President, that appropriate excerpts from my floor statement be set forth at this point in the RECORD.

There being no objection, the excerpts

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

VETO REBUTTAL: DISCUSSION

The committee carefully considered the memorandum of disapproval on H.R. 8395. It has reviewed 1,732 pages of testimony from the more than 40 groups who testified in hearings in the 92d Congress. It asked each of the witnesses who appeared in previous hearings in the 92d Congress for his views concerning the reasoning in the President's memorandum.

In statements that were submitted to the committee in a January 10, 1973, hearing, from more than 30 of these groups, the response has been of one mind on three points: First, support and endorsement of the bill as passed in the 92d Congress; second, the need for early action in the 93d Congress in view of the expiration on June 30, 1972 of appropriations authorization for the program; and third, rejection of the grounds for the veto as stated in the memorandum of disapproval. The administration reiterated its opposition to the bill at a February 6 hearing, and transmitted a draft bill for introduction on February 16.

In view of this response and the bipartisan support for the bill as passed in the 92d Congress, the subcommittee and the full committee, both acting on February 19, 1973, unanimously approved S. 7 with certain amendments. The bill as reported except for a total reduction of $351.7 million in the level of appropriations authorization for fiscal years 1973, 1974, and 1975 and the addition of authorizations for fiscal year 1976 for all programs other than the basic title I, part B, State allotments programs, is virtually identical to the conference report on H.R. 8395 as passed by the Congress.

Amendments were offered in subcommittee on behalf of the administration to delete programs and authorizations from the bill. They were unanimously rejected.

The committee's reasons for disagreeing with the objections set forth in the President's Memorandum of Disapproval, are as follows:

First. The bill would seriously jeopardize the goals of the vocational rehabilitation program and is another example of fiscal irresponsibility.

Mr. President, the goal of the vocational rehabilitation program has been, since its inception in 1920, to provide vocational services to handicapped individuals in order that they might seek and maintain gainful employment. Toward this end, medical, surgical, and psychological services and counseling, training, and placement have been provided. As passed by the 92d Congress, this bill continues to provide such services, and insures that the wide range of services are available to all individuals who can benefit from them. By providing increased emphasis on research into rehabilitation, S. 7 attempts to insure that the best knowledge and new breakthroughs in technology and scientific research can be brought to bear on the problems of handicapped individuals so that their disabilities will no longer block their potential for a productive and self-supporting life.

S. 7 also expands the services which can be provided under vocational rehabilitation programs so that these new innovations can be used at the field level and that handicapped individuals can share more fully in the benefits of our society. While this legislation alters the definition of handicapped individual, this has been done so that many more individuals can benefit from the program, and can enjoy the benefits of vocational training and self sustaining lives. This change in definition may be the most important provision of the bill, for it insures that an individual's capacity is not judged prematurely, and that all individuals have the opportunity to benefit from the services the program provides.

S. 7 places a priority for services on those with the most severe handicaps to ensure that those individuals who are most in need of services receive these services. The committee realizes that it is easier to serve those individuals with mild or moderate disabilities. But with the range of knowledge and technology which is presently available to this society, it strongly believes that those individuals with severe handicaps have an equal right to services and to live productive lives. Testimony from witnesses who have worked with severely handicapped individuals all of their lives indicate that these individuals can be extremely productive if given the opportunity. The history of this program has shown that for every $1 spent on rehabilitation programs, the Federal Treasury gets back from $3 to $5 by decreasing the welfare rolls and adding to tax revenue through income earned by rehabilitated clients. S. 7 will provide this opportunity.

Furthermore, the authorizations originally included in S. 7 are not large expansions of authority for the Vocational Rehabilitation program. In most areas, what were previously separate programs and represent modest increases have been combined into one authorization; in other cases, relatively modest increases have been provided.

Second. The bill's provisions would divert this program from its basic vocational objectives into activities that have no vocational element whatsoever or are essentially medical in character.

Mr. President, the primary focus of the existing program is vocational rehabilitation. S. 7 retains and reinforces this focus. S. 7 does create a new program for the provision of comprehensive rehabilitation services designed to promote independent living, and provides project grant authority for rehabilitation services for older blind individuals. In the strict sense, these programs might be construed as not having vocational goals. However, both these programs have separate authorizations, and were included in the bill to meet specific unmet needs. As such, they will not affect the basic program or divert it from its vocational objectives.

But most important, title II of S. 7, comprehensive rehabilitation services, was designed to assist individuals who may not presently have a vocational goal. The inclusion of this title in S. 7 marks an explicit resolve on the part of the Congress to build a flexible program which can provide a continuum of services for handicapped individuals. Recognizing that individual conditions are not static and that training can be progressive, this new program is promised on the realization that an individual who first approaches a rehabilitation program may not appear to have a vocational goal. Yet, following training and assistance, this individual may be brought to a point where he may be readily accepted in the basic vocational rehabilitation program. Rather than condemn this individual to no services, and dependence on his family and society, this program has been included in order to build toward the flexibility that is needed if this service program is to be truly responsive to human needs. Further, individuals served may achieve a more independent life, which will in turn decrease their dependence on other family members, thus freeing those individuals to seek work and not only raise the standard of living of the entire family but also produce additional tax revenues.

The President's memorandum also cites the diversion of the program to programs which are essentially "medical" in character. Presumably, this refers to provisions for services to individuals with end-stage renal disease and spinal cord injuries. This "medical" characterization is much too simple to describe the import of these two programs.

Once again, both the programs for services for individuals with end-stage renal disease and the centers for spinal cord injuries authorized in the bill are separate from the basic program, are project grant authorities, and have separate authorizations. To construe these provisions as medical service programs misses their direction and the underlying congressional intent. In the case of the end-stage renal program, the vocational rehabilitation program has been supporting programs of this type since 1968 and is currently serving approximately 2,800 individuals under the present Vocational Rehabilitation Act as part of the process of preparing an individual for employment.

Furthermore, medical rehabilitation is not all that is needed for such renal patients. Expert testimony from committee hearings indicate that many renal patients need retraining and vocational rehabilitation in a variety of more traditional ways as well. In the past, expansion grant authority under the Vocational Rehabilitation Act has been used to support renal dialysis, for this was the only way a renal patient could get the comprehensive services and retraining he needed without becoming totally dependent—because other authorities required him to be indigent before he could get assistance. Finally, despite new authority under the recently passed social security legislation—H.R. 1—that new authority will not provide support for the first 90 days of treatment and it will not cover those who are not covered by social security.

In the case of centers for spinal cord injury, medical therapy for this injury is only a small part of the total program of services for the patient. Testimony from rehabilitation medicine experts, such as Dr. Howard Rusk, Dr. Edward Lowman, Dr. John Young, and Dr. Henry Betts, indicate that emotional psychological, and vocational services for the patient must start from the time of injury if the patient is to recover as much of his ability as possible. In this case, medical services and other therapy must go hand in hand even in acute phases if the patient is to survive this enormous trauma. To separate these processes is a counterproductive categorization of services. Further, testimony before the committee indicated that present acute care facilities seldom provide this comprehensive service for this type of injury, and that this lack of knowledge and awareness of treatment methods has resulted in permanent damage to the patient which was not necessary. In recognition of the importance of a multidiscipline service team in early stages of spinal cord injury, this program has been included in S. 7.

Third. The bill would proliferate a host of narrow categorical programs which duplicate and overlap existing authorities and programs.

Mr. President, it is true that S. 7 does contain categorical programs they include: rehabilitation services to older blind persons; rehabilitation centers for deaf and the deaf-blind individuals, and centers for spinal cord injuries.

But not all categorical programs are bad. These programs have been singled out for special treatment because of the dearth of adequate services in these areas. Each program is a project grant authority, and carries with it a direction to demonstrate and examine the best way to provide exemplary programs of services to these unique populations. In each case, the affected populations are presently being inadequately served. In each case, they continue to be inadequately served because of problems peculiar to their rehabilitation, and lack of broad understanding among rehabilitation counselors as to their particular needs for treatment and training. It is the intent of the Congress that attention be focused on these unique problems so that progress can be

made in innovative methods of rehabilitation for these individuals.

The automatic rejection of categorical programs is as unresponsive as the opposite approach: special needs are generally ignored by generic service programs, and when knowledge concerning certain special needs is not possessed within those programs it is important that priority and emphasis be given elsewhere, for a time at least, in order to demonstrate the appropriate skills and approaches for these disabilities.

Fourth. Such provisions serve only to dilute the resources of the vocational rehabilitation program and impair its continued valuable achievements in restoring deserving American citizens to meaningful employment.

Mr. President, I have already pointed out, the categorical programs have individual appropriations authorizations. They serve as a focus for special projects and demonstrations and a vehicle for translating new knowledge and methods to the field. There can be no question that the vocational rehabilitation program has made great achievements in its 53-year history. But these achievements have always been the result of its flexibility and its responsiveness to problems of individuals, and changes made in the legislation by the Congress. The committee would not wish to impair these achievements. To suggest that those persons without immediate, and I stress immediate, vocational goals are not deserving of service flies in the face of every value that this Nation stands for. It imposes an inflexibility on the program and on the changeability of the human condition which violates the individual's right to equal opportunity and equal protection of the law. And it is an abrupt violation of the administration's stated objective for reduction of dependency.

Fifth. The bill also would create organizational rigidities in the vocational rehabilitation program which would undermine the ability of the Secretary of HEW to manage the program effectively.

Mr. President, the committee assumes that this objection refers to the statutory authority for the RSA and the creation within that Administration of a Division of Research, Training, and Evaluation. The committee believes that the clear lines of authority for the vocational rehabilitation program will encourage more effective management of this program for the purposes for which it was intended by the Congress, and will insure that the program will not be diverted from its primary goal of provision of rehabilitation services to handicapped individuals, and the concomitant research and development which is needed to provide a dynamic program.

The Congress has found that, in recent years, emphasis on other social rehabilitation programs within the Department has resulted in the deemphasis of vocational rehabilitation for handicapped individuals. From the strong force of 400 personnel in past years, the Rehabilitation Services Administration has in recent years become an appendage to the Social and Rehabilitation Services Administration—and has been cut back to a work force of 160. Its research and development function has been diffused and directed toward programs oriented to the reduction of public assistance. The committee does not disagree with this goal of reducing dependency on public assistance. However, the vocational rehabilitation program was created for the rehabilitation of handicapped individuals; until that task is completed, it should not take on a wider function.

Sixth. The bill also would establish numerous committees and independent commissions which are unnecessary, would waste the taxpayer's dollars, and would complicate and confuse the direction of this program.

Mr. President, S. 7 would create a Federal Interagency Committee on the Employment of the Handicapped, an Architectural and Transportation Barriers Compliance Board, a National Commission on Transportation and Housing, and an Office for the Handicapped. These commissions as such would have no direct connection to the vocational rehabilitation program. They were created to span all programs which affect the handicapped, to deal with serious problems that presently exist, and to escape the narrowing perspective that comes with control by a single program.

In examining the vocational rehabilitation program during hearings, testimony of many witnesses surfaced criticisms which could not be handled simply by amending the Vocational Rehabilitation Act itself. Such problems as unfounded discrimination in employment and in housing, difficulties of access to places of work and treatment centers, and duplication and fragmentation of services across program lines were voiced repeatedly to the committee. Despite efforts on the part of the Civil Service Commission and personnel of the vocational rehabilitation programs, discrimination in placement, hiring and advancement continue to limit the vocational rehabilitation program's ability to effect successful rehabilitations.

Despite an explicit law enacted in 1968 regarding elimination of architectural barriers—Public Law 90-480—accessibility remains a problem because of lack of enforcement of this statute.

The Subcommittee on the Handicapped, when it was created in the 92d Congress, was charged with the examination of all problems which affect the handicapped. The provisions in question were included as an important beginning to carrying out that charge.

But beyond the need for compliance and coordinating mechanisms, the committee questioned the implication in the President's memorandum that such mechanisms would waste the taxpayer's dollar. The expenditure of money on vocational rehabilitation programs is not well spent if we do not at the same time take meaningful steps to eliminate architectural barriers and provide substantial accomplishments in employment for handicapped individuals. The failure to cooperate and coordinate across program lines for services to handicapped individuals results in fractionated programs with wasteful overlap and duplication of service and expenditure. For those millions of handicapped individuals who pay taxes and have the right to expect that their tax money will go toward making their environment more accessible to them and their lives and employment easier, the creation of a compliance mechanism to eliminate architectural and transportation barriers and an affirmative action program to ensure that they have the right to employment which complements their abilities represent overdue avenues of restitution for previous societal neglect.

For those individuals who have handicapped children, the expenditure of dollars for programs which meet their needs and the needs of their children is a simple return on the equity from their taxes which has long since been warranted. For those individuals and their families who are well trained or have the hopes of becoming well trained so that their dependence on tax revenues may be lessened, such proposals offer the possibility for action to make more effective utilization of their talents.

The committee does not believe such provisions are a waste of tax money.

Mr. CRANSTON. Mr. President, I wish to note at this point only that the so-called new programs in S. 7 are—by and large—not new at all but merely extensions and refinements of what vocational rehabilitation programs are doing right now. For example, right now State vocational rehabilitation programs are serving 2,800 persons with end-stage renal disease, and HEW has itself allocated funds to begin support of spinal cord injury centers around the country, just as we have provided for in the bill. The administration bill also proposed special grant authority for assistance to certain deaf individuals and spinal cord injured persons.

These are branded by the administration as "medical" or "categorical" when the Congress takes the initiative and lauded as brilliant new directions when the President does it.

That is really the heart of the nonbudgetary objections, Mr. President: This is not the administration's bill, and that is why they really are against it.

The philosophy of the executive branch is, "Go away Congress and let us alone; we'll call you when we want you, and then pass our bill exactly as we say, when we say, and accept all of our program and spending priorities."

This attitude makes a mockery of the Constitution, of our 536 congressional and senatorial elections, and of the historic separation of powers. I do not believe the American people want a rubberstamp Congress. In any event, I cannot believe that this is the way our democracy can effectively serve the needs of our people.

I am all for fiscal responsibility. I know all of my colleagues are. I want us to set a budget ceiling and stick to it just as much as the President does.

But I also fervently believe we in the Congress would be abdicating our historic responsibility of the purse if we do not set our own program and spending priorities within an overall annual budget figure.

Mr. President, this bill is designed to give millions of severely handicapped Americans a decent chance for a job and for a dignified, more independent way of life than dependence on Government handouts.

If the President meant to include people who are crippled, paralyzed, or blind when he admonished the American people to ask not what the Government can do for them but rather what they can do for themselves, then the President was not only heartless, but has shown himself to be budgetarily blind. I cannot believe that to be the case—but I can most certainly believe it of some of his faceless advisers in OMB.

Mr. President, even with the modest increases in appropriations authorizations for fiscal year 1973 and fiscal year 1974, we could provide services in the next 18 months to only approximately 680,000 more than the 1 million being served annually now.

Figures provided to us yesterday by rehabilitation services administration in HEW show an estimated 9.8 million handicapped individuals who would be eligible and who would benefit from vocational rehabilitation services provided under the basic State grant program. Thus, Mr. President, even if we were able to achieve full appropriations of the authorization amounts for fiscal years 1973 and 1974, at a minimum, more than 6 million disabled persons would continue to be without services that they need in order to prepare themselves for work and

to end their dependence on friends, families, and Federal welfare or social security payments.

Mr. President, in closing I would like to make a personal note about my great interest in this legislation. Unfortunately, I have lived with the problem of serious disability for the last 3 years. In December of 1969, my wife, Geneva, was stricken with a paralyzing stroke which seriously incapacitated the motor faculties of one side of her body. She has strived mightily toward her rehabilitation and has made much, much progress, with a great deal of help,.

Thus, Mr. President, I have seen firsthand the effect of a serious disability striking in the midst of an active and productive life and the struggle of one person to carry out the most basic everyday activities. And I know how much it has meant to her to achieve greater and greater self-sufficiency in all of her daily activities.

In addition, Mr. President, for the last year I have worked intimately with a young Vietnam Navy pilot who, as a result of a service-connected injury, is a quadraplegic confined to a wheelchair. I think many of you have seen Michael Burns with me on the floor when I was managing this bill and its predecessor, H.R. 8395, the four previous times.

I wish Mr. Burns could be here today for this bill truly is a tribute to his enormous courage, insight, and perseverance. I regret to say, however, that his great efforts on this legislation over the past year have been such that at present he is hospitalized recovering from the effects of too great a strain he imposed on himself in working to perfect and move through the legislative process this measure and to overcome the obstacles raised by the OMB decisionmakers.

I hope, Mr. President, that we can send him the get well card that he and 10 million other handicapped Americans deserve by voting to override the unconscionable veto of S. 7.

Mr. TAFT. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. TAFT. Mr. President, the issue before the Senate today is a very difficult one. It was intended to be a difficult one from the very outset.

As I said before, when the bill came up for initial consideration by the Senate in this session, this bill, unfortunately, was chosen because it presented a confrontation between the President's budget and a specifically authorized program which the President vetoed at the end of the last session.

There was a hurried attempt to get this measure on the desk of the President to make it the key issue. It was only because I objected to some procedures that it was not here several weeks before the present date.

The issue is a difficult one because I think all Americans and certainly all Members of this body recognize the validity of an important ongoing vocational rehabilitation program and recognize it has a cost-benefit ratio which is extremely favorable, not merely in conjecture but actual experience at both the State and the Federal level.

I have offered and worked for sound rehabilitation legislation. I am sure all of us have had some personal connection so far as rehabilitation legislation is concerned, and that we all recognize the importance and the validity of a sound vocational rehabilitation program.

I had a parent who was incapacitated for 8 years as a stroke victim. Rehabilitation helped much and was extremely valuable in that case. I had a wife who was an amputee and received a great deal of rehabilitation, so far as that handicap was concerned.

But that is not the issue today. There are things about this bill which should be pointed out so far as rehabilitation is concerned. There could be no doubt it does much in the direction of bringing additional medical services under general authorizing legislation in the rehabilitation field in aiding end stage renal disease and spinal cord centers, both of which need additional facilities.

It will turn the program away from its concept of providing vocational rehabilitation rather than becoming another means for providing the type treatment that is needed in some medical situations.

We should clarify the issue to begin with. I do not believe passage of this bill in its present form, in the long run, would be the best interest of a sound vocational rehabilitation program in this country, nor do I think portraying this bill and the sustaining of the veto as an effort to cut off vocational rehabilitation will succeed.

I wish to quote from the President's message:

> Through past increases in funding and by our efforts to find more effective means of providing services, this Administration has demonstrated its strong commitment to vocational rehabilitation. Funding for the Vocational Rehabilitation program will reach $650 million under my budget for the coming fiscal year, an increase of 75 percent over the level of support when I took office.

So, to those who cry for more funds for vocational rehabilitation, we may well look back and say, "Where were they when this same need, to a great extent, existed and was being funded at a lower level just 4 years ago?"

The President continued:

> Two other sources of funding for rehabilitation of the handicapped, the Disability Insurance Trust Fund and the new Supplemental Security Income program, will provide another $100 million. Altogether during the coming fiscal year, the Vocational Rehabilitation programs should provide services for about 1.2 million people—an increase of more than 50 percent over the figure of 4 years ago.

I turn to an article which was printed in today's Washington Post containing remarks by Secretary of Health, Education, and Welfare, Casper W. Weinberger, in which he replied to charges being made in this regard.

I ask unanimous consent that the article be printed in full.

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

[From the Washington Post, Apr. 4, 1973]

THE REHABILITATION VETO: AN ADMINISTRATION VIEW

(By Caspar W. Weinberger)

Two facts are obvious from President Nixon's veto of the Rehabilitation Act of 1972 in what is shaping up as a major battle over the budget and the prospect of higher taxes.

The first fact is that many in the Congress are willing to play political football with the hopes and aspirations of less-fortunate Americans as they prosecute partisan raids on the President's budget, ignoring the threats of higher taxes and assuming that every bill with a good label is a good bill.

And the second is that President Nixon is committed, whatever the short-term political implications, to preserve a budget that will fight inflation and hold taxes in check, while keeping the nation's economy and social progress moving steadily forward.

The struggle over the Rehabilitation Act of 1972 provides a scenario likely to be repeated often in the weeks and months ahead.

First, the President proposes a responsible and responsive program budget. In the case of vocational rehabilitation, he asked $650 million—75 per cent more than was being spent for this purpose when he took office.

Next, the Congress—operating through a committee system that never considers the budget as a whole—decides to double or triple the funds asked by the President, hoping the bill's humanitarian subject will hide their fiscal irresponsibility. This bill, vetoed by the President, would cost an additional $1 billion over the next three years, above the very large amount asked by the President.

Furthermore, this particular bill has serious deficiencies which would weaken the nation's successful vocational rehabilitation program.

Inevitably, the President is forced—in the interests of economic sanity and of the taxpayers—to veto such a bill. And the stage thus is set for Congress falsely to accuse the President of callous disregard of the needs of our less fortunate citizens.

In truth, it is the big spenders in Congress who are pursuing a heartless strategy. They are the ones raising hopes that are doomed to be dashed. They make promises which no federal government can afford to keep.

A budget that feeds inflation ends by hurting the poor most of all. A budget that requires a tax increase hurts every American. A budget that ignores economic reality also courts economic calamity.

Beyond its exorbitant price tag, the Rehabilitation Act of 1972 is bad legislation in its basic structure.

It would add medical and other services already available under existing laws, and thereby divert vocational rehabilitation from its primary goal: Training the handicapped to become self-sufficient.

It would create new categorical grant programs, many of them duplicating or overlapping existing programs.

It would add new layers of bureaucracy, and new mountains of red tape, in the face of clear evidence that such snarls impede, rather than speed, the efficient delivery of services to those in need.

The Vocational Act of 1972 was, in short, a prime example of ill-conceived, irresponsible legislation. It is to be hoped that the Congress, given additional time to consider the bill, will allow it to rest in peace—and will enact instead the generous and responsible program contained in President Nixon's budget so that the high cause of vocational rehabilitation can continue to serve the public interest with high effectiveness as in the past.

Mr. TAFT. I would like to read just briefly from it as a part of my argument. Mr. Weinberger said:

First, the President proposes a responsible and responsive program budget. In the case of vocational rehabilitation he asked $650 million—75 percent more than was being spent for this purpose when he took office.

Then further in the article—

This bill, vetoed by the President, would cost an additional $1 billion over the next three years, above the very large amount asked by the President.

Then at a later point:

Beyond its exorbitant price tag, the Rehabilitation Act of 1972 is bad legislation in its basic structure.

It would add medical and other services already available under existing laws, and thereby divert vocational rehabilitation from its primary goal: Training the handicapped to become self-sufficient.

It would create new categorical grant programs, many of them duplicating or overlapping existing programs.

It would add new layers of bureaucracy, and new mountains of red tape, in the face of clear evidence that such snarls impede, rather than speed, the efficient delivery of services to those in need.

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Mr. President, as I said before when the bill was before us on the floor, the vocational rehabilitation programs in which we have been engaged have been a very good investment, and one to which I think we are well merited in applying further resources. There is an extremely good benefit-cost ratio. However, I can see no good being done for the handicapped by enacting a bill that has twice been vetoed.

I had hoped, when I voted for the bill and it was sent to the House, that the House would take a look at it.

The distinguished Senator from California mentioned in his remarks a few moments ago that it was a confrontation chosen by the White House to present itself to the Congress. I think just the opposite has taken place. Congress has chosen to make a confrontation on this issue. What happened is that amendment after amendment was offered to the bill, trying to make a compromise, trying to keep it on a sound legislative track, but they were turned down flat on partisan lines on both sides. My hopes for reaching some compromise in the House were not fulfilled. There were no substantive change. It came back quite similar to version passed by the Senate.

It was desired to put this piece of legislation on the desk of the President early in the session, a piece of legislation which is in a field generally regarded with sympathy, and cause the President to veto it, in an attempt to break down the President's responsible attempts to bring about some fiscal responsibility on the part of the Congress and the administration.

This bill has become a political football and a veto override would only constitute a power play. I do not believe that we as responsible Members of the Senate can afford to play political games with the well-being of many. I for one will not be a party to such procedures, and therefore will vote to sustain the President's veto of S. 7, the Rehabilitation Act of 1972, in hopes that it will carry and we can get a bill that can be supported by the administration as well as by the Senate to benefit the handicapped.

I would like to point out that the argument for S. 7 is also something of a hoax. The impression has been created around it that for the handicapped of the Nation, there is S. 7 or nothing.

President Nixon, in vetoing this legislation, has been portrayed as a man callously drawing a line through programs for the handicapped with the heartless pen of parsimony.

That, Mr. President, is simply not true.

The fact of the matter is that the administration has already proposed a very generous and improved continuation of vocational rehabilitation programs.

His proposals call for an authorization level over the next 3 years of $650 million a year, which is 75 percent higher than was authorized when he took office in 1969. I have indicated that there will be another $100 million under the disability insurance trust fund and the new supplemental security income programs for the disabled.

This level will provide assistance for approximately 1.2 million handicapped persons, 50 percent more than were reached 4 years ago, all of which seems hardly parismonious.

Therefore, I urge my colleagues to vote to sustain the veto and protect the American pocketbook without hardening the American heart.

The PRESIDING OFFICER (Mr. HASKELL). Who yields time?

Mr. CRANSTON. Mr. President, I yield to my distinguished colleague from West Virginia (Mr. RANDOLPH), the chairman of the Handicapped Subcommittee who has done so much work on this bill, such time as he needs for his purposes.

Mr. RANDOLPH. I would like to ask a question of the Senator from Ohio.

Mr. TAFT. I am sorry. I did not know the Senator was going to ask a question. I am glad to yield for a question.

Mr. RANDOLPH. Mr. President, the Senator from Ohio gave very careful attention to the provisions of this legislation last year, and again this year. I find it difficult, knowing his sense of fairness, to understand whether he means to tell the Senate and the country that the vote this afternoon will be cast to embarrass the President of the United States when those Members who have conviction and commitment will, on both sides of the aisle, whether successful in overriding or not, set their stamp of approval on what they believe to be right in this important matter. Would a clarification be in order?

Mr. TAFT. Of course. I would say to the distinguished Senator from West Virginia that I am sure every Senator here votes, in the last analysis, for what he believes right. He does it in his own conscience. Certainly I did not mean to imply anything to the contrary.

However, I do feel the mistaken impression has been arrived at that, somehow, this bill must be passed, under these circumstances, at this time, or the assistance to our handicapped is going to be cut off. That is a false impression. I also think it would be a false impression not to recognize that the program has had built into it considerable increases, and I am sure will have built into it additional increases.

At the same time, that does not mean that a confrontation is not being presented. The public press generally recognizes this as a bill on which the confrontation is being presented. I think we would be unrealistic from a political point of view in not recognizing that that is what has occurred. Unfortunately, it is tied to this particular label.

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

Mr. TAFT. I am glad to yield.

Mr. RANDOLPH. I disagree—however, very respectfully but very earnestly—with the Senator. The confrontation, if it arises, arises in the mind of a Senator. Is it not right that it arises in the mind of an individual Senator?

Mr. TAFT. It may arise in the minds of certain Senators and not in the minds of others, but in the minds of the press generally and the country generally, this bill—along with a package of other bills of similar nature which have possibly been vetoed because of fiscal aspects—has been chosen to present this confrontation. I think that is a fact whether we recognize it or not. The Senator may not be convinced of that, but I am convinced of it.

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

Mr. TAFT. I yield.

Mr. RANDOLPH. I will be deeply disappointed if votes this afternoon beginning at 2 o'clock are cast for or against on the basis of confrontation, on the basis of partisanship, as the Senator has indicated in his remarks. I have confidence in the individual responsibility of a Member of the Senate to vote on what he thinks is right or wrong on this matter.

Mr. TAFT. Mr. President, I would say to the Senator that I do not consider that whether a Senator thinks he is doing right or wrong should void the question of the confrontation. For those of us who see this confrontation, our consciences may dictate that it is a very difficult decision to vote against a program for which we have stood for many years. However, in our consciences we feel that we have to vote to sustain the veto.

Mr. RANDOLPH. It is difficult for me to assess the thinking of the Senator and his constant raising of confrontation and partisanship. We are attempting to cope here with the specific problem, and to approach it in any other degree, I think, lowers, very frankly, the level of the debate on this matter. That is my feeling deep inside.

Mr. TAFT. Mr. President, I thank the

Senator for his remarks. I simply point out that the Senator from North Carolina (Mr. HELMS) and others have introduced legislation to extend the present program based upon the recommendation contained in the President's budget. That alternative could be pursued and could be pursued very quickly if the veto is sustained.

Mr. CRANSTON. Mr. President, I yield 7 minutes to the Senator from Vermont (Mr. STAFFORD), the ranking minority member of the Handicapped Subcommittee, who has been a tower of strength in this matter.

Mr. STAFFORD. Mr. President, I thank the chairman of the subcommittee, the Senator from California (Mr. CRANSTON), for yielding.

As a Republican and one who supported the reelection of President Nixon, I certainly will bend over backwards to support the President's policies wherever possible.

For example, I support his proposal that total Federal spending should be held within a ceiling of $268 billion. At the same time, as an elected Member of the Congress, it is my responsibility to arrive at my own decisions along with my colleagues, as to how we believe funds should be appropriated within that ceiling for this is the constitutional prerogative of the Congress.

It is my own belief that we can afford to spend $600 million per year and more for rehabilitation of handicapped citizens, especially when experience shows us that for every dollar we spend, we will get $5 in return through actual dollars earned by these citizens, not to mention the satisfaction they and we derive from their ability to live as useful and productive citizens.

I am quite prepared to vote for reductions of spending in other areas to make up for offsetting any additional funds that I vote for which exceed a specific item in the President's budget.

There are an estimated 7 to 12 million handicapped individuals in our Nation who have not realized their full potential in performing at some job. In the most recent fiscal year, more than 1.1 million disabled persons were served by State vocational rehabilitation agencies and more than 300,000 of those individuals were reported to be rehabilitated.

It is clear that we still have a long way to go, just as it is clear that S. 7 and the funds authorized by it will not meet all of our national needs. But, this new law can guarantee that many more individuals with severe handicaps will be served than at present. It will also insure that no one will be excluded from the program simply because his or her handicap is too severe.

I realize that there may be some severely handicapped individuals who may not be able to achieve the capacity to hold down a job. But, I firmly believe that the opportunity to work toward that goal must be made available to the handicapped person as is the case with the Rehabilitation Act of 1972.

S. 7 gives our handicapped citizens the power to help shape their own future by participating in the formulation of their rehabilitation program, a practice which, I am convinced, will noticeably improve the effectiveness of the whole vocational rehabilitation effort in our Nation. This new approach will bring more dignity and greater achievement to our handicapped citizens.

Aside from the humanitarian aspect of the program, it is also one of the most cost effective programs in operation by Government. A disabled individual may receive up to $100,000 in welfare payments during his lifetime. Yet, if he has been rehabilitated by the vocational rehabilitation program and earns an annual average income of $8,000 over his lifetime, then as the head of a family of four, he would pay taxes totaling $42,000 for the same period of time. Thus, the resources that we invest today in our handicapped citizens bring large returns to the Federal Treasury.

Mr. President, the Senate must match its word about wanting to help these handicapped citizens with deeds. The Senate should do its part in voting S. 7 into law.

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be equally divided.

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. CRANSTON. 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. CRANSTON. Mr. President, I yield such time as he may require to the distinguished Senator from West Virginia, who has done such tremendous work on this legislation over so many years.

Mr. RANDOLPH. Mr. President, one of the thrusts of this legislation which I believe many people have overlooked is services to the severely handicapped.

Who are these people who are severely handicapped? They are those persons who suffer a combination of handicaps, or have what I frankly call devastating degrees of disability.

Yet, if we would give to those people, not a pat on the shoulder—this is not the hour for the Senate to do that—but a helping hand—and that is necessary, and can be done through the overriding of the Presidential veto—we could do much for them through providing them the necessary highly specialized training by highly trained personnel. But this can only be done if we provide the proper emphasis, the strength, and, yes, the money—the money for this program which has such a high cost-benefit ratio, which has been acknowledged by the able Senator from Ohio (Mr. TAFT), and I believe must be acknowledged by every Senator who appears on this floor during the debate to argue for sustaining the President's position.

Of whom do we speak when we speak of the severely handicapped? We speak of the deaf-blind. We speak of the paraplegics and quadriplegics. We speak of the mentally retarded. We speak of the cerebral palsied.

Mr. President, these are men and women who desire very much to participate as productive members of the American system of work, and of contribution through taxes—in other words, to be participants in the body politic to the fullest degree.

Do we have many such people, or are they few in number? Mr. President, their number in our population is increasing. That is why we have given the thrust in this legislation, for the first time, to helping such people, so that they, in turn, may help themselves and the country will benefit.

We all know of the progress that has been made in the medical profession. We know of the improvements which have been made from the standpoint of prenatal and postnatal care, resulting in higher rates of survival among our multiple handicapped infants. The changing concept of the right to treatment, the advent of new drugs and new surgical techniques, permits lives previously lost to be saved. But patients are often left with physical or mental handicaps.

Once we thought the lives of such people were a loss, that we could not return them to active levels of society where they would be productive citizens. Now, however, we know that that can be done. We know it has been done. But very frankly, if we do not move, as I believe we must move, we will have a patient here and a patient there in increasing numbers left with physical and mental handicaps, that we ourselves could help by commitment, not by just saying, "I want to do something," not just by conception but by conviction, when we can really move forward these programs in a way to reflect credit upon this body and the individuals who will be involved. by voting, not as a whole, knowing that we at least in this instance will be responsive to need, and I think, Mr. President, responsive to the thinking of the American people. There are 2¼ million—I reemphasize the figure—2¼ million severely handicapped men, women, and children. They include the paraplegics that I mentioned and the quadriplegics of whom I have spoken. These people, Mr. President, need and deserve from this Congress the services that we can give them.

This legislation was passed with only two votes against it in this body on a rollcall vote. What has changed the situation? I do not believe it is confrontation. I do not believe it is partisanship. I somehow cling to the hope that the membership of this body will rise at this high hour and do what it should do and do it because it is right.

We must think of these people of whom I speak, and in a sense for whom I speak, these handicapped people of the country. It is the desire of their hearts that although they are handicapped, they want to move forward. They want to do the job. They may not be wage earners and taxpayers now, but that is what they want to be. That is what we want them to be. They are citizens of this country. They have the same right as every Member of this Senate to live in what has been expressed often as dignity.

Accordingly, Mr. President, until the tally is announced, I am continuing to believe that Senators will not be swayed

into feeling that here we must stand for the President. That should not be involved.

Here we are with well-considered legislation, reported with unanimity from the Labor and Public Welfare Subcommittee on the Handicapped, which I have the responsibility to chair, brought from the committee itself, the parent body, to the floor of the Senate and on two occasions, in 1972 and now again in 1973, with the stamp of approval after testimony and testimony and testimony, not a lack of analysis of the bill as has been indicated, but by a careful screening and evaluation of every point.

Mr. President, at this moment we are within 55 minutes of the decision. I still continue to have the hope and the belief that the membership of this body will not do other than what it should do and that is, on the basis of the facts—that is all—not confrontation and not partisanship—know that this is the high hour for commitment and conviction.

The President of the United States has announced that he believes in full funding for cancer, in full funding for heart and lung diseases. I only wish that he and his advisers had realized that the one need which is just as compelling—and perhaps even more so for this body—is that the physically handicapped men, women, and children of this country have a right to the assistance that we can provide them. It is not a handout but a helping hand, that they may help themselves as participants and as active men, women, and children in our country in the day-by-day development of a nation where we believe, when we talk of dignity, that it really means participation and being a part of what is done.

That is why I stand here today. That is why others stand here today in an effort not to become involved in too much detail in this matter—all of that has been demonstrated in the debate this year on the bill and last year on the bill, when substantial reductions were made in the various programs—but that we might approach the President and say to him, "There has been an attempt, a very honest attempt, to meet your thinking in a matter of this magnitude."

The PRESIDING OFFICER (Mr. ABOUREZK). Who yields time?

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be equally divided.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. TAFT. Mr. President, I yield 4 minutes to the distinguished Senator from South Carolina (Mr. THURMOND).

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 4 minutes.

Mr. THURMOND. Mr. President, last week, President Nixon vetoed the "Vocational Rehabilitation Act of 1972" because of its excessive cost and its creation of additional categorical grant programs.

When this measure was considered in the Senate last year, I worked diligently to persuade the managers of the bill to accept an amendment which would retain the allotment formula used in previous years. This formula was adopted by the conference committee last year and again this year. I have consistently favored the vocational rehabilitation program, and feel that its accomplishments speak for themselves. Since 1920, more than 3 million Americans have been rehabilitated and are now working as useful citizens.

In the past, the vocational rehabilitation program's success has stemmed from its employment-oriented mission. S. 7, as submitted to the President, would have included in the program a medical and social services mission which is already encompassed in numerous existing HEW programs. I was hopeful that the conference committee would have reestablished the employment-oriented direction, and was disappointed that this was not done.

Mr. President, this afternoon the Senate will be asked to override the President's veto, thereby adding over $1 billion to the deficit budget over the next 3 years.

My long advocacy of the position that Federal spending must be controlled requires that I vote to uphold the President's judgment. The good work being accomplished by the vocational rehabilitation programs as presently constituted on the State and National level is most worthy. However, we should only extend these programs at a level the Nation can provide without increasing taxes and producing inflationary effects.

By voting to uphold the President's veto of S. 7, we will leave a void in the authorizations for vocational rehabilitation programs. Therefore, I have joined Senator HELMS and others as a cosponsor of a more fiscally responsible proposal. This bill, S. 1431, authorizes the continuation and expansion of existing programs at a level responsive to the needs of the handicapped without overburdening the taxpayers.

Mr. President, the administration and Congress are not ignoring the needs of the handicapped. On the contrary, the President has indicated his full support of S. 1431 and will sign it into law when it is passed by Congress.

The PRESIDING OFFICER. Who yields time?

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

Mr. CRANSTON. I yield 5 minutes to the Senator from Minnesota.

Mr. MONDALE. Mr. President, I rise to urge that the Senate override the President's veto of S. 7, the so-called Rehabilitation Act of 1972, one of the most important, carefully developed, and humane measures that has been before the Senate since I came here almost 7 years ago.

The program authorized by this bill has indisputably proved its success in terms of both social and economic goals.

More than 3 million handicapped citizens have been rehabilitated since the vocational rehabilitation program started in 1920. We can never measure adequately what successful rehabilitation can mean in personal terms to the handicapped and their families. We can only imagine the great pride and sense of security which developed when a handicapped person knows that he is self-sufficient.

We can, however, measure the economic value of a program like this, and we have. The committee report on this legislation describes the dramatic economic gains achieved by this program:

> In addition, the cost/benefit ratio clearly indicates the value of making a greater Federal investment. A number of cost/benefit analyses of the rehabilitation program have been completed. Although they differ with respect to methods and assumptions, they all agree on one crucial fact—the benefits of the rehabilitation program are many times its cost. Conservative estimates of the ratio of benefits *to costs range between 3 to 1 and 5 to 1.* (Emphasis added.) For instance, the aggregate increase in annual earnings for the 291,272 persons rehabilitated in FY 1971 was $729,000,000. These first year earnings for rehabilitated persons compare to a total Federal cost of $552,800,000 (including service projects and Social Security Trust Funds) for that year for all persons served, including those cases closed as not rehabilitated. Total benefits for what is essentially a one-time expenditure depends on the number of years the individual is able to work following rehabilitation, whether his disability worsens, whatever increases in earnings come about because of experience and more proficiency, and many other factors. In addition to the contribution to the GNP, the RSA estimates that these individuals, at a minimum, will be contributing approximately 5 percent of their total income or $58 million to Federal, State and local governments for taxes. This contribution is in addition to the estimated savings to the program by the government through either the removal of clients from the Public Assistance rolls ($32 million annually with respect to FY 1972 rehabilitations) or by reducing clients' dependency."

In other words, we know that the vocational rehabilitation program works. We know that, in addition to what ought to be the sense of humanity justifying the override of this veto, just in terms of cold bookkeeping and cold economics, for every dollar we invest in this program there is a return of at least 3 to 1 and possibly up to 5 to 1. This return takes the form of personal income and of Federal, State, and local revenues.

This does not refer to the humanity of it at all. We know that when handicapped persons are able to find work, they prove to be excellent employees who constitute a fine part of the Nation's labor market. We know that they are able to care for their families and take them off welfare and other forms of assistance. They are able to pay their taxes once again, and all the pride that goes with that status is also there for that employee and for his family.

If there is one program in which we know what we are doing and in which we know that every investment we make will be returned in a very real sense, it is this program.

It is not a new idea. It is an idea that goes back 52 years. It is one in which we have a deep range of experience.

This bill reflects what we have learned from these years of experience; and it would also support hopeful, new approaches.

For example, in Minnesota, at the University of Minnesota, we have one of the finest schools in the country for the physically handicapped. They are doing absolutely remarkable work in the field of spinal cord injury. They have found that with early and sophisticated aid to spinal cord injured persons, there is a fantastic rate of repair and a fantastic rate of financial aid. This bill, among other things, incorporates work in this field, bringing desperately needed help to people who want it. This help provides returns in employment, increased taxes, and all the rest.

The issue is not spending. The Senate is prepared to set a spending ceiling, I think, is below the President's. The issue is not taxes or inflation. We are prepared to make clear that we will live with an overall spending ceiling beneath that of the President. The issue is whether this country is going to turn its back on compelling human problems for which we have a solution; and in no field of human problems are we more experienced and better able to prove that we can save money and help human beings at the same time than this one.

An estimated 7 to 12 million handicapped Americans have not reached their vocational potential. If this bill is enacted, some 2 million of these persons would be able to benefit from the program—but that would still leave a huge backlog of deserving handicapped persons unserved.

There are few programs which have so consistently retained the strong bipartisan support of the Congress. I hope that our vote today and that of the House will demonstrate that this bipartisan commitment is as strong as ever.

If we cannot override this veto, I do not see how we can override any of the others, and the President will be an emperor.

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

Mr. CRANSTON. Mr. President, I yield 4 minutes to the distinguished junior Senator from Minnesota.

Mr. HUMPHREY. Mr. President, I, of course, am going to join what I hope is an overwhelming majority of the Members of this body to override the President's veto of the Rehabilitation Act, S. 7. I should like to direct my attention, for a moment, to what this act means.

How many Members of this body have a retarded child? How many Senators have somebody in their families who is physically or mentally or emotionally handicapped? How many Senators have tried to raise money privately to keep a school open for the mentally retarded?

President Nixon, how many of these schools have you visited? How many of these sheltered workshops, Mr. Nixon, have you visited?

I want the President of the United States to come to Minnesota and go out to 78th and Bloomington and see a sheltered workshop where the kids who are mentally retarded are going to be out because of this pennypinching, Scrooge-like government that decides we do not have enough money to take care of the handicapped.

I was in Abilene, Tex., last night, speaking at the Christian College of Abilene. Whatever may be our religious faith, how we can turn our backs on the handicapped, as a government of the people, by the people, for the people, a government that says, "One nation under God, indivisible, with liberty and justice for all," is beyond me.

This veto is the worst, the most cruel, and the most inhumane veto the President has ever handed down.

I am the grandfather of a mentally retarded granddaughter. Our family can afford to take care of that child. Some families cannot. Many of these youngsters and adults can be trained to be self-sustaining. Many of them are subject, by intensive training, to become what we call educated or educable individuals.

As my colleague has said, many of them can become productive citizens, paying their way, earning, living, contributing to this society. Twice within a year this President has vetoed this act. I ask every Senator here to search his conscience. I do not believe the President knew what he was doing, and if he did, he ought to be ashamed of himself.

Mr. President, I will vote to override President Nixon's veto of S. 7, the Rehabilitation Act of 1972, because I believe it is essential to sustain hope for millions of handicapped and retarded American children and adults who would otherwise be denied essential services and training that can enable so many to enjoy independent, self-sufficient, and productive lives.

Already, many rehabilitation facilities are being forced to release handicapped clients, because the Nixon administration is refusing to release moneys under supplemental appropriations enacted by Congress for these programs. Already, programs for the mentally retarded face the cutoff of vital financial support, should new regulations on social services proposed by the Nixon administration be implemented.

The time has come for Congress to insist that the needs of handicapped persons are a vital national concern that must no longer be ignored.

The Rehabilitation Act of 1972, as sent to the President, is fiscally responsible legislation—the authorization for the current fiscal year is actually $100 million lower than the fiscal 1972 authorization for the existing Vocational Rehabilitation Act.

The Rehabilitation Act of 1972 will not divert the vocational rehabilitation program away from its original purposes of encouraging and enabling handicapped persons to obtain meaningful and gainful employment. Instead, and in addition, this legislation authorizes the initiation of comprehensive services for the thousands upon thousands of severely handicapped persons whose needs have been ignored, but who could now be helped to lead self-sufficient and independent lives. The President notes with pride that the vocational rehabilitation program he has in mind would provide services for some 1.2 million people. But he should note with shame the harsh fact that up to 11 million handicapped persons who could be helped will receive no services under the administration's program.

These are only some of the clarifications that must be made in correcting a Presidential veto message that is seriously misleading. If the President's veto is allowed to stand, thousands of people who might have been helped to remain in their communities will instead be confined to institutions, and untold numbers of handicapped children will continue to be denied the right to public education services. Federal programs would continue to be diffuse and disorganized and at a reduced level of effort—conditions which the Rehabilitation Act of 1972 can correct through launching fundamental reorganization measures.

The President sees a diversion, under this legislation, in the authorization of new medical services, and he is critical of the special-purpose programs which it authorizes. But this position represents a complete about-face, for his own administration originally requested special programs for the blind, for people with spinal cord injuries, and for the treatment of end-stage renal disease—all of which were included in this bill. And his administration initially supported a separate program for nonvocational services to the severely disabled.

The President's veto rejects the opportunity to seize hold of dramatic advances underway in research and technology for the rehabilitation of the mentally and physically handicapped. And it rejects the strong economic argument for vocational rehabilitation services—that for every dollar spent on rehabilitation programs, the Federal Treasury gets back from $3 to $5 by decreasing the welfare rolls and adding to tax revenue through income earned by rehabilitated clients.

The President has contended that the promise of increased Federal spending would cruelly raise the hopes of the handicapped. Then let his administration agree to carry through that promise, rather than deny outright any hope to people in need, by cruelly cutting back on Federal expenditures for human resources. And let this administration support the Rehabilitation Act of 1972, rather than call for enactment of substitute legislation that has been frankly evaluated as working havoc on vocational rehabilitation programs.

It is incumbent upon Congress now to be the spokesman for millions of handicapped Americans. It must insist that the responsibilities of national leadership include responsibilities of compassion and of respect for human dignity. I urge the Senate to give voice to this demand through rejecting the President's veto of the Rehabilitation Act of 1972.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HUMPHREY. I do not need any more time.

QUORUM CALL

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum and the time to be charged equally.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. TAFT. Mr. President, I yield the Senator from Arizona (Mr. GOLDWATER) 5 minutes.

Mr. GOLDWATER. I think I can complete my remarks in that time.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 5 minutes.

Mr. GOLDWATER. Mr. President, as I said in a statement to the press yesterday, I intend to vote to sustain all of the vetoes that the President will make on bills that he thinks, and with which I agree, would contribute to further inflation in this country.

I want to make it clear that by this vote to sustain I do not indicate opposition to the basic idea of the programs, but I think we have reached a point in our history where we have begun to think that dollars alone are going to solve the problems that these various programs are aimed at.

I think it should be perfectly clear to everyone that billions and billions of dollars have not solved the problems with which we are faced. So to me it does not make sense to appropriate more money when we have not been able to spend well the money that we have appropriated.

I would like to state at this point that another reason for my position is that I feel probably the most dangerous problem facing the American people today is the very rapidly deteriorating dollar. I do not think many Americans realize, I do not think many Members of Congress realize, the great extent to which inflation has been fired and kept growing by continued deficit spending.

The other day I reminded a group of my time in college in 1928 when a professor of German extraction kept telling his class that unless Austria changed its ways, we could be in trouble in the world. This was in 1928. Austria was then engaged in doing precisely the same things we are engaged in doing now—spending money it did not have—and, sure enough, in late 1928, the Kredit Anstalt, which was their great banking house—and mark you, Mr. President, the Austrian krone was a very important part of world currency then—collapsed and went bankrupt, and the world was plunged into a depression from which the United States did not emerge until the end of World War II.

I lived through those days, and I never want to see my country or our people suffer as the people in this country suffered during those nearly 10 years of depression in the 1930's.

I remind my colleagues and remind the country that we are engaged in precisely the same things that Austria was engaged in in the 1920's, only we are doing it to a greater extent. We are further in debt. We are appropriating money at a faster rate than they in Austria appropriated then.

So my attitude is that if the Congress cannot be responsible, if we cannot realize that spending money we do not have adds to the inflationary problems of this country and the economic problems of the world, then I think we are lucky to have a man in the White House who will use his power to veto, so that the spending has to end—not the programs, but the spending. Stop it, slow it down, so that we can take another look at what we are trying to do.

The field covered by this bill is an excellent one. It has done good. I think we have only scratched the surface. We have not had any new ideas in it for years, to my knowledge.

Mr. President, we are faced today with the situation of the chickens coming home to roost. Ever since the days of Franklin Roosevelt we have been engaged in deficit spending, and I will not defend Republican administrations which during that time did not seem to be able to control it any better than the Democrats. Now we are faced in this country with a problem of fast rising food costs. This is not due to anything the President has done or not done. It is due to inflation. It is due mainly to the fact that we have about 90 billion—I repeat, about 90 billion—American dollars floating around this world in the possession of almost all countries. These American dollars at the present time are buying 10 percent more than they were a year ago because of our decision to cut the value of the dollar. So these dollars of our country, owned by other people, are now in this country buying the things that our housewives would like to buy—namely, meat. I know the meat producers of this country feel under no obligation to cut their prices, because they can sell meat abroad at better prices than our markets are able to pay them.

The other day when I was down in Mexico I learned of the sale of 100,000 pounds of pork to Japan. We had been buying this pork, but Japan was willing to pay a greater price.

I mention this only to point out the fact that all the boycotting our housewives do is not going to solve this problem. Because we will have grocers who will get a little "chickenish," as long as we are talking about eating, or who may be fearful and reduce the price of meat, it will be grabbed up immediately, and there will be no meat available to us. So we are going to go on a fish diet, or a chicken or turkey diet, whether we like it or not.

This is one of the chickens that has come back to roost as a result of all the birds we have let go through congressional action and refusal to do anything about it through the years since Franklin Roosevelt. The chickens are coming back to roost now and we are paying the price.

Therefore, even though we are not really doing much by sustaining the veto of the President on the 12 or 14 or 15 bills that he will probably veto, we are doing a little bit, and I think by doing this we are reassuring the American people and the American taxpayers, who are now about as angry at this Congress as they have ever been.

That is my explanation of why I am going to vote to sustain this veto, and it will apply to every veto the President makes which I feel he is justified in doing, because a reduction in spending would help the American people, not hurt them.

Mr. TAFT. Mr. President, I yield the distinguished Senator from New York (Mr. JAVITS) 3 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 3 minutes.

Mr. JAVITS. Mr. President, in my view, the vetoes of the President, in respect to his efforts, which we join in, to hold down expenditures, need to be taken up one by one and each veto examined individually. The fact that he has taken this bill as the first one does not make it holy. That is the way it fell. I hope I can be with him on some of them, but I am not with him on this one.

A vote to override the veto of S. 7, the Rehabilitation Act of 1972, would not be contrary to the terms of the Policy Statement on Fiscal Responsibility adopted by the Senate Republican Conference on March 20, 1973.

First. This is not legislation which will add to the tax burden. As a matter of fact, as the administration witness, Assistant HEW Secretary Stephen Kurzman, in his February 6 testimony before the Subcommittee on Handicapped Workers—P. 408 of the hearing record—pointed out it will decrease that tax burden. He testified as follows:

> Second, the program is not only humanitarian, it is also cost-effective. Resources invested today in preventing or reducing dependency can yield major long-term economies in the application of society's resources. One disabled individual may, during his lifetime, receive anywhere from $30,000 to $100,000 in public assistance payments. But if he were not dependent and had an average annual income of $8,000, the same individual in a family of four would pay taxes totaling $42,000 over his lifetime. Thus, when a handicapped person is helped to become a contributing member of society, he is transformed from a charge on the public into a productive person able to contribute his taxes to helping others.

Also, his earlier testimony was to the same effect during the 92d Congress on May 15, 1972.

The Senate committee report Senate Report No. 93–48, pages 8 and 9—also stressed this aspect noting that conservative estimates of the ratio of benefits to costs range between 3 to 1 and 5 to 1. The report, for example, noted that with respect to 46 special training service projects in 30 States there was an estimated savings in public assistance payments of $32,000,000 for the first year alone, the first year being fiscal year 1972.

Emphasizing this point is the study of 9,600 individuals in the State of New York who were helped to achieve gainful employment through the vocational rehabilitation program in 1972. Approximately 16 percent of those rehabilitated were employed when they applied for services, but their positions were in jeopardy or unsuitable because of their disabilities. Since all were employed at closure, it is possible to measure the economic gains attributable to their successful rehabilitation.

At the time of application, this group of 9,600 persons were earning from work an estimated $5.4 million a year. At the

conclusion of their rehabilitation program, they were earning an estimated $30.9 million annually, an increase of 576 percent.

In addition, 13 percent of the group had been receiving $2.05 million annually in public assistance at the time they were accepted into the service program. Although some were not earning enough at the time of closure to remove their families from the public assistance rolls, only 5 percent were receiving public assistance at the time of closure, at the rate of $735,000 annually, a reduction of $1.315 million, or 65 percent, from the amount of benefit payments received before the rehabilitation.

Second. This bill is not an appropriation; it is an authorization. Moreover, the principal authorization provision—State programs, at $700 million for fiscal year 1973 and $800 million for fiscal year 1974—is unique and singular in one particular respect, differing from authorizations found in other grant-in-aid programs—in addition to being a ceiling for appropriations, it also serves as the basis for computing the allotment of funds to the States.

Usually, in grant-in-aid programs, the allotment is based on actual appropriations. Not so in vocational rehabilitation. Because the States' share of the matching—20 percent—is appropriated either annually or biennially by each State, the authorization serves as a planning figure for the States to receive Federal funds. The history of this program shows that State governments have negotiated with State legislatures based on this authorization figure and this has had the effect of many States actually putting more of their own funds into vocational rehabilitation than would have been the case if actual appropriations had been used for the basis of allotment.

Thus, what we are dealing with here is an authorization figure which is not only a spending ceiling—and the Congress can, as it has always done, set its own level of spending under that ceiling—but an authorization which is also an allocation base for planning, a feature which has been in the law since 1965.

This legislation, as it originally passed the Senate late last year, would have changed this procedure so that allotments to the States would have been based on actual appropriations, but the House view to the contrary prevailed.

We are dealing here, then, with a fact of life. The Congress can support the authorization figures for State programs without the same time committing itself to appropriate the full amounts authorized. Appropriations for vocational rehabilitation have traditionally been less than authorizations. Thus, we approve here a computation base—not solely a funding—appropriations—base. Hence we are not promising unrealizable increased Federal spending for this program necessarily, or a net increase in Federal outlays, but we are laying the foundation for allocation based on the extent to which States are willing to match whatever the Federal Government does appropriate and we leave the Congress free to establish its own priorities.

Third. This bill is accommodating to the President. When pocket vetoed last year, the Rehabilitation Act of 1972 authorized $3,481,400,000 through fiscal year 1975. As presented to the President this year, the authorization is $2,600,-250,000, a reduction of $881,250,000. That is a 25-percent reduction.

Furthermore, the authorization for fiscal year 1973 in S. 7 is almost $100 million less than the authorizations now in law for fiscal year 1971 and fiscal year 1972—$1.01 billion each.

Fourth. This is not a partisan issue. Since its enactment in 1920 and through its major expansions in 1943, 1954 and 1960 it has enjoyed great bipartisan support. S. 7 passed the Senate only a few weeks ago on February 28 by a vote of 86 to 2, consistent with this overwhelming bipartisan support. The vocational rehabilitation organizations, in urging support for an override, have stressed the bipartisan aspects of this measure. The leadership in the House and Senate in the effort to override is shared by both Republicans and Democrats. In the House Committee on Education and Labor, there was only one vote for the administration substitute. The bill was reported 36 to 1 and passed the House 318 to 57. In the Senate Committee on Labor and Public Welfare, the bill was reported unanimously, with my cosponsorship as the ranking minority member of the full committee and with the cosponsorship of the ranking minority member of the Subcommittee on the Handicapped (Mr. STAFFORD).

The above arguments lead me to believe I must vote to override.

I thank the Senator for yielding time to me.

Mr. TAFT. Mr. President, I yield 3 minutes to the minority whip.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 3 minutes.

Mr. GRIFFIN. Mr. President, this is not a vote for or against vocational rehabilitation. It is a vote for or against fiscal responsibility.

While it is true that the bill now before the Senate would authorize $1 billion less than an earlier committee bill, as the distinguished Senator from New York has pointed out, it is also true that it would authorize $1 billion of spending over and above budget levels projected for a 3-year period.

In the background it should be recognized that spending for vocational rehabilitation has been going up at a rapid rate every year. It has risen from $371 million in fiscal year 1969 to $650 million in fiscal year 1974.

In other words, during the period that President Nixon has been in office, the funding for vocational rehabilitation has risen by 75 percent.

The vote we are about to cast is not just a vote on the merits of this particular legislation. In many respects, the purpose of this bill is worthy and meritorious. But we are voting on a fiscal policy. Make no mistake about it, if the President's veto is overridden in this instance, the spending dam will be broken. In other words, we are, in effect, voting not just to add $1 billion of spending over and above the budget to this particular program, we would be signaling approval of excessive spending under other programs. As well, indeed, spending could be increased by as much as $50 billion if authorization bills already passed were fully funded. That is not just theoretical speculation.

Mr. President, I ask unanimous consent that tabulation showing authorizations versus appropriations for fiscal year 1973 be printed in the RECORD.

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

AUTHORIZATION VERSUS APPROPRIATIONS—FISCAL YEAR 1973

More than $50 billion in additional appropriations would be required in 1973 to fully fund in that year all the legislation that authorizes specific projects or provides specific dollar amounts. The major differences are in the following areas:

[*In billions*]

Public Works	25.8
Corps of Engineers	(19.8)
Bureau of Reclamation	(6.0)
Agriculture	12.3
Public Law 480	(11.8)
Other	(.5)
HEW:	
Education	6.0
Health	1.8
Commerce	.9
HUD:	1.2
Model cities	(.4)
Water/sewer facilities	(.6)
Urban renewal	(.1)
Rehabilitation loans	(.1)
LEAA	.9
EPA	3.0
Total	51.9

Mr. GRIFFIN. There are responsible predictions that if we do not hold the line on spending—if this additional $1 billion is approved—and triggers approval of other spending bills coming along—the average taxpayer in this country can expect to be met with a tax increase of 15 percent. This, again, is not idle speculation. I ask unanimous consent that a supporting table be printed in the RECORD.

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

THE 15 PERCENT STORY IN FIGURES (FISCAL YEARS 1973-75)

	Budget proposed by RN (billions)	Budget without RN cuts	Savings under RN	Required tax increase without savings (percent)
1973	250	261	11	11
1974	269	288	19	18
1975	288	312	24	19
Total			55	15

Note that the required tax increase is a surcharge.

Mr. GRIFFIN. Mr. President, a statement was made earlier by the distinguished majority leader and by others to the effect that Congress has actually cut President Nixon's budget every year he has been in office. Such statements have been made as an answer to the argument that we must hold the line on spending. But it must be pointed out that such a statement does not really

make a case because it refers only to appropriations bills passed.

It ignores the fact that Congress has, with increasing frequency, been bypassing its own Appropriations Committee by approving backdoor spending bills which require expenditures to be made from the Treasury without going through the appropriations process.

Taking fiscal year 1973 as an example, Congress did reduce appropriations, as the distinguished majority leader and others have pointed out. However——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. TAFT. Mr. President, I yield the Senator an additional 2 minutes.

The PRESIDING OFFICER. The Senator from Michigan is recognized for an additional 2 minutes.

Mr. GRIFFIN. By passing backdoor and mandatory spending bills, in addition to appropriation bills, Congress has added in the same year $15 billion to the spending level requested by the President. As a result, ever though there were some cuts in appropriations in 1973, the action of the last Congress resulted in a net spending increase of about $9 billion.

Mr. President, I ask unanimous consent that a document showing a breakdown of the fiscal year 1973 figure be printed in the RECORD.

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

SUMMARY OF EFFECT OF CONGRESSIONAL ACTION ON 1973 BUDGET AUTHORITY

(Change from budget estimate in plus and minus)

[*In millions of dollars*]

Appropriations bills:	
Agriculture-EPA	+482
Defense	−5,221
Foreign assistance	−1,510
Labor-HEW	+1,032
Other (net changes)	−844
Subtotal	−6,061
Mandatory spending bills:	
Equalization of retired military pay	−269
Black lung benefits	+969
Social security benefits	−159
Veterans benefits	+265
Other (net changes)	+58
Subtotal	+864
Backdoor spending bills:	
Higher education	Indefinite
Housing-temporary extension	+150
Highway emergency relief	−50
General revenue sharing	+2,995
Water pollution control	+11,050
Subtotal	+14,145
Inaction on proposed legislation:	
Student loan program revision	+288
Stockpile sales	+301
Volunteer army	−360
Armed forces retirement	−145
Education revenue sharing	−224
Other (net changes)	−140
Subtotal	−280
Total, congressional impact	+8,667

Mr. GRIFFIN. Mr. President, it is true, as the distinguished ranking minority Member, the Senator from New York (Mr. JAVITS) has pointed out, that the bill before us—which has been vetoed by the President—is an authorization bill and not an appropriation bill. However, Mr. President, let us not delude ourselves or mislead others. Too often in the past Congress has raised expectations too high by passing authorization bills which could not, or should not, be funded. Such actions lead people, however, to expect appropriations in a certain amount. This in turn puts pressure on Congress to fund to the level of authorization.

An authorization bill creates not only expectations, it sets a benchmark from which potential beneficiaries of a program can say that they have been cut.

I submit that it would be far better and more responsible to hold authorizations to a figure which is likely to, and can be, funded.

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

Mr. CRANSTON. Mr. President, I yield 3 minutes to the distinguished majority leader.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. MANSFIELD. Mr. President, on the desk of every Senator is a tabulation showing the total disabled population in the United States and its outlying areas. The figure is approximately 10 million Americans.

The money requested by this bill, I think, is more meritorious and serves a far better purpose than is money asked to buy the bombs dropped on Cambodia and other places.

The statement made that this is a spending Congress is totally false, although that seems to be the emphasis which the administration is endeavoring to place on it in its arguments against what we attempt to do here.

The assistant minority leader would not deny the fact that this Congress in the past 4 years was able to reduce the President's budget request by $20.2 billion. That is what the Congress cut from money asked for by the President. Every year of this administration Congress provided funds below the President's request. And what the Congress will do this year is to continue that pattern and that policy and further reduce the $268.7 billion budget request which the President has made.

A tax increase of 15 percent, it is alleged, will be occasioned by our helping the handicapped, the helpless, and the retarded, the ones who are in need of help and assistance, the ones who are our fellow citizens, who have for all too many years been kept at home or locked up in institutions and are now being given here the opportunity to become rehabilitated, to become worthwhile citizens, and to earn incomes and pay taxes. That is the real issue.

Mr. President, what about the revenue-sharing bill? Talk about backdoor financing and handing out money with nothing in the way of a return. This administration passed a 5-year revenue-sharing bill which cost taxpayers $32.5 billion over that period.

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

Mr. MANSFIELD. Mr. President, 86 Members of the Senate voted for this bill, and two voted against it. Are we going to march up one hill and down the other? Do we have no principle?

The PRESIDING OFFICER. Who yields time?

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

Mr. CRANSTON. Mr. President, may I ask that the time be charged to the other side?

The PRESIDING OFFICER. The Senator does not have enough time to suggest the absence of a quorum.

Mr. GRIFFIN. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Ohio has 7 minutes remaining. The Senator from California has 3 minutes remaining.

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

The PRESIDING OFFICER. On whose time?

Mr. TAFT. I ask that the time be equally divided.

Mr. CRANSTON. Mr. President, may I ask that the time for the quorum call be charged to the other side?

Mr. TAFT. I think the time should be charged equally.

The PRESIDING OFFICER. That requires unanimous consent. Is there objection?

Mr. GOLDWATER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. CRANSTON. Mr. President, I yield to the Senator from West Virginia, who has been the leader in this field for so long.

Mr. RANDOLPH. Mr. President, the argument has been made by several Senators that if S. 7 becomes law, it will cost too much.

That is a statement that cannot be substantiated by facts. We would authorize, by this legislation, I remind my colleagues, a total of $2.6 billion over a period of 3 years, from 1973 to 1975.

The existing law, the Vocational Rehabilitation Act, over the most recent 3 years, 1970 to 1972, authorized a total of $2.856 billion. That is nearly $300 million more than is provided in S. 7—nearly $300 million more than in the present bill.

So I regret that the issue of fiscal irresponsibility rears its ugly head, because if we override the Presidential veto, we shall be returning to the Senate a rebirth of individual responsibility. That is what is called for when the vote begins at 2 o'clock.

And when we speak of authorization levels, we must remember that we are not speaking of appropriations, we are speaking of what the Washington Post, I think correctly, said this morning:

S. 7 is not in itself a spending bill. It is an authorization measure which establishes certain vocational rehabilitation programs and sets ceilings for subsequent appropriations.

The PRESIDING OFFICER. The time of the majority has expired.

Mr. TAFT. Mr. President, I shall be glad to yield the Senator an additional 2 minutes, if he so desires.

Mr. RANDOLPH. I am grateful to my colleague.

S. 7 will have no effect whatever on the budget. We must recognize that as a fact. I said earlier today that the President of the United States, whom I respect, and I certainly respect the office he holds, has begun to think in terms of what I believe is the responsibility of the country. Thus the full funding for heart and lung diseases and the full funding for cancer have been provided. Now, we need the inclusion of this vocational rehabilitation program if we are to do the job.

Closely associated with the charge that S. 7 is fiscally irresponsible is the question of cost compared to benefit. I want to make this clear unequivocal statement: the more we spend on rehabilitating handicapped people, the more the economy, the Federal budget, and State and local budgets will benefit.

S. 7 is not only just, and humanitarian, and compassionate legislation. It is also one of the best investments that can be made.

A philosopher has said that a civilization—a society—is judged by the way it treats its handicapped and its poor. Let history record that our American society is a good and compassionate society. Let it not be said that we, the 93d Congress, failed those who need our help the most—the blind, the deaf, the crippled, the mentally retarded.

Thomas Wolfe said:

> To every man his chance. To every man, regardless of his birth, his shining golden opportunity. To every man the right to live, to work, to be himself, and to become whatever his manhood and vision can combine to make him. This, seeker, is the promise of America.

I conclude with this personal comment: I remember the effort that I made with Senator Sheppard many years ago, when I was in the House of Representatives, to provide for the blind of this country an opportunity to be productive citizens by operating vending services in public buildings, and how the Post Office Department came before us, through the Assistant Postmaster General, and spoke against that effort.

I say that the costs of that program have been very little—only administrative costs. And as we stand here this afternoon, let us remember that there are approximately 3,850 blind men and women who, in this city and all over America, are vendors under the Randolph-Sheppard Vending Facilities Act. They are entrepreneurs, they are producers, and they are earning today an average personal return of $7,000 a year.

That, in a bigger and broader measure, is what we are talking about in this bill today—the opportunity for people who want to help themselves to be able to do the job.

I cannot conceive, Mr. President, that the Senate will fail in its individual responsibility, Senator by Senator, to do what is necessary here today.

The PRESIDING OFFICER. The time of the Senator has expired. The minority has 4 minutes remaining.

Mr. TAFT. Mr. President, I yield myself 2 minutes.

Earlier in the debate, I made several points, and I think one of two of them would be appropriate to repeat at this time before we close the debate.

The first is that the funding of this program over the last 4 years has gone up by 75 percent, so that those who say the President is so niggardly in his proposed financing of vocational rehabilitation should recognize that apparently that is an accusation which should go back a number of years.

I am a strong advocate of vocational rehabilitation programs, but I wonder if we can really expand at the rate that it is proposed to expand by the majority of this committee. I wonder what the proper level of spending should be.

The committee in this case did cut back somewhat on last year's proposals and the amount arrived at in last year's hearings, it is true. And I believe the administration is committed to support, at an increasing rate, present vocational rehabilitation programs. But I also believe there are some things that ought to be noted about this particular bill.

One thing is the addition of two vocational rehabilitation programs: The end state renal disease program and the spinal cord injury program. While these programs have some fringe effects, it is true, and some of those who have suffered disease and injury in these areas, it is true, are subject to rehabilitation, the basic effect of these two programs is that they are medical programs; and if we are to make any real impact in these areas added on to this bill, I believe we are going to have to make it in the consideration of overall health activities and administration of the Department of Health, Education, and Welfare, and programs financed through the health programs rather than through vocational rehabilitation programs.

This I think has been overlooked, but it is one of the reasons pointed out for the veto.

I believe in the long run if we keep the vocational rehabilitation program just that, study it carefully, see to it that the expansion is effective, see to it that the States share in the program, and try to stimulate activities throughout the Nation, we will do a far better job, rather than by trying to pass a bill which has imposed upon it the Senate's approach.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. CRANSTON. Mr. President, do we have any time remaining on our side?

The PRESIDING OFFICER. The time on the majority side has expired. The Senator from Ohio controls the remainder of the time. There are 2 minutes remaining.

Mr. RANDOLPH. Mr. President, will the Senator from Ohio yield for a question?

Mr. TAFT. I am glad to yield for a question, and I will take a minute myself.

Mr. RANDOLPH. I thank my able colleague.

I hold in my hand a study by the Wisconsin Vocational Rehabilitation Organization, which indicates that for every dollar spent on the disabled, $25 will be returned in increased lifetime earnings.

Would my colleague care to comment on that statement?

Mr. TAFT. I might say to the distinguished Senator that I have no knowledge of the Wisconsin study. However, as I have stated earlier, I firmly believe that the cost-benefit ratio for vocational rehabilitation programs is extremely good and extremely important. That is one of the reasons why we ought to continue to try to develop and strengthen this program.

I would point out that diverting funds under a vocational rehabilitation bill from the primary purpose of vocational rehabilitatiton, which I am sure from the figures the distinguished Senator states from the Wisconsin study must be the case in Wisconsin, to other basically medical programs, may have the effect of running down to the benefit-to-cost ratio and diverting it, really, away from the vocational rehabilitation concept and motive from the funds that might otherwise go in that direction.

Mr. WILLIAMS. Mr. President, a week ago today, President Nixon cast his veto of S. 7, the Rehabilitation Act of 1972.

This afternoon it will be our responsibility to cast our votes of disapproval of that insensitive action.

This is the second time in 6 months that the President has vetoed this legislation which provides a variety of services to physically and mentally handicapped individuals so that they may be prepared for employment and thus to assume their rightful place as productive members of American society. The basic rehabilitation program offers such continuing services as hospital diagnosis and care for the handicapped and placement services to assist handicapped individuals to secure and maintain jobs, as well as protections to insure that no person is denied these services. In addition, this legislation creates a new program, the intent of which is to provide services to enable those individuals unable to have a vocational goal at the present time to become more independent and self-reliant. The Rehabilitation Act also establishes new initiatives to assist States in developing programs for blind and deaf persons and those suffering from spinal cord injury and kidney disease.

Finally, the legislation provides for the establishment of a Federal Interagency Committee on Employment of Handicapped Indviduals, an Architectural Barriers and Compliance Board, and includes my proposal to create an Office of the Handicapped in the Department of Health, Education, and Welfare to coordinate all Federal programs for the handicapped and prepare a 5-year planning document for the provision of comprehensive services to handicapped individuals.

Mr. President, for over 50 years the vocational rehabilitation program has had broad and enthusiastic bipartisan support. In 1972, both the Senate and the House passed this legislation by a unanimous vote, only to see these efforts unfeelingly vetoed without an opportunity to act to override that action. This year, the Senate and the House again passed this legislation by over-

whelming majorities in both bodies; and, in order to accommodate certain objections which were raised by the administration, the authorizations for the 1973 bill were set at nearly $900,000,000 below the amount in the 1972 vetoed bill.

Established by Congress in 1920 and extended 6 times thereafter, the benefits of the Federal-State rehabilitation program relative to its costs are conceded by everyone to be remarkably high. More than 3 million handicapped Americans have been returned to productive and meaningful lives as a direct result of assistance offered by this program. In fiscal year 1972 alone, the estimated annual earnings of the more than 325,000 individuals who have been rehabilitated total more than $1 billion. And this represents a threefold increase in earnings from the time these individuals first entered the rehabilitation system.

In 1972, handicapped individuals who received benefits under the rehabilitation program contributed $58 million in taxes to Federal, State, and local government. And these figures do not reflect the additional $33 million in savings to Federal and State Governments in 1972 resulting from a removal of many rehabilitated persons from public assistance roles. This total figure of $91 million when multiplied over 20 years will mean a return of more than $3 for every $1 of the $560 million spent on the rehabilitation program in fiscal year 1972.

Mr. President, as I stated last week upon first learning of the President's veto of this bill.

He has chosen as the first victim of his unfeeling priorities the least powerful members of our society—those with physical and mental handicaps. With this veto, he has signalled with overwhelming clarity that those whose needs are greatest cannot look to their Government for help.

In his veto message, the President attempts to conjure up the argument that this legislation would result in a massive assault on the pocketbooks of the American people, and that it would require a large tax increase and result in inflated consumer prices and interest rates. He said that only by vetoing this and other legislation would we be able to hold down inflation and taxes. And he harked back to his old and discredited lament that the Members of Congress who voted for this measure are irresponsible "big spenders" whose actions have served to jeopardize economic stability at home. But, Mr. President, one only need look at the record of this administration to see what irresponsibility really is.

It is irresponsible to encourage policies which have resulted in massive unemployment and the highest prices in our history.

It is irresponsible to seek to increase the Federal defense budget by more than $5 billion over last year's level, at a time when the Vietnam war has ended.

It is irresponsible to encourage policies which result in grain deals, milk deals, and who know what other deals.

And it is irresponsible to support unwarranted tax loopholes for only the very, very rich.

It is difficult to believe that the President of the United States would veto this legislation unless he did not have a clear understanding of what it has done and what it must do in the future. The millions of disabled Americans who have benefited from this initiative are testimony enough to its success. And the millions of dollars which this Nation has saved as a direct result of this program reinforces the need for its continuation and improvement. Because of these facts I can only conclude that the President has not been adequately or responsibly informed about the nature of this measure. And if that is so, as I must conclude it is, it makes the tragedy of his veto even greater.

It is my hope that my colleagues in the Senate are fully aware of the vital importance of the vote they will be casting today. Whenever this Nation has been confronted with a crisis, we have always forthrightly responded with understanding and compassion. That is one of the great traditions of this country, and I know that it is a tradition which we must and will continue to follow.

Mr. MONTOYA. Mr. President, for the past 50 years the Congress has given its support to both the concept of vocational rehabilitation and to the hard realities of programs and funding. Rehabilitation has become one of the few true bipartisan issues to regularly come before the Congress. I think this is so because the value of the services rendered is great, and the need for those services so apparent.

Last year, the Congress, again recognizing the need for comprehensive vocational rehabilitation services to continue, passed a new act which enlarged the scope of rehabilitation and which accepted the challenge to rehabilitation presented by such different kinds of cases as spinal injuries and renal disease.

Although the Congress agreed to lower levels of funding than might be optimal, the administration still refuses to accept the need for this legislation. The Senate reduced funding levels from $3.481 billion—not really enough—to $2.6 billion, a cut of 25 percent. After this $900 million reduction, the authorization is still $100 million less than authorizations for fiscal years 1971 and 1972—$1.010 billion each.

But the President still calls this severely underfunded and inadequate bill to be "fiscally irresponsible." I feel that rather than being fiscally irresponsible, this bill would be humanly irresponsible if it were reduced any more.

For even with the level of funding that the Senate has approved there will still be more people not receiving necessary rehabilitation services than receiving them. The S.7 funding level would provide services for about 2.8 million handicapped persons over the next 2 fiscal years. Unfortunately, that will leave about 4 million who, at today's costs, could be served.

But the word "service" is misleading I think, and should be explored further. What we are really talking about is getting people on welfare rolls off of them, of taking people who are dependent and working to make them independent.

The Rehabilitation Services Administration estimates that the total income of the 326,138 persons who were rehabilitated in 1972 reached $1 billion. Instead of being a drain on the tax rolls through welfare these people paid $58 million in taxes to different Government agencies. In addition, about $33 million was saved by removing these people from the public assistance rolls. Over 20 years, this annual savings of $91 million would mean a return of $3 for every $1 spent on rehabilitation in 1972.

What we, in the Senate, produced in S. 7 was legislation that barely met the need and which admitted that even in the difficult area of rehabilitation there are more difficult problems such as spinal and renal disease.

This is not an especially spectacular piece of legislation, it is solid, it is aimed at solving particular problems and it is well drafted.

For all these reasons; that this is necessary, that it is fiscally responsible and humanly responsible and that it deals with real and pressing problems for millions of Americans, I urge the Senate to pass once again the Rehabilitation Act of 1972.

VOCATIONAL REHABILITATION AND BUDGET PRIORITIES

Mr. MOSS. Mr. President, what value does the Nation place on rehabilitating those who have physical and mental handicaps? What burden must people in this group carry in President Nixon's fight against inflation? These are the two key questions facing the Senate as we vote today on the President's veto of the Rehabilitation Act of 1972.

The President claims that we can only afford tiny increases in funds to aid the handicapped who wish to enter the work force and make a meaningful contribution to society. He says that nowhere in the budget is there money to meet their needs. Yet clearly, this is not the case.

Non-Vietnam funds in the defense budget are scheduled for an $8 billion increase in fiscal year 1974. Surely there are funds which could be shifted from that increase to cover the $190 million this bill authorizes above the President's budget request for fiscal year 1974. Vocational rehabilitation programs have been in existence for 52 years and have met only a small fraction of the need of the handicapped. A modest increase in activity is long overdue.

This bill has not been examined on its merits by the President or his staff. Instead, it has been sacrificed falsely and unnecessarily on the altar of the administration's misdirected anti-inflation policies. Instead of a tough wage-price policy, which is what is needed to control inflation, the administration has asked the handicapped of America to forego their future so that inflation might be checked.

Let me share a letter with you that demonstrates what these programs really do to help the handicapped. One of my constituents recently sent me a copy of his letter to President Nixon:

President RICHARD M. NIXON,
The White House,
Washington, D.C.

DEAR MR. NIXON: I had polio when I was fourteen months of age, and I wear braces and walk with crutches. I was able to attend the University of Utah, with the help of

the Vocational Rehabilitation Program, and graduated with an LLB in 1938. I was admitted to the Utah Bar in January of 1940.

In the first five years of my law practice I paid enough State and Federal income taxes to more than pay for the costs which rehabilitation had expended for my benefit.

By reason of my legal training I was able to serve the people of my community and of this state for eight years as a member of the Utah House of Representatives. For the past six years, as Family Court Commissioner, I have assisted approximately one thousand women in securing support for their children after they had been awarded a divorce. Some of them thereby avoided going on the welfare rolls, some of them were able to leave the welfare rolls, and in many cases I was able to secure reimbursement for the welfare department from the fathers of these children.

I am advised that your recent budget proposal would either completely eliminate Federal funds from the Vocational Rehabilitation Program or would severely diminish those funds. That seems to me to be very short-sighted economy. I frequently see, and I expect that I will continue to see, the slogan, "Hire the Handicapped—it's good business". I do not see how you can ask employers to hire the handicapped in the future unless such handicapped persons can continue to receive the training which has been available under the Rehabilitation Program.

For four years I was president of a statewide association whose members had been or were being trained under the Rehabilitation Program. It is my experience that 95% of them became self-sufficient, and in a very short time they returned to the state of Utah and the Federal government considerably more in taxes than had been the cost of their training. For two years I was a member of the Executive Committee of the Statewide Comprehensive Planning Project For Vocational Rehabilitation for Utah. The report which we published in November 1968, affirmatively established not only the worth of the Rehabilitation Program in making disabled people contributing members of society, but also established the economic justification for expansion of the Rehabilitation Program.

Under all those circumstances I submit that it would be far more in the interest of the people of Utah and of the nation as a whole to fully fund the Rehabilitation Program than it would be, for instance, to pour many millions of dollars into the corporate treasuries of Boeing or Lockheed for a very questionable renewal of the SST Program.

Yours very truly,

———, ———.

Instead of restricting such worthwhile programs, why could not the administration close some of the approximately 2,000 bases the United States has on foreign soil and bring home some of the 600,000 U.S. military personnel used to man these bases? Could not some of the $17 billion used to support the 300,000 U.S. military men in Europe be shifted to aid handicapped men and women who seek job training?

The passage of this act means a new life for thousands of handicapped Americans. It also means more goods and services for America in general, produced by workers who go through rehabilitation and into the labor force. In addition, the revenues of the U.S. Treasury will be increased by the taxes paid by such workers once they gain employment, and these tax revenues more than offset the costs of the rehabilitation program.

A vote to override the President's veto is necessary in order to reestablish the priority of human needs, reverse the administration's attempt at one-man rule, and restore the proper role of the people, acting through their legislative representatives, in determining the direction of their country. I shall vote to override the President's veto today and I am confident that a two-thirds majority of the Senate will do likewise.

Mr. ROTH. Mr. President, I want to make clear to my colleagues and constituents my position on vocational rehabilitation.

First, I want to say that I wholeheartedly support the existing program which has aided thousands of men and women. And I look with pride on the determination of those maimed or crippled participants who will not let their handicaps prevent them from making a valuable contribution to their families and communities. I believe this is a program that should be continued and strengthened.

But this afternoon, I will vote to sustain the President's veto for two major reasons:

First. It exceeds the Presidential request for spending authority by $440 million this fiscal year, and $1.3 billion by fiscal year 1975.

Second. It further fragments the funding process by establishing additional categorical programs.

THE NEED FOR RESPONSIBLE SPENDING

Mr. President, nobody needs to be reminded of the still rampant inflation our country faces. Anyone who buys food, rents a house or apartment, or has need for medical services knows full well the impact of rising prices. I personally feel phase II did not clamp down hard enough, and was lifted too soon, but unless the Federal Government exercises its fiscal responsibilities, the deficits Congress creates will continue to haunt everyone, with higher prices and unquestionably higher taxes.

Let me stress that my vote against this pending bill is not in opposition to the programs, or the many thousands of needy citizens who have benefited from them. I supported the original legislation last year and its counterpart (S. 7) this year. I have also been a consistent spokesman during my 6 years in Congress for programs that help individuals to help themselves, and I fully realize the rehabilitation efforts eventually provide jobs and the opportunity for people to become self-sustaining.

Yet at the time I voted for S. 7 last month, I indicated that I felt some accommodation was necessary between Congress and the White House relative to funding levels for this and other programs. We face a multitude of social and economic problems and Congress cannot help to cure them all simply by adding more dollars to an endless stream of outlays. This program has grown more than 75 percent, from $371 million in fiscal year 1969 to $650 million requested by the President in fiscal year 1974. That alone is up $10 million from last year's request. S. 7 would boost that to some $1.1 billion, 68 percent over the amount proposed in the administration's request.

Mr. President, I ask my colleagues here, can we honestly expect to increase our Federal participation by such enormous proportions when the swelling deficit we now incur merely adds to the economic ills of everyone? Can we expect the appropriating committees to neglect their responsibilities and fund 100 percent of this authorization request? To do so would be to neglect the realities of economic life. And so then, why promise help with one hand, knowing full well we shall have to retract it with another?

I would call on the people of Delaware to show their support for a reasoned approach, not only to rehabilitation services, but to the entire budget as well. We are not asking anyone to forgo benefits previously authorized. Delaware's allotment will rise from $1.1 million to $1.2 million under the President's request, hardly the Draconian picture painted by opponents of responsible spending.

Mr. President, we must accept our roles as representatives of the people, not just members of a political party. We do no service to those we speak for in deliberately creating a confrontation atmosphere between Congress and the Executive. Our roles are different, but our responsibilities are the same—to govern in the interests of those that sent us here to Washington.

The longer we stall on developing an accord with the President, the longer valuable programs such as this remain in limbo without new authorizing language. We should look on all spending bills as an opportunity to do the maximum good with the money our tax laws will generate.

We would be foolish to neglect the ever-present inflation and the threat of higher taxes. A budget that fuels inflation ends in hurting the handicapped, poor, and elderly most of all. I have heard many cries to curb the former, but few requests from my constituents to up the ante they send to the Treasury every year.

Mr. President, we need important efforts such as vocational rehabilitation to bring hope and help to those in need. But, in this year of severe economic stress, we must exercise some restraint in our spending habits.

I hope Congress will immediately enact legislation which I have cosponsored and which will maintain vocational rehabilitation at its current levels.

Mr. PEARSON. Mr. President, I am today voting to override the President's veto of the Rehabilitation Act of 1972. I do this not because the act has an alluring label, but because it is an important piece of legislation which provides necessary assistance to deserving recipients. Vocational rehabilitation does not have a massive constituency in the United States. There are far more individuals who are healthy than handicapped. There are far more people who fear tax increases than support additional expenditures. To claim, as does the administration, that support for this bill is merely an attractive or popular course is curious logic at best.

Rehabilitation services are, in my mind, neither Great Society nor service programs. They are an outgrowth of America's interest in aiding the handicapped. The historic background of the

bill, beginning in 1920 with the Smith-Fess Act, indicates that efforts to provide adequate rehabilitation are not the result of some morally righteous social conscience. Rather they are the continuation of a philosophy which permits handicapped individuals to become more productive members of society. Because the primary goal of rehabilitation services is to reintegrate the individual into a meaningful participation in society, it cannot be viewed as a welfare or service program. Its goal is not sustenance, but "rehabilitation" in the fullest sense of the word.

Given this philosophy, I want to examine some of the major issues outlined by the President in his veto message. I do not deny that some valid questions are raised. Nevertheless, I cannot help but conclude that weighing what the bill does against what it does not do compels my continued and active support.

BUDGET IMPACT

The President stated in his veto message that "all of our economic progress—and all of our hopes—will be washed away if we open the floodgates on the Federal budget." It is difficult to disagree with his statement. The issue is, however, whether this bill opens the floodgates, whether it is budget busting, and whether it will destroy "all our hopes." I believe it does not.

S. 7 amends the Vocational Rehabilitation Act, revises the authorization of grants, and authorizes funds for a variety of rehabilitation services. It does not appropriate funds. When I examine the level of authorization, in fact, I find it one of the most reasonable we have had in some time. The administration's budget request for fiscal year 1973 is 87 percent of the appropriation authority under S. 7. For 1974, it is 80 percent of the authority under this bill. There are relatively few pieces of legislation in which the actual availability of funds is more closely related to appropriation authority. Labeling this bill "budget busting" is a "strawman" argument.

Mr. President, I can understand the concern voiced about the cumulative effect of Federal expenditures. It is true that this is but one of several bills which provide for increased expenditures. I, for one, however, believe that the vehicles for reducing Federal expenditures in a time of peace should not be programs designed to aid individuals with crippling physical handicaps.

More important than actual expenditures, however, is the type of legislation with which we are dealing. It is not a program to provide subsistence, but one designed to foster independence and self-reliance. To borrow a line from the President's Inaugural Address:

> A person can be expected to act responsibly only if he has responsibility. . . . Let us remember that America was built not by government but by people—not by welfare, but by work—not by shirking responsibility, but by seeking responsibility.

Mr. President, the handicapped and the severely handicapped are among the most responsible people I know. They seek responsibility whenever possible, but they must have the necessary tools to do that. To ask them to venture out alone would be the cruelest expectation. The fact is that these individuals do seek responsibility, and that they do become taxpayers instead of tax users. In Kansas during fiscal year 1972, the total estimated weekly earnings of 2,187 participants entering vocational rehabilitation was $24,040. After training these same individuals totaled earnings of $178,740. The dramatic nature of this improvement is also seen in the yearly earnings, totaling $1,250,000 at acceptance, and $9,294,480 after training.

Finally, let us dispel the myth of using public aid. The same 2,187 recipients in Kansas received $913,344 annually in public assistance at acceptance. After completion, they received $204,912, a net benefit to the public of more than $700,000. If any other Federal program has this kind of pay back, I am not familiar with it.

There are legitimate budgetary pressures with which we must be concerned during this session of Congress. The Rehabilitation Act, however, is not one of them.

AID FOR THE SEVERELY HANDICAPPED

A second major criticism of the bill is that it unduly expands the definition of handicapped, and dilutes the resources of the program or distorts its objective by turning it toward welfare or medical goals. This philosophy implicitly states that vocational aid for the severely handicapped would be nonproductive. This is a narrow approach which dictates that we accept the plight of the severely handicapped without making strenuous effects toward making them, too, participants in our economy.

Title II of S. 7 dispels the notion that the severely handicapped cannot be retrained at any future date. It assists individuals who may not presently have a vocational goal. By this measure, Congress can indicate its explicit resolve that people who do not appear to have a vocational goal may be brought along to a point where they later can be retrained. Even if training is not possible, this bill can help a handicapped individual improve his ability to live independently or function normally with his family and community. Again, he can become a responsible member of society—only if we help him achieve that goal.

More importantly, Mr. President, the severely handicapped, through the research provisions of this bill, might well be on the threshold of more active employment opportunities. Research breakthroughs in engineering can be the first step. The Kansas Cerebral Palsy Foundation and Wichita State University are currently involved in a research project to develop comprehensive competitive employment services for the physically handicapped. It will develop a new classification system for the severely handicapped based on their remaining capabilities. It combines individual instruction with the development of mechanical hardware to provide employment opportunities. I am enthused about these prospects, and believe that they can yield successful results if we support the authorizations for research and the severely handicapped.

ORGANIZATION OF REHABILITATION EFFORTS

A third criticism of the bill is that it duplicates existing programs and creates an administrative nightmare. The creation of additional categorical programs, if indeed the bill does that, should cause careful evaluation. I share the administration's concern about the duplication of Government structures.

Advocates of this bill, including the National Rehabilitation Association, however, claim the sections having to do with the older blind, spinal cord injured, renal disease victims, and the deaf are special project programs aimed at stimulating State and local efforts. No current program does this effectively. At a later date, it is hoped, these will be absorbed into the basic program. If we in Congress are not careful, however, these project grants could well become entrenched. Supporters will expect Federal assistance as a matter of course.

I merely warn against this eventuality because I believe that the need for special treatment in these areas is worthy of support on a project and demonstration basis. If the administration's goal is to make the Federal Government an innovator rather than a provider of services, this is an appropriate mechanism. The committee report adequately states the intent of Congress, "that attention be focused on these unique problems so that progress can be made in innovative methods of rehabilitation."

CONCLUSION

Mr. President, although there are other issues, I believe that on balance, the major questions I have discussed compel my support for the bill. In my mind, the question is whether we in Congress will support a social program which in no way practices a "condescending policy of paternalism." Vocational Rehabilitation is one of the Federal Government's original means of fostering the seeking of responsibility rather than the shirking of it. I trust that the Senate will reject the false argument that this is a financially irresponsible piece of legislation, and continue our full support of America's handicapped by voting to override the veto of the Rehabilitation Act of 1972.

Mr. BUCKLEY. Mr. President, from time to time the Congress is asked to vote on matters which are not only important in themselves but which also symbolize fundamental issues affecting all aspects of public policy. The 93d Congress is faced with just such a matter in the case of the forthcoming vote on whether or not to sustain the Presidential veto of the Rehabilitation Act of 1972. What is at stake is not the fate of a single program, but the willingness of the Congress to come to grips with the single overriding fiscal problem of our time. I speak of the necessity to cut Federal spending in order to halt inflation, put our Nation on a sound fiscal basis and avoid the evil of inevitable tax increases.

With this in mind I am going to vote to sustain the Presidential veto for two reasons. First, I believe that the time has come to put an end to fiscal irresponsibility in the Congress and that sustaining the veto is the only way to demonstrate the seriousness of this matter. Sec-

ond—and perhaps more importantly—I believe the overriding of this veto can become not simply a "small crack in the dam" but the beginning of a deluge which will destroy the last remnants of fiscal prudence in this Nation.

Let it be made abundantly clear, Mr. President, that the issue before us is not whether we are for or against vocational rehabilitation; it is not whether we are for or against helping those in need. All hands are agreed, both in the White House and in Congress, that vocational training and other programs for the handicapped ought to be continued and, indeed, funded at higher levels than at present. That is why I and many of my colleagues are joining Senator HELMS in sponsoring a measure to extend and expand the Vocational Rehabilitation Act for another 3 years. The Helms proposal, which I enthusiastically support, represents an effective and realistic effort to aid the handicapped. It intentionally avoids the cruel deception which characterizes S. 7, a deception by virtue of which those in need are encouraged to expect hundreds of millions in assistance in excess or what we can realistically expect to see appropriate. Thus a vote to sustain the President's veto is not only a vote for fiscal responsibility; it is a vote for honesty in Government.

The President has said:

My decision to disapprove S. 7 should be seen by the Congress as more than just an isolated rejection of a single piece of unwise legislation. If is part of my overall commitment to hold down taxes and prices. I remind the Congress of that determination, I ask the Congress to consider carefully the implications of spendthrift actions, and I urge the Congress to be more reasonable and responsible in the legislation it passes in the future.

I find the President's concern all the more convincing in light of remarks made by the distinguished Senator JOHN L. MCCLELLAN, chairman of the Senate Committee on Appropriations. Senator MCCLELLAN said, in part:

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

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

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

I believe Senator MCCLELLAN has eloquently put the case for fiscal responsibility and has incisively analyzed the three evils which have brought us to this sorry state—"Indifference, procrastination or lack of courage to act".

We can no longer afford the luxury of indifference, for now is a time to care, and to care passionately about what inflation is doing to millions of Americans. We can no longer afford to procrastinate, for the time is now. Not next month. Not until some other bill comes along, but now. And surely we should not lack the courage to act. Sustaining this veto may be politically unpopular. But do we want it said that fear of political unpopularity can override not only a veto but the conscience of the Congress?

I urge all those who share with me the concern that this single vote is among the most important to come before this session, to vote to sustain the veto. If we sustain the veto, now, in this session, at this moment of history, the momentum will be on the side of those who, with Senator MCCLELLAN, want to cast aside the triple evil of indifference, procrastination, and lack of courage. If, however, the Senate decides to override the veto, we will, in effect, be turning our backs on millions of our fellow Americans. I am convinced the choice is one that is as obvious as it is necessary. Sustain the President's veto on S. 7 and we sustain the faith of the American people in the ability of the Congress to exercise true fiscal responsibility.

In closing, Mr. President, I would like to add one final thought. With all due respect for my colleagues on the other side of the aisle, I find it necessary to comment on the extent to which partisan interest has dominated discussion of this issue. The Democratic leadership has, I believe, purposely selected this measure as the first in what is fully expected to be a series of confrontations on the question of spending. They have sought the most popular measure as the first, the one that is probably most difficult to approve. If they can divide those most concerned with the need for fiscal responsibility on this one, they believe that all the rest will fall their way as well. It was selected, obviously, because it is widely believed that on an issue such as this, few Senators will dare to line up against aid to the handicapped. Thus, every effort has been made to describe this vote in terms of how one feels about aiding the handicapped. But, as I have suggested, that is not the issue at all. If the veto is sustained, a substitute along the lines submitted by the Senator from New Hampshire, will be adopted. The handicapped will not suffer. The issue rather, is whether this Congress will stop promising what it cannot possibly deliver; the issue is whether this Congress will assert it constitutional prerogatives over spending in order to bring a halt to inflation; the issue is whether this Congress has sufficient courage to stop passing the buck to the White House.

Mr. BAYH. Mr. President, I rise today to urge my colleagues to join me in voting to override the President's veto of the Rehabilitation Act of 1973. This legislation has twice received overwhelming bipartisan support in both the Senate and the House—in 1972 and again in 1973. It is shocking that the President has once more chosen to veto a measure designed to improve the Federal effort to rehabilitate the physically and mentally handicapped and to prepare them for productive, useful lives. The Rehabilitation Act will extend rehabilitation programs previously authorized and place special emphasis on helping severely handicapped individuals. In addition, the act provides for prosthetic and orthotic devices, training services, adjustment centers, reader services for the blind and the deaf, as well as recruitment and training programs to provide new careers for handicapped people, construction of rehabilitation facilities and other services necessary to render a handicapped person employable.

The President's veto of this critical measure is a tragic example of mistaken priorities—priorities which make increased defense spending and the continued bombing of Cambodia more important than the rehabilitation of the Nation's handicapped citizens. The President defended his veto on the grounds that we must hold Federal spending within limits. I share his concern, but I do not believe that withholding assistance to disabled Americans is the way to accomplish this goal.

The Rehabilitation Act we are considering today is a modification of the rehabilitation program passed last year and calls for a reduction of approximately $900 million from the bill which the President pocket vetoed last October. It provides $2.6 billion over the next 3 years—expenditures which are richly repaid by the increased productivity of the handicapped persons receiving training and rehabilitation assistance under the act. In its 50-year history, the vocational rehabilitation program has proven to be perhaps the most cost-beneficial effort in the Federal Government. For every dollar invested in rehabilitating a handicapped individual, at least $3, and as much as $70, is returned to the economy in reduced welfare payments, increased income, and increased tax revenues for Federal, State, and local governments.

The President cannot disguise the merits of this program behind a smokescreen of fiscal responsibility. I agree that we must hold Federal spending within reasonable limits; indeed, I recently introduced an amendment setting a spending ceiling of $268.7 billion for fiscal year 1974—the level of spending which the President has requested. But I believe that there better ways of controlling Federal expenditures than by cutting off assistance to our Nation's handicapped citizens. There are many areas in the Federal budget where reductions would be appropriate and necessary. Irresponsible spending on new weapons systems, for example, is one area where I would like to see greater caution. In the 92d Congress, I voted for an amendment to the defense procurement authorization which cut $508.4 million of the requested $906.4 million for accelerated development of the Navy's Tri-

dent submarine-missile system. I believe our primary concern should be to protect the health and welfare of our citizens, particularly those citizens who suffer from severe handicaps. We have a duty to insure that they receive the kind of assistance they need to allow them to lead useful, productive lives.

The President has criticized the Rehabilitation Act for duplicating services already available under medicare or medicaid. This is simply not true. Medical services vary from State to State and usually do not include the specific help which the disabled person needs. Nor does medicaid offer a full range of rehabilitation services, such as counseling and training, which are vital in moving handicapped people back into the work force. With our present population of 206 million people, 71 percent of whom live in urban areas, the pressures for rehabilitation services are heavy. Many needy handicapped individuals are being denied service or are required to wait for service because of the inadequate financial resources of the vocational rehabilitation agencies.

The President has also attacked the Rehabilitation Act for providing new programs that would divert the program from its original emphasis. This is not true. New programs added to the bill amount to less than 5 percent of the total authorization. These programs, which aid patients suffering from kidney disease, spinal cord injuries, and other severe handicaps, provide vocational services not offered by any other Government program.

Since the inception of the vocational rehabilitation program, over 3 million handicapped people have been rehabilitated. In my own State of Indiana, the benefits of this program have been great. Last year, more than 3,000 handicapped Hoosiers were totally rehabilitated. The annual rate of earning of these rehabilitated citizens rose from $1,800 to $10,050. The number of man-hours worked by this group increased from 850,000 to 4,100,000 annually. And by rehabilitating those citizens who were entirely supported by welfare assistance, the Indiana welfare expenditure was reduced by $72,000. What better evidence could there be that the vocational rehabilitation program provides enormous benefits to our country? Not only does it save the taxpayer's money but it also allows our handicapped citizens to lead self-supporting lives of dignity.

I urge my colleagues to join me in voting to override the President's veto of the Rehabilitation Act. We cannot turn our backs on the handicapped people of this country; helping them to become employable, productive citizens must be our first priority.

Mr. DOMINICK. Mr. President, during President Nixon's term in office, spending for vocational rehabilitation programs has risen from $371 million to $650 million a year, an increase of 75 percent. I have and will continue to support reasonable efforts in this area.

I am a cosponsor of a very sound and reasonable approach—S. 1431—which has been offered in the form of a 2-year extension to provide $697 million for fiscal 1973, and $700 million in fiscal 1974, a total of $1.39 billion for these vital and necessary vocational rehabilitation programs.

This proposal would be quickly signed into law by the President and the vital vocational rehabilitation programs would receive increased funding at a reasonable and fiscally responsible rate. Because of this, I am suspicious that Congress may be more interested in promoting an executive-legislative confrontation than in promoting vocational rehabilitation programs.

The vocational rehabilitation programs are, therefore, not in jeopardy; and my support for the President's veto of S. 7, the "Vocational Rehabilitation Act", is not a vote against these vital programs, but rather a vote against inflation, rising prices, and irresponsibly burgeoning Federal spending.

Americans have a right to demand and expect responsible Federal spending, and I intend to serve my constituents.

Mr. HELMS. Mr. President, we all are well aware that the economy in this country is suffering from inflationary pressures. Food prices are rising, the cost of housing, the cost of transportation and every other necessary expenditure has significantly increased for the American family. The purchasing power of the American dollar has seen one setback after another in both foreign and domestic markets.

All of this has transpired within an economic setting which saw this Nation fight a war, while we increased the standard of living for all Americans, and retained a relatively full employment economy. As a result, Federal spending grew significantly in excess of our Federal revenue during the past decade. This excess was financed with substantial Federal borrowing which in no small measure has been the cause of our current fiscal predicament.

The President has committed himself to hold the Federal budget during this and future fiscal years to a level which is within our national means. Under his direction, we are gradually progressing from a regulated economy with wage and price controls toward our objective of a stable free market economy.

There are those in this Congress who want to see the mandatory controls continue and be expanded. They prefer to deal with the symptoms rather than the disease.

Here, we are given the opportunity to draw the line on inflation. This administration has a sound record in supporting vocational rehabilitation for the handicapped. Since the President has come in office the program level has risen approximately 75 percent.

I believe that there is a more responsible and constructive way to legislate than through the confrontation politics being exercised in this effort to override the President's veto.

Yesterday, I introduced S. 1431 for the purpose of providing a reasonable alternative to the excessive spending and duplicative programs contained in S. 7. My bill would provide authorization levels which are in accord with the President's budget requests.

I can understand how difficult the choice will be for many Senators on this question of sustaining the President's veto. Few programs are as meritorious as this rehabilitation program which provides an opportunity for many of the handicapped to become self-sufficient and productive members of society. But the difficult choices are the most meaningful. The American people are earnestly looking to the President and to the Congress for leadership in stabilizing our economy. The President has committed himself to control Federal spending to a level within the budget. Now it is up to the Congress to make or to break that budget, to do something about inflation or to do nothing. The handicapped feel the sting of inflation as strongly as any other citizen. They do not want to be deceived by great promises for Federal funds which do not exist.

I hope that my colleagues who will vote to override the veto on this bill are also prepared to vote for the substantial tax increase to pay for the excess Federal spending.

Mr. McCLELLAN. Mr. President, on March 22, I addressed the Senate concerning the fiscal responsibility of Congress. In that speech, I noted that the 92d Congress authorized additional spending over the next 5 years of more than $320 billion. Moreover, in the first 2 months of the 93d Congress, bills have been introduced which, if enacted and fully funded, would increase the budget by $20.4 billion immediately following their enactment. And, several more such measures were introduced in the Senate during the month of March.

Today, we have before us a bill, S. 7, which would authorize expenditures for vocational rehabilitation of some $1 billion over budget recommendations for fiscal years 1973, 1974, and 1975.

Vocational rehabilitation is not a new program. It began several years ago. I have consistently supported the objectives of vocational rehabilitation and increased appropriations therefor. Indeed, appropriations for the basic grant portions of this program have risen from $370 million in fiscal year 1969 to a proposed $650 million for fiscal year 1974. I am hopeful that Congress will fund this $650 million request, and I shall vote for an appropriation in that amount.

S. 7, as reported by the Committee on Labor and Public Welfare, provides for some desirable new programs. I commend the chairman of that committee, the junior Senator from New Jersey; and the ranking majority member of that committee, the able senior Senator from West Virginia; for the dedication and effort which they have put into the development and processing of this legislation.

Under more favorable conditions, I might well support this bill—support its ultimate objective to further expand vocational rehabilitation. But, the realities of our fiscal situation compel the conclusion that the increase in Federal spending which this bill will obligate, together with the additional cost of many other measures which we are asked to

enact at this session of the Congress, will further greatly enlarge the already-swollen deficit that is anticipated for fiscal year 1974. The expansion of existing programs and the enactment of new ones at this session of Congress calling for heavy increased expenditures, I believe, in most instances if not in all, should be deferred, temporarily at least, until we get our fiscal affairs under better control.

This is a time of fiscal crisis. The heavy annual deficits we are incurring further augment that crisis; they intensify and make more acute and probable the dangers they portend. Federal deficit spending is fueling the flames of raging inflation. Inflation is rapidly eroding the purchasing power of the dollar, increasing prices, and making higher and higher the cost of living. It is aggravating the imbalance of payments and weakening our financial strength internationally. In recent years, we have so recklessly and heavily engaged in deficit spending that a large increase in Federal taxes is rapidly becoming imperative and inevitable.

Within the past 5 years, Congress has increased appropriations for the basic grant portions of vocational rehabilitation by more than 75 percent. We are now asked in this bill to authorize appropriations of $1,171,000,000—a figure which is more than 50 percent above the President's total budget request of $700 million for all vocational rehabilitation for fiscal year 1974.

If the Senate passes this bill, it will reject the urgent recommendations of and run counter to the resolution adopted by the Senate Democrtic Policy Committee on March 29 dealing with the budget. In that resolution, the Senate Majority Policy Committee "urges":

That the Appropriations, Armed Services and Foreign Relations Committees consider substantial reductions in authorizations and expenditures for military and foreign aid purposes abroad and *that all other committees of the Senate act to restrain the authorizing of expenditures of federal funds;*

That the Senate Members of the Joint Study Committee on Budget Control consider with the House Members *establishing a specific ceiling on budgeted expenditures substantially below that of the Administration's proposed ceiling and report to the Senate thereon as soon as possible.*

Mr. President, if I correctly interpret these provisions of that resolution, then a vote to sustain the President's veto of this measure is positively in keeping with the announced policy and "urging" of the Majority Policy Committee to "act to restrain the authorizing of expenditures of Federal funds."

If we are to hold down appropriations and the expenditure of public funds, then authorizations must also be restrained and kept in line with anticipated revenues and appropriation expectations. Authorizations engender expenditures. Without authorizations, appropriations cannot be made. Thus, authorization measures, when enacted, present to the Appropriations Committees and to the Congress a bill—a demand for payment. This demand for payment must be paid in full or in part by appropriations or be wholly rejected by the Congress.

Mr. President, I share the views of the Senate Democratic Policy Committee that we should undertake to establish a "ceiling on budgeted expenditures substantially below that of the administration's proposed ceiling"—the President's budget.

As chairman of the Senate Appropriations Committee, I am glad to report that some progress is being made in that direction. The chairman of the Foreign Operations Subcommittee of the Senate Appropriations Committee has advised me that he hopes to reduce appropriations in foreign spending by $1.33 billion below the President's budget. You will recall that Defense appropriations last year were cut by some $5 billion below the President's budget request. As chairman of the Defense Appropriations Subcommittee, it is my expectation that we will again this year be successful in making substantial reductions in the President's defense budget without adversely affecting national security.

Mr. President, the news media today carries a statement by the Honorable Caspar W. Weinberger, Secretary of Health, Education, and Welfare, in which he states:

A budget that feeds inflation ends by hurting the poor most of all. A budget that requires a tax increase hurts every American. A budget that ignores economic reality also courts economic calamity.

Mr. President, I share those views. It is the poor who suffer most from inflation, unemployment, and the rising cost of living. Habitual deficit spending simply adds to the distress of the poor and prolongs their suffering. Today, deficit spending is hurting severely those who are on a fixed income, those who are on a pension, those who are drawing social security, those who are trying to live on their retirement checks, and those who are receiving public assistance. To alleviate their distress, we must bring to an end this irresponsible and perilous practice of spending heavily beyond our revenues. There will be no convenient or pleasant time—neither now nor tomorrow—to begin a return to sound fiscal policies. But, prudence dictates that we should begin now; the necessity for us to do so is compelling.

Mr. President, under the realities of the conditions and circumstances that now confront us, I have reluctantly concluded that it is my duty to sustain the President's veto. I shall, therefore, vote accordingly.

Mr. President, I ask unanimous consent that the aritcle by Mr. Weinberger, to which I have referred, and a memorandum of "Background Material" be inserted in the RECORD as a part of my remarks.

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

[From the Washington Post, April 3, 1973]

THE REHABILITATION VETO: AN ADMINISTRATION VIEW

(By Caspar W. Weinberger)

Two facts are obvious from President Nixon's veto of the Rehabilitation Act of 1972 in what is shaping up as a major battle over the budget and the prospect of higher taxes.

The first fact is that many in the Congress are willing to play political football with the hopes and aspirations of less-fortunate Americans as they prosecute partisan raids on the President's budget, ignoring the threats of higher taxes and assuming that every bill with a good label is a good bill.

And the second is that President Nixon is committed, whatever the short-term political implications, to preserve a budget that will fight inflation and hold taxes in check, while keeping the nation's economy and social progress moving steadily forward.

The struggle over the Rehabilitation Act of 1972 provides a scenario likely to be repeated often in the weeks and months ahead.

First, the President proposes a responsible and responsive program budget. In the case of vocational rehabilitation, he asked $650 million—75 per cent more than was being spent for this purpose when he took office.

Next, the Congress—operating through a committee system that never considers the budget as a whole—decides to double or triple the funds asked by the President, hoping the bill's humanitarian subject will hide their fiscal irresponsibility. This bill, vetoed by the President would cost an additional $1 billion over the next three years, above the very large amount asked by the President.

Furthermore, this particular bill has serious deficiencies which would weaken the nation's successful vocational rehabilitation program

Inevitably, the President is forced—in the interests of economic sanity and of the taxpayers—to veto such a bill. And the stage thus is set for Congress falsely to accuse the President of callous disregard of the needs of our less fortunate citizens.

In truth, it is the big spenders in Congress who are pursuing a heartless strategy. They are the ones raising hopes that are doomed to be dashed. They make promises which no federal government can afford to keep.

A budget that feeds inflation ends by hurting the poor most of all. A budget that requires a tax increase hurts every American. A budget that ignores economic reality also courts economic calamity.

Beyond its exorbitant price tag, the Rehabilitation Act of 1972 is bad legislation in its basic structure.

It would add medical and other services already available under existing laws, and thereby divert vocational rehabilitation from its primary goal: Training the handicapped to become self-sufficient.

It would create new categorical grant programs, many of them duplicating or overlapping existing programs.

It would add new layers of bureaucracy, and new mountains of red tape, in the face of clear evidence that such snarls impede, rather than speed, the efficient delivery of services to those in need.

The Vocational Act of 1972 was, in short, a prime example of ill-conceived, irresponsible legislation. It is to be hoped that the Congress, given additional time to consider the bill, will allow it to rest in peace—and will enact instead the generous and responsible program contained in President Nixon's budget so that the high cause of vocational rehabilitation can continue to serve the public interest with high effectiveness as in the past.

BACKGROUND MATERIAL—REHABILITATION ACT OF 1972—S. 7

PROGRAM LEVEL TREND

The Vocational Rehabilitation (VR) program has grown dramatically in recent years.

The program level has risen from $371 million in fiscal year 1969 to $650 million (President's 1974 Budget) in 1974, an increase of 75% in only 5 years.

The program level will rise from $641 million in 1973 to $650 million in 1974.

In addition, there are other major HEW programs which will significantly assist many of the clientel covered by S. 7 in fiscal year 1974:

(1) Rehabilitation services under the Disability Insurance Trust Fund ($66 million)

(2) Rehabilitation services under the Supplemental Security Income Program ($40 million, half-year)

(3) Treatment for end-stage kidney disease under Medicare ($93 million)

(4) Services for mentally retarded under Medicaid, Intermediate Care Facilities ($300 million)

(5) Benefits for disabled under Medicare $1.5 billion)

BASIC OBJECTIONS TO S. 7

Is fiscally irresponsible

Authorizations in S. 7 exceed the budget for fiscal years 1973–75 by $1.3 billion, assuming that the basic Title I grant program would be funded in 1975 at the same level as authorized by S. 7 for 1974. If these authorizations were fully funded and spent, outlays would be increased by $1 billion over the budget in this period.

The authorization levels in S. 7 would feed the fires of inflation.

They are a gross overpromise since no responsible Congress and President would provide such levels of funding. Moreover, they are unwarranted in the light of the other sources of financial assistance noted above.

Distorts the objectives of the VR program

This program has had a long and successful history because its objectives have been clear and undiluted. S. 7 would undermine that success story by

Establishing new service programs for handicapped persons for whom a vocational objective is not possible or feasible, thus diluting the successful vocational emphasis of the program.

Fostering fragmentation of effort through proliferation of categorical programs, which duplicate existing authority and also weaken the program's vocational focus.

Prevents effective management

S. 7 would establish a hodge-podge of narrow categorical grant activities.

It would fix authority and responsibility for the VR program not in the Secretary but in a subordinate official.

It would create undesirable organizational rigidities.

It would set up numerous unnecessary committees and study commissions.

Mr. HRUSKA. Mr. President, today Members of the Senate are faced with a difficult decision. No one wants to be against vocational rehabilitation. Every American is deserving of the right to lead a decent life—a life filled with dignity and the opportunity for fulfillment. For the physically and mentally handicapped, such words have added meaning.

The vocational rehabilitation program was designed to help our handicapped citizens by giving them a chance to develop their individual potential to the fullest possible extent. Federally funded programs operating through the States offered vocational training, counseling, and job placement services to the handicapped. None of us deny the value of such programs. We wish to see them continued.

Mr. President, it is imperative at this point to recognize that the Nixon administration is also committed to vocational rehabilitation. It submitted recommendations to both the 92d and 93d Congresses for these purposes. The level of funding for vocational rehabilitation programs has increased from $371 million in fiscal year 1969 to a recommended level of $650 million in fiscal year 1974. This represents a 75-percent increase in only 5 years. It is also important to note that the President is requesting a $9 million increase in funding over last year's level. This says nothing of the other major HEW programs which assist many of the same people: rehabilitation services under the disability insurance trust fund, rehabilitation services under the supplemental security income program, treatment for end-stage kidney disease under medicare, services for the mentally retarded under medicaid, and benefits for the disabled under medicare.

Mr. President, I supported S. 7 on its final passage with full knowledge that President Nixon might veto the bill. I wished to convey to my constituents that I do care about vocational rehabilitation; that I want the program extended; that in short, I am not against the handicapped. However, I did not believe that S. 7 was the best bill the Congress should pass. It has defects which I will shortly list. But, we were given little choice in the Senate. It was abundantly clear that the bill was going to pass by a wide margin. I wished to be recorded in favor so as to show my concern for the continuation of the program.

Those of us who were aware of the administration's feelings were hopeful that the House of Representatives would pass a modified version of the bill, a version that was more in line with the administration's fiscal policies. If this had been the case, a conference committee would have been called to iron out the differences and perhaps we could have had a bill which would have been acceptable to the administration. That was not the case. The President has vetoed the bill, and we are called upon today to judge the merits of that veto.

Mr. President, after careful thought, I have decided to vote to sustain the President's veto. I would like to take this opportunity to explain my reasons for doing so. I should like to single out two of those reasons.

First, S. 7 would create a hodge-podge of seven new categorical grant programs. Many of these overlap and duplicate existing services. Consider this example: S. 7 would set up a new program to assist victims of end-stage kidney disease. I do not question the value of such an effort. But, the fact remains that the Congress has already acted on this matter. An amendment to H.R. 1 is designed to accomplish the same purposes. The President has requested $93 million for the program. Why should we create a second program?

Mr. President, we must look at the whole picture. This administration is committed to eliminating wasteful duplication at the Federal level, I fully support that effort. The American people will not tolerate the bureaucratic nightmare that they face when trying to secure Federal funds. If we are really going to bring government back to the people, then we must begin now. We must halt the trend of channeling Federal funds through narrow categorical programs. Revenue sharing is a beginning. We must expand upon that concept.

This leads me to my second point. All of us realize that there are many government programs which possess merit. I have been receiving many letters each week which describe in detail the many fine projects operating in Nebraska because of Federal funds. It would be wonderful if all projects could be continued. If money were no object, this would be the case.

Mr. President, money is an object: There is a limit to the total amount of money available for all government activities. Whatever amount is spent should be used wisely and efficiently.

Authorizations in S. 7 exceed the budget for fiscal years 1973–75 by $1.3 billion. That in itself may not be alarming to come Members of Congress. But, if we continue to pass similar bills, always adding just a little bit more to what the President has requested, we are going to eventually face that time when we have to determine where the total amount of money is going to come from. Surely, we can adjust the ceiling a little higher. But, then what? Do we increase taxes? Most of my constituents oppose that course. Do we feed the fires of inflation? Again, I think most Americans reject that course. An over-obligated, over-spent nation must exercise discipline and restraint.

I, therefore, believe it would be better for the Congress to return to the drawing boards and draft new legislation for the continuation of the vocational rehabilitation program. The administration has suggested its policy. Together we can try to develop a vocational rehabilitation bill that will give the most to those who will benefit from the programs and assurances to those who pay for the programs the consumers—who clamor for checking inflation—and the taxpayers—who stoutly resist and resent increase of taxes.

Mr. DOLE. Mr. President, somewhat surprisingly, I find myself in agreement with an editorial point in today's Washington Post. It is indeed unfortunate, as the Post says, that S. 7, the Vocational Rehabilitation Act, has been made the focus of the conflict between Congress and the President over the Federal Government's budget and spending priorities.

CRUCIAL UNDERTAKING

Restoration of handicapped Americans to meaningful, productive lives is one of the most crucial, important, and noble undertakings of our society. Our Nation's human potential is its most valuable national resource, and any suppression of this potential or the erection of barriers to its fullest expression inflict great damage on the individuals concerned and on our entire society. It makes no difference whether these impediments to full human development can be traced to racial prejudice, religious persecution, economic oppression or handicaps of the mind and body. The effects are the same regardless of the cause: personal anguish, frustration and despair and a generally diminished social and economic structure. And, likewise,

elimination of any of these impediments produces enormous benefits: personal pride, self-respect, and independence—as well as a vast enrichment of the overall quality of American life.

UNFORTUNATE CONVERSION

It is clear that programs providing assistance for the handicapped have one of the broadest bases of support of any subject considered in Congress and Government. Over the years legislative and administrative initiatives have established a commendable record of progress and accomplishment on behalf of handicapped Americans.

Thus, I agree with the Post's assessment of the unfortunate conversion of the Vocational Rehabilitation Act—with its broad, general support, but legitimate differences of opinion as to specific approaches—into the centerpiece of a major controversy on a fundamentally different issue.

REAL ISSUE

That is not to say that this other issue is unimportant. On the contrary, it is one of the most important and basic questions of the day. And let the issue be clearly understood. We are not talking about aiding the handicapped today. We are not debating the strength or depth of commitment to the handicapped by any Senator or by the President or the Congress. We are talking about prudent Government spending and about the types of actions which will lead to or avoid increasing the tax burdens of the American people.

CYNICAL MANEUVER

And I believe the action of transforming the Vocational Rehabilitation Act into the battleground upon which the first round of the budget issue dispute will be fought is a cynical maneuver. Let us be candid and recognize that the Vocational Rehabilitation Act did not just "happen" to be the first test of the President's determination to hold the line on spending and the Congress' standard procedure of willy-nilly spending with no overall idea of the total picture. Today with this vote on overriding the veto, we are seeing the end result of a well-orchestrated plan.

The actual bill, however, is really a Trojan horse containing the seeds of a runaway congressional spending spree to the tune of a $10 billion increase in the fiscal year 1974 budget and a $50 billion total increase over the next 3 years. This is only the first of more than a dozen bills which will determine ability of Government to manage spending, avoid increasing taxes and hold the lid on inflation. So let the real issue be recognized, and let us acknowledge that the President, who neither set the timing for this bill's consideration or its impact on his budgetary policies, did not set this shell game in motion.

RECORD OF SUPPORT FOR REHABILITATION

Of course, the issue of vocational rehabilitation would be an entirely different matter if today were facing a question of Congress attempting to overcome an administration's indifference or hostility to the needs of handicapped Americans. But a look at the record of the last 4 years reveals, not only a firm commitment to the longstanding basic goals of vocational rehabilitation, but generous and increasing support for a wide variety of programs operated under the Vocational Rehabilitation Act, and other authorities. In fact, as the President pointed out in his veto message, with his proposals for the coming year, the number of individuals served by vocational rehabilitation will have increased more than 50 percent over the past 4 years to a total of 1.2 million people. This is hardly the mark of indifference or hostility to these citizens.

The following additional points are also persuasive:

Funding for title I of the Vocational Rehabilitation Act, the basic VR programs, has increased 75 percent from fiscal year 1969 to the $650 budget request for fiscal year 1974.

The President's budget includes $40 million under the supplemental security income program enacted in last year's H.R. 1 (Public Law 92–603) for the cost of vocational rehabilitation services for needy blind and disabled persons.

For fiscal year 1974 payments from the disability insurance trust fund will provide $66 million for vocational rehabilitation services, a fourfold increase over fiscal year 1969.

OTHER PROGRAMS

When one looks beyond vocational rehabilitation, the current support for the disabled is even more substantial:

$18.6 billion is the overall fiscal year 1974 estimate for income security benefits for disabled persons. This is more than a one-third increase over the fiscal year 1974 figure of $13.1 billion.

Specifically, the new Federal floor for the needy aged, blind, and disabled which was written into the law by Public Law 92–603 will go into effect January 1, 1974. The President's fiscal year 1974 budget request includes $1.7 billion for these needy persons.

Medicare coverage was also extended to the disabled by Public Law 92–603, and is included in the $18.6 billion for income security for the disabled. The new coverage will go into effect on July 1 of this year, will add $1.7 million disabled persons to the medicare program and will increase benefit outlays by $1.5 billion in fiscal year 1974 alone.

DEFECTS OF S. 7

So it is against this record that the faults of S. 7 must be considered—not against some artificial and unrealistic controversy over commitment to the handicapped. And it would emphasize that S. 7 is marred by several serious faults aside from spending considerations.

The first point I want to make is my dissatisfaction with the fact that S. 7 dilutes the traditional and highly successful orientation of the program toward employability for disabled persons. This vocational emphasis is one of the most significant reasons why the VR program has been so successful and so cost-effective. But title II of S. 7 would change the act's focus—especially in the case of the severely disabled—to provide medical and social services, not vocationally oriented services. The severely disabled can and are being given increased attention under existing authority in the Vocational Rehabilitation Act. Increased medical services and other income security for the disabled will soon be available. In view of these facts, I believe it would be a grave mistake to set up new authority which would blur the clear vocational focus of the existing program and possibly dilute the impact of the entire VR effort.

UNREALISTIC PROMISES

I am also greatly concerned at the vast overpromise implied by the authorization levels in S. 7. They total $2.1 billion for fiscal year 1973 and fiscal year 1974, $700 million over the President's budget requests. S. 7's authorization levels are higher than any President could in good conscience request and higher than any Congress could responsibly appropriate. They are nothing more than a hollow symbol to the Nation's handicapped. I would have hoped we might have learned something from the disappointing and discouraging experience of bigger and better Government promises, followed by shortcomings, defaulted commitments and disillusion which we saw with the so-called war on poverty and model cities efforts to aid the victims of economic and racial barriers. I would count it a sad and sorrowful day that such an empty and deceptive policy was initiated with respect to the physically and mentally handicapped in America.

Another implied promise is represented by the special categorical programs which S. 7 would establish. All have worthy sounding titles. Yet each special program will call into existence its own bureaucracy, its own guidelines and regulations, its own redtape, its own inefficiencies. Each will add another element of complexity to the already virtually impenetrable jungle of Federal programs.

Is this the way truly to serve the special groups for whom these programs are designed? I think not. Each of the problems for which S. 7 would establish a special, categorical program can be addressed under existing statutory authority through existing programs. And I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks a table showing these overlapping provisions.

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

(See exhibit 1.)

ORGANIZATIONAL DIFFICULTIES

Mr. DOLE. Still another example of the bill's inefficiency, as well as its lack of accountability, is the range of special organizational units which it would erect—with all the added bureaucratic confusion that more boxes in the organizational chart can create. They include an Office of the Handicapped in the Office of the Secretary of Health, Education, and Welfare; a National Commis-

sion on Transportation and Housing for Handicapped Individuals, also in HEW; an Architectural Barriers Compliance Board, apparently independent of HEW; and a Federal Interagency Committee on Handicapped Employees. All these new entities would further complicate the already confusing administrative maze of Federal activities I mentioned earlier.

One final defect of S. 7 deserves mention. Under the guise of giving increased importance to rehabilitation activities, S. 7 would give an existing administrative unit of HEW, the Rehabilitative Services Administration, statutory status, and assign it, not the HEW Secretary, statutory authority for the VR program. In my opinion, by reducing the effectiveness with which the Secretary could manage all HEW programs benefiting the disabled, this change would impede the provision of services and benefits to disabled people.

BETTER APPROACH

In contrast, Mr. President, a bill supported by the administration has been introduced by the Senator from North Carolina (Mr. HELMS). It builds on the strengths of the existing program and its proved record of success in rehabilitating individuals for employment. Had it been introduced early in the session, it would have readily received my support in preference to S. 7.

This bill would extend the VR program for 3 years. It would increase the training allowances for VR clients being trained for employment through special projects in rehabilitation facilities. It would extend the basic State formula grant program to American Samoa and the Trust Territories. It would provide authority to reallot unmatched section 2 funds. It would authorize joint funding and administration with other public agencies. It would provide for increased evaluation funds and for consultation with consumers in program development at the State level.

Many of these and other, more technical improvements in the VR program have been twice proposed by the administration and adopted by the Congress. They represent a solid, workmanlike improvement of that program. They represent changes that will work to the real benefit of the Nation's disabled persons. I believe this measure deserves support as a sound extension of the program that has meant so much to the vocational betterment of the disabled.

DIFFICULT DECISION

As one who has maintained an active and detailed interest in the problems of the handicapped, it is not a casual matter to cast a vote in opposition to passage of legislation in this field. If the history of this bill could be rewritten, I would prefer having had the alternative proposal of the Senator from North Carolina to support at an earlier date. However, that bill was not prepared at that time, so S. 7 was the only alternative to those of us who wished to see vocational rehabilitation continued and supported.

MOST IMPORTANT CONSIDERATION

But now we have this alternative, and we also have the question of controlling spending. And over the long run, I believe a vote for a sound budgetary policy to avoid increasing taxes and fueling inflation is more important to the handicapped than any vote on a specific program. For the handicapped—along with the elderly, the poor, and the chonically ill—who live on fixed or very low incomes and have only the most meager resources are the earliest and most vulnerable victims of Federal economic irresponsibility. Inflation, rising costs, increased taxes all strike hard on them. They are the first to feel the cost-price squeeze, and they can do the least to fight it.

UNQUESTIONED COMMITMENT TO HANDICAPPED

There is no doubt about America's commitment to supporting programs for the handicapped. If this veto stands, another bill—hopefully the proposal introduced yesterday—will receive full approval by Congress and the President.

DOUBT ON SPENDING

There is, however, real doubt about this Nation's commitment to sound spending policies. And today's vote is the first clear watershed on that question. And, I for one, do not wish to allow my deep concern for enhancing the expression of the abilities and talents of the handicapped to inadvertently add even more formidable economic barriers to the physical and mental obstacles which now impede their course toward human fulfillment.

Mr. President, I cast my vote to sustain the President's veto in the hope that his decision will be upheld and in the expectation that Congress will soon pass a sound, generous, and responsible vocational rehabilitation bill.

EXHIBIT 1—CATEGORICAL PROGRAMS IN S. 7—AND PRESENT AUTHORITIES WHICH ARE SIMILAR

S. 7 AND H.R. 17	SIMILAR AUTHORITIES
Title II A formula grant program to provide "comprehensive rehabilitation services" to individuals for whom a vocational goal is not indicated, or for whom a vocational goal is unrealistic. "Comprehensive rehabilitation services" are defined as services that will make a substantial contribution in helping a handicapped individual to improve his ability to live independently or function normally with his family and community.	Service programs for families and children and for aged, blind, or disabled individuals are authorized under Titles I, IV (Parts A an B), X, XIV, and XVI of the Social Security Act. Under proposed rule making issued February 16, 1973, eligibility for these services would be limited to individuals who are current applicants for or recipients of public assistance, or individuals who are likely to become recipients within six months unless services are given. Medicaid eligibles (Title XIX of the Social Security Act) may receive specified services of a purely medical nature, depending on the extent of coverage under Medicaid in each State. An individual who has been receiving monthly benefits on the basis of being under a disability under Title II of the Social Security Act for 24 consecutive months has been made eligible for Medicare under Title XVIII of the Social Security Act. Medicare coverage will continue through the month following the month in which notice of the termination of his monthly disability benefits is mailed to him, or if earlier, through the month in which he attains age 65.
Section 307 Rehabilitation Centers for Deaf Individuals.	A prototype of such centers has been developed partially with Federal funding under Section 4(a)(1) of the Vocational Rehabilitation Act. The Administration has proposed that emphasis on these centers be achieved by including reference to centers for low achieving deaf in Section 4(a)(1) of the Act (Special Projects) rather than by providing a separate section with a special authorization.[1]
Section 308 National Centers for Spinal Cord Injuries.	Prototypes of these centers have been developed with partial Federal funding under Section 4(a)(1) of the Vocational Rehabilitation Act. The Administration has proposed that emphasis on these type centers be achieved by including reference to spinal cord injury centers in Section 4(a)(1) of the Act (Special Projects) rather than a separate section, with its own authorizations.[1] Also, the National Institutes on Neurological Diseases and Stroke has funded five planning projects for research into acute spinal cord injury, under its general authority to conduct research into neurological problems.

Footnote at end of table.

EXHIBIT 1—CATEGORICAL PROGRAMS IN S. 7—AND PRESENT AUTHORITIES WHICH ARE SIMILAR—Continued

S. 7 AND H.R. 17—continued	SIMILAR AUTHORITIES—continued
Section 309 Grants for End-Stage Renal Disease.	The Social Security Amendments of 1972 (P.L. 92-603) extend Medicare coverage to individuals under age 65 who are currently or fully insured or entitled to monthly social security benefits and to spouses and dependent children of such individuals, who require hemodialysis or renal transplanation for chronic renal disease. Entitlement begins with the third month following the month in which a course of dialysis is initiated and extends through the 12th month after the month in which an individual had a transplant or dialysis terminates. Benefits are parts A and B of Medicare with the usual deductibles and coinsurance. Renal services are provided to eligible persons in some States under Medicaid (Title XIX of the Social Security Act). (A survey conducted in May, 1972 by Smirnow Associates indicated that 45 States provided dialysis to "categorically needy" and 24 States provided services to the "medically needy." A survey conducted in 1971 indicated that 40 State vocational rehabilitation agencies had some experience in providing services to handicapped individuals with end stage renal disease, principally through transplants. Eligibility is the same as for other disabilities. There is wide variation in services covered and in limitations on these services.
Section 310 Rehabilitation services for older blind individuals.	Title XVI of the Social Security Act contains authority to provide social services for the blind. Proposed rule making issued February 18, 1972, would define these services as services which would alleviate the handicapping effects of blindness through training in mobility, personal care, home management, and communication skills; special aids and appliances; special counseling for caretakers of blind children and adults; and help in securing talking book machines. The above proposed rules would also limit such services to individuals who were applicants for or recipients of assistance payments or medical assistance, or individuals who would be probable recipients of assistance within six months in the absence of such services.

[1] Administration amendments were introduced into the House of Representatives on February 21, 1973, by Representative Earl Landgrebe.

SENATOR RANDOLPH URGES OVERRIDE OF REHABILITATION ACT VETO

Mr. RANDOLPH. Mr. President, the distinguished Members of this body have listened on a number of occasions to discussions on the need for new legislation to aid handicapped individuals. On each of those occasions you have, almost to a man, supported the Rehabilitation Act of 1972.

In October of last year you supported this measure by a vote of 70 to 0. You unanimously supported the conference bill that was sent to the White House. On February 28, 1973, you agreed to adopt a similar measure with reduced authorizations in an effort to meet some of the President's objections to it. The recorded vote at that time was 86 for, 2 against.

Today, my colleagues, you have another opportunity to express your support for this very necessary Rehabilitation Act of 1972 and to keep alive the hopes of millions of handicapped Americans across our land.

The President has, to my very sincere and deep regret, expressed his disapproval of this act. About the time the Rehabilitation Act was delivered to the President I sent the following telegram to the White House:

DEAR MR. PRESIDENT: As chairman of the Senate Subcommittee on the handicapped, and as principal sponsor of S. 7, and the Senate version of this measure in the 92d Congress, I appeal to you, as a humanitarian and friend of the handicapped in America, to approve S. 7, the Rehabilitation Act passed overwhelmingly by Congress last Thursday.

This measure differs substantially in authorization levels from the bill you disapproved last October. We have made a sincere attempt to send to you realistic legislation which will help meet the urgent needs of the handicapped and which you can sign into law.

I urge you to give personal and careful study to the provisions and purpose of this legislation. I am confident you will agree that S. 7 is fiscally sound; that it will bring great benefits to the handicapped; that it will reduce the rolls of welfare recipients and increase the number of taxpayers; and that it represents an effective program which in reality will be an investment rather than an expenditure of Federal funds.

With esteem and best wishes, I am

Truly,

JENNINGS RANDOLPH,
U.S. Senate.

The President has in his veto message, charged Congress with fiscal irresponsibility in the adoption of S. 7. In doing so he has lumped together a dozen or more measures which he anticipates will reach his desk. If all these measures became law, the President argues, the budget would be increased by $50 billion. Certainly this is a fearsome figure, and one which Congress should view with concern. Both the President and the Congress, however, should consider each enactment on its own merits. The Rehabilitation Act of 1972 bears no closer relationship to the other measures the President has cited than does, for example, authorization for foreign aid, or the space program.

The Congress, mindful of the President's desire to hold Federal spending down, reduced the authorization levels of S. 7 nearly $900 million below the levels of the measure vetoed by the President last fall. Although there is no question that the need exists for higher spending levels for vocational rehabilitation of handicapped individuals, we made a sincere effort to meet the President's objections.

It must be stressed that S. 7 is authorizing legislation, and not an appropriation. As such it provides a framework for the appropriations process; it does not reflect spending levels. It must also be kept in mind that the level of spending authorized in the Rehabilitation Act for fiscal year 1973 is actually lower by nearly $100 million than the authorization for both fiscal year 1971 and 1972 under the act S. 7 replaces.

There are many other compelling reasons to adopt S. 7 over the President's veto. In my opinion the President's advisers were extremely shortsighted in their failure to assess the positive budgetary impact of this legislation. More than a half century of experience in Federal vocational rehabilitation programs has clearly demonstrated that the rehabilitation dollar produces a higher ratio of benefits to costs than most other Federal programs. A recent economic study states categorically that "for every dollar spent on the medically disabled, $25 will be returned in increased lifetime earnings." The lowest ratio of benefits as compared to costs is estimated at 3 to 1. In some cases, studies show, the ratio is an astounding 70 to 1. This means that for every dollar spent on the rehabilitation of a handicapped individual, at least $3 is returned in the form of reduced welfare costs and increased income taxes. This ratio does not even take into account the beneficial effects on the national economy which are realized through dramatically increased income for rehabilitated individuals and the indirect economic benefits which accrue to the Nation from the purchase of goods and services by self-sustaining, independent handicapped persons.

S. 7 would provide rehabilitation services to some 2.8 million handicapped individuals over the next 2 fiscal years. What a great relief it would be to the American taxpayer if even half this number were removed from the welfare rolls through vocational rehabilitation.

To this point I have limited my remarks to the economic benefit and fiscal soundness of the Rehabilitation Act of 1972. The measure involves far more than mere figures on a balance sheet. S. 7 is a bill that shows the handicapped citizens of America that the Congress really

cares about their future. It demonstrates that a civilized society is, as it must be, compassionate and humanitarian and just toward segments of that society which, through an accident of birth, or disease, or traumatic injury, need help in achieving the hope and freedom from despair, the dignity and independence, that rehabilitation can bring.

I appeal to you, my colleagues. Do not let the handicapped of America become the victims of a budgetary squabble over which they have no control or influence. Let us set spending priorities, but let us not set them at the expense of the deaf, the blind, the mentally retarded and those with spinal cord injuries. Lift up the hearts and souls of those who need your help. Cast your vote in support of S. 7, the Rehabilitation Act of 1972. Millions of people less fortunate than we will be eternally grateful.

Mr. GURNEY. Mr. President, in vetoing S. 7, President Nixon made his position quite clear. First, he feels that S. 7 will jeopardize the very effective vocational rehabilitation program because it diverts funds into activities that have no vocational element whatsoever. S. 7 should not be a welfare bill. Its objectives should be purely vocational in nature, since this is the primary goal of the vocational rehabilitation program. If we are to pass a welfare program, let us do that—but let us not call it vocational rehabilitation and confuse the issue.

Second, the President feels that authorization levels in S. 7 are too high. We are simply raising the hopes of our disabled citizens, but are not delivering what we promise. If we are not going to appropriate a particular sum, then why authorize it?

Third, the President feels—and I agree—that numerous boards, commissions, and committees provided in the bill would serve as a detriment to the delivery of services to the handicapped. I submit that we cannot solve our unemployment problem by appointing everyone to some commission or other. These commissions will only waste the taxpayers money.

Fourth, S. 7 provides for several new categorical aid programs already provided for by the Social Security Act. Here again, the bill duplicates existing programs. This will divert attention and money from vocational rehabilitation which this bill is supposed to provide for. This is a classical case of throwing money at a problem instead of trying to solve it.

I voted for this legislation the first time it came before the Senate. Even at that time I believed that certain of the authorized funding levels were too high and that certain portions of the bill went too far. But there was no alternative measure for which I could vote and still support vocational rehabilitation programs. I believed those programs were vital; I still do.

Now the administration has come up with an alternative to S. 7. It was introduced in the Senate yesterday by my distinguished colleague from North Carolina (Mr. HELMS), and I have joined as a cosponsor. This is a responsible bill which is targeted to the goal of increasing funding for vocational rehabilitation programs. It results neither in excessive funding nor in the setting up of other duplicating programs and bureaucracies.

I wish to emphasize that the vocational rehabilitation program is under no duress if we sustain the President's veto. The current authority does not expire until June 30, the end of the current fiscal year. I have noticed many of my colleagues indicating that we have no choice in this matter. The fact is, we have 3 more months during which we can draw up and consider a more suitable alternative, such as the Mr. HELM's proposal which I have cosponsored.

I wish to emphasize that the main reason we are faced with an uncontrolled inflation in this country has been the year after year excessive funding by Congress. The dollar is in trouble at home, and it is in trouble abroad. The tax of inflation is the cruelest tax of all, especially for the handicapped.

We in Congress must put our own House in order. We cannot go back to our constituents and talk about excessive Federal spending unless we do something about it here in Congress. This bill provides for funding way in excess of our tax income abilities.

Mr. President, those who vote to override the President's veto will, in the face of all of the facts, be acting most irresponsibly.

I intend to vote to sustain the President's veto. Again and again I have said Congress should practice the fiscal responsibility it preaches and my vote does exactly that.

AN ILL-CONSIDERED VETO

Mr. TUNNEY. Mr. President, I rise at this time to protest the President's decision to veto S. 7, the Rehabilitation Act of 1973. The President's action means that he intends to deny thousands of handicapped Americans the opportunity to rise up from the dependency of their handicaps to lives of independence and self-sufficiency.

The President's veto, if the Congress does not override it, will cause the most serious slowdown in the growth and expansion of the vocational rehabilitation program since its inception 52 years ago.

The vocational rehabilitation program, since it was first passed in 1921, has had strong bipartisan support in the Congress and strong popular support across the country. For this reason the program shows a record of unbroken success in fulfilling its basic purpose—to combine all resources in a coordinated way, to help the disabled or handicapped person help himself. This basic concept has remained largely unchanged for the more than half century of the program's existence. The Vocational Rehabilitation Act has been amended many times since the original enactment, new provisions have been added, and new disability groups have been made eligible for assistance, but the basic goal of the program has remained the same.

The success of the program has been evident from the start. Since the inception of the program, over 3 million handicapped men and women have been rehabilitated. In fiscal year 1971, over a million persons were provided vocational rehabilitation services and nearly 300 thousand persons completed their rehabilitation. Of that number, over 51 thousand had been receiving public assistance before their rehabilitation. For this group alone the total savings in public assistance payments was over $33 million for the first year following rehabilitation.

I could go on and on citing example after example of how successful the program has been, but that is not really necessary. No one denies the success of the program. That is why the President's veto is so inexplicable. The reason he gives for his action is that the bill is "fiscally irresponsible," citing the authorizations, which the Congress had already reduced by $900 million from the bill the President vetoed last fall. And these are just authorizations, not actual appropriations.

The President also mentions the various new programs created by the bill in his veto message, saying that they create overlap and duplication with other existing programs. He also says that the program for the severely handicapped will divert the program from its traditional vocational goal. He does not seem concerned for the fate of the millions of handicapped persons who can be helped by these new programs. I think the importance of serving those people whose needs have been neglected for so long far outweighs the President's reservations concerning these programs.

I mentioned earlier the strong bipartisan support the vocational rehabilitation program has received over the years. Nothing proves this better than the votes by which the bills passed both last fall and this year to amend and extend the act, both of which were vetoed by the President. I am convinced that if the 92d Congress had been given the chance last year, it would have voted overwhelmingly to override the veto of H.R. 8395. I hope the 93d Congress will take the opportunity it has and vote to pass this legislation over the veto of the President. It is essential that we do this to continue the fine work of the vocational rehabilitation program. On behalf of the millions of handicapped Americans who will benefit from the expanded services of this program, I urge the Senate to vote to override.

Mr. KENNEDY. Mr. President, I rise to speak in strong support of a vote to override the President's veto of the Vocational Rehabilitation Act, S. 7.

This legislation should not be held hostage to the administration's efforts to blame its economic failures on Federal spending. The sky-high price of food, the first trade deficits in a century, the steady level of 5 million unemployed—those failures cannot be blamed on congressional spending. And they particularly cannot be blamed on passage on the Vocational Rehabilitation bill.

I see no reason why 12 million handicapped should be forced to do without the programs contained in this legislation because the President has decided to use this bill as a symbol of his opposition to congressional spending priorities.

This is particularly disturbing when one recognizes that the legislation before us is an authorization bill which does not mandate the expenditure of one thin dime. Even if it were to be fully funded,

it still would not represent an inflationary threat. Because instead of sinking our money into foreign military aid and military bases overseas and gold-plated defense systems, we will be cutting those programs in favor of programs such as the Vocational Rehabilitation Act—in favor of changing the status of hundreds of thousands of handicapped persons from welfare recipients to productive and taxpaying members of society.

For when this bill is judged on its merits, it clearly deserves approval—and the Congress has said so twice before. This bill was passed unanimously in 1972. This year, the Senate approved it 86 to 2. The House approved it 318 to 57. And it has the support of the National Rehabilitation Association, the International Association of Rehabilitation Facilities, the National Easter Seal Society for Crippled Children and Adults, the American Foundation for the Blind, and the Council of Organizations Serving the Deaf.

There are millions of blind, deaf, and physically disabled individuals in the country, some severely handicapped, some less so. Over the past 52 years, some 3 million have become productive members of society. But some 12 million still require assistance. And all of them have a right to the chance to develop their full potential.

The veto message says to them: You are expendable. It says the programs designed to help you become productive members of society are expendable. When the President proposes to cut research and development for vocational rehabilitation by 40 percent, as he is doing this year; when the President proposes to cut back on services to 300,000 persons over the next 3 years, as his veto statement implies; and when the President proposes to kill a bill providing rehabilitation engineering centers, which he himself originally requested, then one must question the commitment of the administration.

As a member of the Subcommittee on the Handicapped, I believe that the legislation now before us opens up new avenues of opportunity to millions of handicapped Americans. It means that over the next 3 years, an estimated 2.4 million persons will be served under this program and will be given the chance to become productive workers, teachers and professionals. The handicapped can and do participate in all fields—if we give them the chance. This legislation gives them that chance.

It removes unnecessary obstacles from their path; obstacles such as discrimination in Federal employment, obstacles such as architectural barriers, obstacles such as informational roadblocks. All of these barriers have prevented the handicapped from obtaining employment, from attending school, even from voting.

Finally, the legislation takes a major step toward easing the burden of groups which have been ignored too often—persons suffering from spinal cord injuries, persons suffering from end-stage renal disease, severely handicapped deaf, deaf-blind individuals, older blind individuals and handicapped migrants.

There was testimony recently by a young deaf woman, Miss Barbara Sachs, which I believe most eloquently describes what legislation such as the Vocational Rehabilitation Act means to the handicapped. Miss Sachs told the Subcommittee:

> I have been deaf from the day I was born. In my lifetime, I have done enough traveling outside of the United States to be able to say that . . . this country has served me well. I think I can say the same in speaking for my deaf countrymen. We would like to return the favor. There are two million of us who pay taxes. There are two million of us who vote for you. There are two million of us who are depending on you to help us to do more.

Miss Sachs was speaking on behalf of the deaf in the United States, but I am sure she speaks for the approximately 12-million handicapped people in this country. The Vocational Rehabilitation Act will give them the chance to do more and that is why it is so important that this legislation be enacted into law. I urge my colleagues to vote to override the veto.

Mr. STEVENSON. Mr. President, the Rehabilitation Act, S. 7, revises, extends, and improves rehabilitation programs for the handicapped authorized under the Vocational Rehabilitation Act originally passed by the Congress in 1920. These programs provide a variety of services to the physically and mentally handicapped in order to prepare them for employment. The services include hospital diagnosis and care for the handicapped, placement services to assist handicapped individuals to secure and maintain employment and maintenance and transportation during rehabilitation.

The rehabilitation program is not an experimental program of the late sixties. It is an established program which in over 50 years has clearly succeeded.

For every $1 invested in a rehabilitation program, at least $3 are saved by the Government in taxes paid by rehabilitated workers and through savings in reduced unemployment compensation, reduced medicaid and social security payments, and reduced public assistance. In addition, it should be pointed out that this is an authorization bill and not an appropriation bill. It will not in itself cost the taxpayers one cent. Mr. Nixon would like an authorization of $600 million in fiscal year 1973 for the basic title I program and $630 in fiscal year 1974. But Congress has seen fit to set the authorization for those 2 years at $700 million and $800 million, respectively—just in case we see the error of our priorities and spend more on humans and less on space shuttles; and just in case the Congress decides to appropriate more than the $590 million Mr. Nixon has requested for fiscal year 1973 or the $610 million he has requested in his 1974 budget. Most authorizations give the President and Congress just such discretion. Even so, the authorization in S. 7 is more than $900 million below the authorization in H.R. 8395, the bill Mr. Nixon pocket-vetoed last autumn. Congress has come more than halfway to meet Mr. Nixon's objections. Indeed, the authorization for fiscal year 1973—a total of $913 million for all programs—beyond the basic $700 million for the basic title I program—is almost $100 million below the $1.01 billion authorizations for fiscal years 1971 and 1972.

President Nixon's objections to the substance of S. 7 are without merit. In his veto message Mr. Nixon argued that S. 7 "would further divert the Vocational Rehabilitation program from its original purposes by requiring that it provide new medical services." S. 7 would change the basic rehabilitation program in no way. It would merely make a more explicit commitment to persons with severe handicaps. Many people who would be covered under S. 7 are today refused assistance under the ongoing program because they appear to be too difficult to rehabilitate for employment. S. 7 would make clear that vocational rehabilitation for these unfortunate people is not to be abandoned simply because it is easier to rehabilitate for employment others less unfortunate. If a vocational rehabilitation is found possible, the severely handicapped will be provided services. The few who are incapable of employment will be assisted by S. 7 to become more self-sufficient, often-times enabling other members of their families to work.

Mr. Nixon also claims that S. 7 "would create a hodgepodge of seven new categorical grant programs" and that it would distort the objective of the rehabilitation program by "turning it toward welfare or medical goals."

The sections dealing with the blind, the spinal cord injured, renal disease victims and the deaf are special project programs having the specific aim of stimulating State and local effort, with the expectation that they will be absorbed into the basic program later.

The real reason Mr. Nixon vetoed this bill is that he disagrees with the priorities of the Congress. He talks about the work ethic, but is prepared to spend enormous sums on foreign military aid, not on helping the handicapped to work. The Congress would put Federal dollars to work making taxpayers out of citizens who through no fault of their own cannot work and pay taxes.

Mr. Nixon has told the American people to ask not what the Government can do for them but rather what they can do for themselves. By vetoing S. 7, he has sought to deny thousands of citizens the chance to help themselves. The handicapped are not asking for a handout. They are asking for a hand up. They intend to repay us all in full—and then some. Let us give them a chance.

I urge my colleagues to override Mr. Nixon's arbitrary and capricious veto of S. 7.

Mr. MATHIAS. Mr. President, this is a vote on structure, not on money. It is a decision to establish a policy, not to appropriate funds. It is an assessment of need, not a judgment on the adequacy of the budget request.

The difficulty of this decision is compounded by the lack of confidence exhibited by laymen and professionals in the administration's alternative proposal. The administration program was not spelled out in debate or thoroughly examined in hearings and its coverage is not fully understood either by the Congress or the public.

As the current program expires there is no assurance that any new program

can be adopted by June 30. The prospect of chaos is a very real one for our States and many people directly affected as government flounders in its effort to make the transition from the past to the future. Another "continuing resolution" will only prolong the uncertainty and increase the anxiety.

I submitted a suggestion for bridging the gap between the committee position and the proposal made yesterday by the Senator from North Carolina (Mr. HELMS) which seems to have Executive support. The lack of response to my effort indicates an absence of that spirit of compromise that will make the enactment of any new bill very difficult.

We are then left with a decision between an existing congressional policy that may have some flaws and one that does not yet exist. It is a choice between a policy that is subject to criticism and one that is subject to still-birth. It is not a happy choice.

This program, like every other one, depends on the health of our economy. The recurrent issue of how much spending is too little or enough or too much is going to be a vital question as we face the next fiscal year. But that question is not before us now. That question is raised by the appropriation process and I will respond to it at the proper time.

At the moment I am faced with voting for something or for nothing, and I am forced by the imperatives of the situation to choose the continuation of a program that can be modified later rather than to risk its dismantlement as the end of the fiscal year approaches.

Mr. PACKWOOD. Mr. President, I rise today to express some very mixed emotions. The vocational rehabilitation bill before us deals with programs which have unparalleled support here in Congress and around the Nation. Every penny spent in assisting Americans less fortunate than ourselves is a penny well spent. What better investment is possible than one which permits mentally and physically handicapped individuals to achieve self-sufficiency, to gain a sense of independence, to know that they are taking an active role in directing their own lives, not just a passive one, and to have the satisfaction to know that they are contributing to society.

Mr. President, I have been an ardent supporter of vocational rehabilitation programs since before I entered the Oregon State Legislature, and have consistently maintained that support through the years. Though a member of the Senate Labor and Public Welfare Committee during the 92d Congress, I did not have the opportunity to serve on the Committee's Handicapped Subcommittee during the time that the Vocational Rehabilitation extension was being considered. Based upon full committee consideration of the measure reported out by the subcommittee, however, I felt and expressed some serious reservations about the impact of the bill on both the handicapped individuals the bill was intended to help, and on the program administrators responsible for providing services in the most effective and efficient way.

However, with the time factors involved, and the program operating without an authorization since July 1, 1972, I felt it necessary to put aside my own questions for the sake of getting a new bill written into law without further delay.

The President apparently shared some of my own reservations as to impact on the handicapped and in addition expressed grave misgivings over the dollar levels authorized in the bill. As a result the bill was vetoed.

This year, although no longer a member of the Senate Labor and Public Welfare Committee, I assumed that the problems of overlap, duplication and dilution of the vocational function would be dealt with squarely in the new bill. Sadly, Mr. President, the bill approved and sent to the Senate floor met neither my objections regarding effectiveness and efficiency, nor apparently the President's objections regarding authorization levels. Once again, however, in the interest of time, and the urgency of getting a new authorization, I put aside my own differences with the reported bill, and felt that an imperfect bill was better than no bill at all.

Tragically, however, Mr. President, we are once again faced with the prospect of further delays, which once again must be weighed against the defects in the approved bill. Clearly, this is not an easy decision. Although twice I have come down on the side of time, overriding my very deep concerns over the defects in the bill presented by the committee, after long and difficult debate within myself, I have concluded that our mentally and physically handicapped Americans must unequivocally receive the best, most effective and most efficient assistance this body can possibly provide, regardless of the additional few weeks it may take us to draft legislation and reach agreement. Our handicapped are least able of all to defend themselves from gimmickry at the hands of Congress, and to sort out the confusing mish-mash of Federal and State programs designed to assist them, but sometimes more successful in hamstringing them and preventing their effective rehabilitation. We owe it to our handicapped Americans, and to those who have responsibility for administering the programs we authorize, to come up with a good, not just a showy, bill.

Mr. President, S. 7 has been described by its supporters as a flawless bill, one which will provide new and better assistance for our handicapped. I beg to differ. Were the issues as simple as that, I fear the President would have few defenders. Without attempting to speak for my colleagues, I myself would find it difficult if not impossible to defend any effort to curtail services for our handicapped merely on the basis of saving Federal dollars. At this point, perhaps it is appropriate to clarify a frequently repeated allegation about the administration's commitments to rehabilitation programs. First, it should be pointed out that the administration strongly supports a bill which I have cosponsored to extend the program at increased levels. Second, the President's proposed budget requests over $700 million for vocational rehabilitation programs in 1974, an increase of 75 percent above the funding level when he took office. I might add that few programs have grown as fast or as successfully as this one.

In 1969, the vocational rehabilitation program served 781,000 persons and rehabilitated about 241,000. The fiscal year 1974 budget makes possible rehabilitation services for about 1,225,000 in fiscal year 1974, which will result in the rehabilitation of 350,000 persons. These figures include 263,000 public assistance recipients who will receive services—70,000 of whom will be rehabilitated.

Mr. President, I believe there is unanimous agreement here in Congress that we all—including the administration—want what is best for the handicapped, but the difficulty arises because what looks best is not, under closer scrutiny, always the best in fact. Since some will question the wisdom of my vote to push for a better bill at this point, let me give some specifics on the reasons for my objections. Mr. President, in my judgment, S. 7 establishes new categorical programs which duplicate numerous existing programs, it will make Federal, State, and local administration of the program more complex and difficult, and it will seriously disrupt the present successful emphasis on vocational training. The details of organization and administration are such that the Secretary of Health, Education, and Welfare is impeded from effective management of vocational rehabilitation programs and successful coordination of vocational rehabilitation with related program activities in the department.

I am particularly concerned about the duplicative programs which S. 7 would create, each leading to their own competing bureaucracies, their own red tape, their own administrative procedures, and numerous inefficiencies which would result.

For example, title II would create a new formula grant program for severely disabled persons for whom a vocational goal is, in the committee's words, "not possible or feasible." Such a program would emphasize medical and social services. While I fully support the provision of such services, I am concerned that the VR programs, with its traditional and successful focus on employability, is not the proper or most effective vehicle. It should be further mentioned that other program channels have been established through HEW to meet these needs.

SIMILAR AUTHORITIES

Service programs for families and children and for aged, blind, or disabled individuals are authorized under titles I, IV—parts A and B—X, XIV, and XVI of the Social Security Act. Under proposed rulemaking issued February 16, 1973, eligibility for these services would be limited to individuals who are current applicants for or recipients of public assistance, or individuals who are likely to become recipients within 6 months unless services are given.

Medicaid eligibles—title XIX of the Social Security Act—may receive specified services of a purely medical nature, depending on the extent of coverage under medicaid in each State.

An individual who has been receiving monthly benefits on the basis of being under a disability under title II of the

Social Security Act for 24 consecutive months has been made eligible for medicare under title XVIII of the Social Security Act. Medicare coverage will continue through the month following the month in which notice of the termination of his monthly disability benefits is mailed to him, or if earlier, through the month in which he attains age 65.

Section 307 would authorize rehabilitation centers for deaf individuals.

SIMILAR AUTHORITIES

A prototype of such centers has been developed, partially with Federal funding under section 4(a)(1) of the Vocational Rehabilitation Act.

The administration has proposed that emphasis on these centers be achieved by including reference to centers for low achieving deaf in section 4(a)(1) of the act—special projects—rather than by providing a separate section with a special authorization.

Section 308 would establish national centers for spinal cord injuries.

SIMILAR AUTHORITIES

Prototype of these centers have been developed with partial Federal funding under section 4(a)(1) of the Vocational Rehabilitation Act.

The administration has proposed that emphasis on these type centers be achieved by including reference to spinal cord injury centers in Section 4(a)(1) of the Act—Special Projects—rather than a separate section, with its own authorizations.

Also, the National Institute on Neurological Diseases and Stroke has funded five planning projects for research into acute spinal cord injury, under its general authority to conduct research into neurological problems.

Section 309 would provide grants for end-stage renal disease.

SIMILAR AUTHORITIES

The Social Security Amendments of 1972—Public Law 92-603—extend medicare coverage to individuals under age 65 who are currently or fully insured or entitled to monthly social security benefits and to spouses and dependent children of such individuals, who require hemodialysis or renal transplantation for chronic renal disease. Entitlement begins with the third month following the month in which a course of dialysis is initiated and extends through the 12th month after the month in which an individual had a transplant or dialysis terminates. Benefits are parts A and B of medicare with the usual deductibles and coinsurance.

Renal services are provided to eligible persons in some States under medicaid—title XIX of the Social Security Act. A survey conducted in May 1972, by Smirnow Associates indicated that 45 States provided dialysis to "categorically needy" and 24 States provided services to the "medically needy."

A Survey conducted indirected that 40 State vocational rehabilitation agencies had some experience in providing services to handicapped individuals with end stage renal disease, principally through transplants. Eligibility is the same as for other disabilities. There is wide variation in services covered and in limitations on these services.

Section 310 would establish rehabilitation services for older blind individuals.

SIMILAR AUTHORITIES

Title XVI of the Social Security Act contains authority to provide social services for the blind.

Proposed rulemaking issued February 18, 1972, would define these services as services which would alleviate the handicapping effects of blindness through training in mobility, personal care, home management, and communication skills; special aids and appliances; special counseling for caretakers of blind children and adults; and help in securing talking book machines.

The above proposed rules would also limit such services to individuals who were applicants for or recipients of assistance payments or medical assistance, or individuals who would be probable recipients of assistance within 6 months in the absence of such services.

Let me emphasize, Mr. President, that it is with a great deal of reluctance that I am today casting a vote which may have the effect of further delaying enactment of a continuing authorization for the vocational rehabilitation program. But for the above reasons, I am forced to this conclusion, that delay is preferable to enactment of an ineffective and inefficient program, which may not serve the best interests of those we are trying to assist to self-sufficiency.

As a constructive alternative, I have cosponsored a bill proposed by the administration and designed to meet most of my objections. For example, this bill would simplify grants administration by combining special project authorities, and merging funding arrangements for categories of projects and groups of activities. While strengthening administration of the program, the bill provides for greater flexibility in the actual delivery of services through joint project capability with any local public agency. It provides for greater sensitivity to public interest through advisory groups on the State level, which must include disabled persons as well as professionals, and other citizens groups. Further, when the program is administered on the local level, an advisory committee will be formed to participate at that level.

Other amendments are technical and are directed to aspects of the program that can make it more effective and responsive to individuals served. Special emphasis is directed to developing resources for special needs by explicitly citing, within the special projects section, projects for the spinal cord injured and the low achieving deaf.

While I am not wedded to every approach outlined in the bill, S. 1431, and would provide greater flexibility for increasing appropriations authorizations, I feel it is imperative that we provide alternatives and move forward speedily to consider new legislation. May I finally take this opportunity to urge my colleagues, especially those who have the privilege to serve on the Labor and Public Welfare Committees, to make this legislation their first priority, so that we may fill the legislative void at the earliest possible date.

Mr. CRANSTON. 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. CRANSTON. 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. CRANSTON. Mr. President, what is the issue now before the Senate?

The PRESIDING OFFICER. Under the previous unanimous-consent agreement, the time for debate having expired, and the time of 2 p.m. having arrived, the question is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding?

Under article I, section 5 of the Constitution, the yeas and nays are required, and the clerk will call the roll.

Mr. GRIFFIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Michigan will state it.

Mr. GRIFFIN. Then a vote to override the President's veto would be "yea" and a vote to sustain the President's veto would be "nay"; is that correct?

The PRESIDING OFFICER. That is correct. A "yea" vote would be to pass the bill, the objections of the President notwithstanding, and a "nay" vote would be not to pass the bill.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. EASTLAND), is necessarily absent.

I also announce that the Senator from Mississippi (Mr. STENNIS), is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE) is absent by leave of the Senate on official business, and, if present and voting, would vote "yea."

The Senator from Arizona (Mr. FANNIN) is absent on official committee business.

The yeas and nays resulted—yeas 60, nays 36, as follows:

[No. 77 Leg.]

YEAS—60

Abourezk	Hartke	Mondale
Aiken	Haskell	Montoya
Allen	Hatfield	Moss
Bayh	Hathaway	Muskie
Bentsen	Hollings	Nelson
Bible	Huddleston	Pastore
Biden	Hughes	Pearson
Burdick	Humphrey	Pell
Byrd, Robert C.	Inouye	Percy
Cannon	Jackson	Proxmire
Case	Javits	Randolph
Chiles	Kennedy	Ribicoff
Church	Long	Schweiker
Clark	Magnuson	Sparkman
Cranston	Mansfield	Stafford
Eagleton	Mathias	Stevenson
Ervin	McGee	Symington
Fulbright	McGovern	Tunney
Gravel	McIntyre	Weicker
Hart	Metcalf	Williams

NAYS—36

Baker	Byrd, Harry F., Jr.	Dominick
Bartlett	Cook	Fong
Beall	Cotton	Goldwater
Bellmon	Curtis	Griffin
Bennett	Dole	Gurney
Brock	Domenici	Hansen
Buckley		Helms

Hruska	Roth	Talmadge
Johnston	Saxbe	Thurmond
McClellan	Scott, Pa.	Tower
McClure	Scott, Va.	Young
Nunn	Stevens	
Packwood	Taft	

NOT VOTING—4

Brooke	Fannin	Stennis
Eastland		

The PRESIDING OFFICER (Mr. HELMS). On this vote the yeas are 60 and the nays are 36. Two-thirds of the Senators present and voting not having voted in the affirmative, on reconsideration, the bill fails of passage.

Mr. TOWER. Mr. President, I ask unanimous consent to have printed in the RECORD the text of the statement of the Senate Republican leadership on sustaining the presidential veto of S. 7, the Vocational Rehabilitation Act of 1973.

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

SENATE REPUBLICAN LEADERSHIP STATEMENT ON SUSTAINING PRESIDENTIAL VETO OF S. 7, VOCATIONAL REHABILITATION ACT OF 1972

Our support of the President's veto is not a vote aaginst the disadvantaged and the handicapped. It is a vote for an orderly expansion of generous Federal rehabilitation programs, already substantially increased over previous years.

President Nixon is requesting an increase in spending on vocational rehabilitation from $641 million to $650 million this year, an increase of more than seventy-five percent over the amount spent for this purpose during the last year of the Johnson Administration. By vetoing S. 7, the President thus did not, as partisan propaganda would have it, terminate Federal vocational rehabilitation programs in the United States.

S. 7 is fiscally irresponsible. It promises an increase of more than $1 billion during the next two years—when spending beyond the proposed budget ceiling threatens either higher taxes or renewed inflation. With Federal and State income taxes coming due at this time, this point should have special significance to every taxpayer in the United States.

As the President said, this bill would create a hodge-podge of seven new categorical grant programs, many of which would overlap and duplicate existing services.

Europe and Japan have experienced rates of inflation ranging from six to ten percent during the past year. Because of President Nixon's fiscal policies, our rate of inflation has been reduced to less than three percent. Americans living on fixed incomes should not be forced to pay, by loss of purchasing power, for budget-busting fiscal adventures of the Federal Government.

The bill offers promises which cannot be kept because the bill is technically unworkable. It takes no account of the means to perform. This is demagoguery at its worst.

We strongly support the alternative proposed by Senators Helms and Beall, and approved by the Administration. This bill would increase expenditures by approximately $200 million over a two-year period, within the framework of existing programs.

The above statement was signed by the Republican Leadership on April 3, 1973:

Hugh Scott, (Pa.), Minority Leader, Norris Cotton, Chairman, Republican Conference, John Tower, Chairman, Republican Policy Committee, Robert P. Griffin, Assistant Minority Leader, Wallace F. Bennett, Secretary of the Republican Conference.

VICTIMS OF CRIME ACT OF 1973

The PRESIDING OFFICER (Mr. HELMS). Under the previous unanimous-consent agreement, at the conclusion of the vote on the reconsideration of S. 7, the Senate will now proceed to the consideration of S. 800, which the clerk will report.

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. While the Chair welcomes visitors to the galleries, we must request that they be in order.

Mr. TALMADGE. Mr. President, I ask unanimous consent that Dan Tate and William Talmadge, of my staff, be granted the privilege of the floor during the consideration of my amendment.

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

Mr. TALMADGE. Mr. President, I yield to the floor manager of the bill.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that Mr. Blakey and other members of the professional staff of the Subcommittee on Criminal Laws and Procedures may be admitted to the Chamber once again during consideration of the bill.

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

Mr. TALMADGE. Mr. President, I ask unanimous consent that my amendment be withdrawn at this point, and I submit a modified version in lieu thereof which I ask the clerk to report.

The PRESIDING OFFICER. Is there objection? The Chair hears no objection, and it is so ordered. The clerk will report.

The assistant legislative clerk proceeded to read the amendment.

The PRESIDING OFFICER. Without objection, the amendment will be printed in the RECORD.

The amendment is 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 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 which threatens life or property for which he may be prosecuted in a court of the United States,

may, 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. In any case in which such additional sentence is not imposed, the court shall state in writing its reasons for so deciding. The imposition or execution of such additional sentence if imposed shall not be suspended nor probation 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 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 as provided in paragraph (1) 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 30 years. The imposition or execution of such additional sentence shall not be suspended and probation shall not be granted.

"'(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 provisions of this Act or of any other law, any person who violates section 401(a)(1) 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 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, 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)(1) of this Act by illegally manufacturing, distributing or dispensing, in an amount equal to or in excess of one-tenth (1/10) of an ounce of, or the equivalent of one-tenth (1/10) of an ounce of pure heroin or morphine and who, at the time he committed such violation, was not an addict.

"'(c) This section shall not be applicable to any person under 18 years of age at the time the offense was committed, provided, however, that the Attorney General may expressly direct, that any person over 16 years of age and under 18 years of age who is for the second or subsequent time convicted as an adult for violating this section by illegally manufacturing, distributing or dispensing, in an amount equal to or in excess of one-tenth (1/10) of an ounce of, or the equivalent of one-tenth (1/10) of an ounce of, pure heroin or morphine and who, at the time he committed such violation, was not an addict, be treated as if he were a first offender under the provisions of this section, and sentenced accordingly.

"'(d) 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. 704".

On page 66, line 17, strike "and IV" and insert in lieu thereof ", IV, V and VI".

Mr. TALMADGE. Mr. President, when I first introduced this amendment, the junior Senator from Indiana (Mr. BAYH) requested that we postpone its consideration until today. I was, of course, happy to accommodate him in this regard.

During that interval, my colleague from Indiana and I discussed the provisions of the amendment. He has suggested some changes, several of which, in my judgment, strengthen the amendment, and I was happy to accept them. I am pleased to announce that my able and distinguished colleague has now joined me as a cosponsor of my amendment.

Mr. President, one has only to open the newspaper to realize that a wave of terror is sweeping our Nation. When night falls on our cities, many sections of them become dangerous and treacherous areas into which many Americans fear to venture.

Twenty years ago, a man or woman walking down a darkened street at night would have no cause for fear or alarm at the sound of footsteps approaching rapidly from the rear. Can we say the same thing today? The answer to that question is tragically obvious.

Mr. President, I ask unanimous consent that the names of Senators PASTORE, HANSEN, STEVENSON, NUNN, and GURNEY be added as a cosponsor of the amendment.

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

Mr. TALMADGE. Mr. President, I submit that we should scourge the criminals from our streets like mad dogs. To do so will require, however, that we legislate against the criminals themselves—not just the implements of their crimes. For this reason I oppose efforts to require the licensing, registration, or confiscation of firearms. The first aspects of my amendment present a clear alternative to such efforts. My amendments legislates against the criminal, not an inanimate object. This measure increases the additional penalties imposed on individuals who use or unlawfully carry a firearm in the commission of a Federal felony. I feel that it also clarifies congressional intent with regard to how such criminals are to be punished.

In the case of first offenders under my modified amendment, the additional penalty would be a term of imprisonment for not less than 5 or more than 15 years. My amendment gives the court the option to either impose a sentence or not to impose a sentence on conviction of the first offense under this section. If the judge imposes a sentence, the defendant would not be eligible for probation and would not be eligible for suspension of the sentence imposed. In addition, the sentence imposed must run consecutively to the punishment imposed for the underlying felony.

There are two reasons for this change in my amendment. First, because under existing law the courts are given no latitude or discretion where first offenders are involved, the courts have refused to apply the mandatory minimum sentence provisions. In effect, we have a law on the books which the courts have refused to enforce. Second, there are cases in which the defendant's potential for rehabilitation are very good. The courts should not be denied the opportunity to rehabilitate that first-time offender and make him a productive, taxpaying citizen.

In the case of second offenders under the firearms aspects of the modified amendment, the additional penalty would be a term of imprisonment of not less than 10 or more than 30 years. The court would have absolutely no discretion; such sentence is required. Furthermore, the additional penalty must be served consecutively to the punishment imposed for the commission of the underlying felony. The court may not suspend this sentence or grant a probationary sentence.

The modified amendment also takes into account the fact that these additional penalties are not to be applied in the case of paper fraud. For example, I do not intend that this amendment apply in the case of a man who fraudulently fills out a Federal income tax return while he has a firearm in his possession unlawfully. This is because the firearm bears no reasonable relationship to the underlying felony. For this reason, my amendment has been modified to cover the use or unlawful carrying of a firearm in the commission of a Federal felony which threatens life or property.

Mr. President, the modifications to the firearms aspects of my amendment were made in the hope that the entire legislative package which comprises my amendment can be adopted by this body. I shall continue to push at every opportunity for even more stringent legislation to stop the epidemic of gun-related crimes in our society.

Every Senator in this body knows that many criminals are tied together by a common thread. Whether they are prostitutes, thieves, muggers, or murderers, they are all striving desperately to satisfy an unquenchable hunger for drugs.

I am, of course, Mr. President, concerned with clearing these criminals from our streets. But every time we clear them, they will be replaced.

We must concentrate our efforts on the vultures who are mass producing these criminals as surely as if they were running an assembly line. They are preying on our society, Mr. President, and it is past time that something was done about them.

They are not addicts themselves, for they know all too well the horrors endured by their victims.

These are cold, calculating, ruthless criminals of the lowest order. They deserve neither our mercy nor our compassion—but they do deserve our attention.

My amendment calls for the imposition of an extra sentence on these "public menaces."

In order to be sentenced as a "public menace," a defendant must not be an addict himself, and must be engaged in the illegal manufacture, distribution, or sale of a mixture containing at least one-tenth of an ounce of heroin or morphine. These drugs were selected for special attention by the administration in their proposals on drug abuse because they pose a most serious problem in our society.

The junior Senator from Indiana expressed concern to me regarding the mandatory application of this provision to youthful offenders. I agree that a certain measure of discretion should be included in this provision where juveniles are concerned. Therefore, the sentence called for by this amendment will not be applied to the first conviction of an offender who is 18 years of age. The conviction, however, will be noted upon his record. Upon the second such conviction of an offender who is between the ages of 16 and 18, the Attorney General may, at his option, request that the juvenile be sentenced as a first offender under this amendment.

Those who are convicted for the first time as "public menaces" will receive an extra sentence of from 10 to 30 years in addition to the sentence already imposed for the original crime of which they were convicted. No probation, parole, or suspension of sentence will be available to them. Second and subsequent conviction will result in the imposition of an extra life sentence. While this sentence also may neither be probated nor suspended, the defendant would be eligible for parole after he has served 30 years of the additional life sentence.

Mr. President, this amendment does not attempt to effect any substantial substantive changes in the drug laws we now have. "An addict" under my amendment is the same thing as an addict under existing law—any individual who habitually uses any narcotic drug so as to endanger the public morals, health, safety, or welfare, or who is so far addicted to the use of narcotic drugs that he has lost the power of self-control with reference to his addiction. I am simply trying to isolate for public attention and deserved retribution those people who are lining their pockets with money earned at the expense of lives and property of law-abiding citizens and the shattered bodies and broken minds of youthful drug addicts.

I yield now to my distinguished cosponsor, the Senator from Indiana.

Mr. BAYH. Mr. President, over the weekend, the distinguished Senator from Georgia (Mr. TALMADGE) and I have tried to put together a piece of legislation which we think will make a significant contribution to the bill. I think most of us who believe in the Bill of Rights believe in the right of individual citizens to understand the importance of due process in our system of jurisprudence. However, society also deserves to be protected. I think we have drawn a piece of

legislation that will achieve this balance and make a significant contribution toward correcting a serious problem as far as crime is concerned.

The amendment provides significant penalties for the big heroin pusher. We have attempted to mandate punishment for a person who is seeking to peddle the stuff, trying to hook others, and make huge profits for himself.

We are also directing our attention to another serious crime—the use of the deadly weapon in the commission of a felony.

Mr. President, I should like to ask that Ms. Mather Falco, Mr. John Rector, and Mr. Woodman Jones be permitted access to the floor during the debate.

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

Mr. JAVITS. Mr. President, will the Senator yield for a question?

Mr. BAYH. I yield.

Mr. JAVITS. Mr. President, I have looked over this amendment, although it is one I have not had very much chance to look over. The question of mandatory sentences, especially mandatory life sentences, is a very difficult one. I am especially concerned about that part of the amendment. It provides for no concurrent sentencing, which locks in the sentence rather tightly. Am I correct in my understanding that after 30 years parole is possible—when 30 years have been served under one or both of these sentences? Or does the provision apply only to one?

Mr. BAYH. Under both. I must say that I have reservations, in most instances, about mandatory sentencing, particularly a mandatory life sentence. But I suggest to the Senator from New York that when we see the pusher make his next attempt to push, I am ready to put that fellow away.

Mr. JAVITS. The second question is asked because of the very great haste with which we are acting and are expected to vote. We should consider whether we ought to give this more careful consideration. How can we be sure that a person is a nonaddict? How is that established? By the way, are copies of the amendment available?

Mr. BAYH. For the purpose of this section, if the Senator from New York will listen——

Mr. JAVITS. If the Senator will allow me to say so, I think we ought to have some copies available. We usually have copies.

Mr. BAYH. I think the Senator has a right to express concern. Let me read the language the Senator is concerned about:

(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)(1) of this Act by illegally manufacturing, distributing or dispensing, in an amount equal to or in excess of one-tenth (1/10) of an ounce of, or the equivalent of one-tenth (1/10) of an ounce of, pure heroin or morphine and who, at the time he committed such violation, was not an addict.

Mr. JAVITS. Mr. President, are we then to understand that if he is an addict, he is not subject to that mandatory sentencing provision?

Mr. BAYH. The Senator is correct.

Mr. JAVITS. What happens if he is an addict?

Mr. TALMADGE. If an addict is to be prosecuted, he must be prosecuted under the existing law. My amendment is inapplicable to him. It is only applicable to peddlers of hard drugs if they are not themselves addicts.

Mr. JAVITS. I gather this obtains at any time if the individual is not an addict.

Mr. TALMADGE. The Senator is correct.

Mr. JAVITS. That is correct; is it not?

Mr. TALMADGE. The Senator is correct. He would have to be a nonaddict at the time he violated the provision in the proposed amendment.

Mr. JAVITS. Who is to make that determination, the sentencing judge?

Mr. TALMADGE. The court would make the determination.

Mr. JAVITS. Mr. President, is there any definition of an addict in the existing law?

Mr. BAYH. Yes, there is.

Mr. JAVITS. A definition to which this refers?

Mr. BAYH. Yes. Let me read section 102 of title III of Public Law 91–513. It reads:

The term "addict" means any individual who habitually uses any narcotic drug so as to endanger the public morals, health, safety, and welfare, or who is so far addicted to the use of narcotic drugs as to have lost the power of self-control with reference to his addiction.

Mr. JAVITS. Mr. President, is there a reference in this act? I count myself as a fairly competent lawyer. Is there anything that ties this word "addict" to that definition, as this language is drafted?

Mr. TALMADGE. This is an amendment to the existing law, I may say.

Mr. JAVITS. In other words, is there a definition in the Controlled Substances Act?

Mr. TALMADGE. Yes.

Mr. BAYH. This is the law we are amending.

Mr. JAVITS. It is in the act.

Mr. BAYH. It is.

Mr. JAVITS. So the representation is made that the particular word is defined in the very act we are amending.

Mr. BAYH. That is not only a representation. That is a fact.

Mr. JAVITS. All right. Now, moving to the first item where an offender uses a firearm to commit a felony that is not related to drug addiction. That could be an addict or a nonaddict as well. He is guilty because he used or carried a firearm in the commission of a felony under this section.

Mr. BAYH. No. That comes under section 924(c) of title 18.

Mr. JAVITS. And that is not related to addiction.

Mr. BAYH. No.

Mr. JAVITS. In other words, an addict who uses a weapon to commit two felonies will be subject to the first part of this amendment, even though he would not be as to the second part. Is that correct?

Mr. BAYH. If he uses a firearm, he would be subject to the provisions that we now amend, title 18, section 924, enacted in the Omnibus Crime Control Act of 1970. However, he would not be subject to the heroin pusher part of our amendment if he is an addict.

Mr. JAVITS. I think it is the other way. What I am trying to get at is, whether or not he is an addict, he would be caught under 501.

Mr. BAYH. That is correct, if he uses a firearm.

Mr. JAVITS. Mr. President, I would like to request that these two parts of the amendment be severed since they relate to very different subjects and are very difficult problems.

Mr. MANSFIELD. Mr. President, would the Senator withdraw that request?

Mr. JAVITS. Mr. President, I withdraw my request.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that an amendment which I offer to the pending amendment be in order.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered. The amendment will be stated.

The legislative clerk read as follows:

At the end of section 501 in the amendment add the following:

SEC. 502. (a) Subsection (e) of section 3575 of title 18, United States Code is amended (1) by striking out the period at the end of paragraph (3) thereof and inserting in lieu thereof a semicolon and the word "or", and (2) by adding immediately after paragraph (3) thereof the following new paragraph:

"(4) the defendant used a firearm (as defined in section 921(a)(3) of this title) to commit such felony, or unlawfully carried a firearm (as defined in section 921(a)(3) of this title) during the commission of such felony."

(b) Section 3575 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) Nothing in this section shall be construed as amending, altering, modifying, or otherwise affecting the provisions of subsection (c) of section 924 of this title, or as affecting the applicability of such provisions to any defendant sentenced pursuant to this section".

Mr. MANSFIELD. Mr. President, with respect to sentences for gun criminals, the pending Talmadge-Bayh amendment strengthens current law against gun crime, a provision that I authored as a 1970 amendment to the Federal Criminal Code.

I support this revision because it makes it even stronger medicine for the criminal who chooses a weapon of violence.

Mr. President, my amendment to the Talmadge-Bayh amendment would treat the gun criminal as a dangerous special offender under Federal criminal law.

The major feature that this amendment adds is that the sentence, in the case of a first or second gun offender, may be appealed by the Federal prosecutor should he feel that a stiffer sentence is in order, or that the trial judge erred by not imposing a prison term at all. On appeal, the court of appeals could make the sentence more severe; it could impose any sentence which the sentencing court could have originally imposed, or

it could simply affirm the sentencing action taken by the lower court.

Mr. President, I would hope that the authors of the amendment would accept my amendment, in which case I will have my statement printed in the RECORD.

Mr. TALMADGE. Mr. President, I have no objection to the amendment of the distinguished majority leader. If the Senator from Indiana has no objection, I am prepared to accept the amendment.

Mr. BAYH. Mr. President, I have no objection.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the remainder of my statement be printed in the RECORD.

Mr. HUGHES. Mr. President, reserving the right to object, and I do not intend to object, I fail to understand the amendment.

Mr. MANSFIELD. All right. I withdraw my request. I continue my statement.

In practice, I feel that this procedure will prove necessary and vital in our system of criminal justice. It is necessary simply because the prosecutor too often confronts a criminal whose actions present a particular threat to society at large, but who, for whatever reason, escapes the penalty of confinement—or sufficient confinement—the only penalty that offers true protection to society. I agree that the reform of correctional institutions to provide rehabilitation is equally vital. Our prisons simply fail to do the job intended.

And I recognize that this proposal—allowing the prosecutor to appeal from a sentence that is too lenient—may be greeted by some as of dubious validity. It is out of a deep sense of outrage over violence with firearms, however, that I believe something has to be done—something that serves notice on the criminal who resorts to weapons of violence that he may pay an additional price for doing so. Allowing a court of appeals to impose an even stiffer sentence against a gun criminal will provide, I think, the price increase needed for this type of crime. Such a procedure, I might add, is not without constitutional foundation. My attention has been directed, for example, to the 1972 case of Robinson against the Warden of the Maryland House of Corrections where the Fourth Circuit Court of Appeals of the United States ruled that an increased sentence given on appeal to a criminal convicted under Maryland law did not violate constitutional guarantees against double jeopardy, nor did it offend due process considerations or fall in the category of cruel or unusual punishment.

In short, I believe there is an added safeguard owing to society where gun crime is involved. The criminal ought to be considered a dangerous special offender and the sentence against him should be open to review if there is any danger at all that society is not adequately protected from his threatened acts of violence.

In the case of the gun criminal my amendment would give society the added protection it needs. For the gun criminal, it adds to the price he already pays for choosing a weapon of violence in committing his crime. I hope it is agreed to.

Mr. JAVITS. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. MANSFIELD. I yield.

Mr. JAVITS. Mr. President, I ask unanimous consent that Brian Conboy be given the privilege of the floor during the consideration of the bill.

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

Mr. BAYH. Mr. President, I ask the Senator from Montana to yield for a question.

Mr. MANSFIELD. I yield.

Mr. BAYH. Mr. President, is the Senator from Indiana accurate in assessing this situation? Would this only be used in those instances in which the prosecutor felt that a judge showed a clear instance of not recognizing the need to mete out punishment sufficient to deter continuing criminal activity?

Mr. MANSFIELD. The Senator is absolutely clear. And while not a lawyer, I can cite cases, especially in the city of New York, where that has been the norm.

Mr. BAYH. Is it not also correct that, in most instances, the appellate court would look to the trial court that heard the case and that only when there is a rather obvious violation of such a policy would the appellate court take advantage of the amendment offered by the Senator from Montana?

Mr. MANSFIELD. The Senator is correct.

The PRESIDING OFFICER. Is there objection to the Senator from Georgia and the Senator from Indiana modifying their amendment?

Mr. HRUSKA. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HRUSKA. May we have the unanimous-consent request repeated?

The PRESIDING OFFICER. The unanimous-consent request was not exactly in order. Only the authors of the amendment can modify it.

Mr. TALMADGE. Mr. President, I am willing to so modify my amendment.

I send the amendment of the distinguished majority leader to the desk, and ask that the Talmadge-Bayh amendment be modified accordingly.

The PRESIDING OFFICER. The amendment will be so modified.

The Talmadge-Bayh amendment, as modified, is 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 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 which threatens life or property for which he may be prosecuted in a court of the United States, may, 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. In any case in which such additional sentence is not imposed, the court shall state in writing its reasons for so deciding. The imposition or execution of such additional sentence if imposed shall not be suspended nor probation 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 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 as provided in paragraph (1) 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 and probation shall not be granted.

"'(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 defendent 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 provisions of this Act or of any other law, any person who violates section 401(a)(1) 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 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, 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)(1) of this Act by illegally manufacturing, distributing or dispening, in an amount equal to or in excess of one-tenth (1/10) of an ounce of, or the equivalent of one-tenth (1/10) of an ounce of, pure heroin or morphine and who, at the time he committed such violation, was not an addict.

"'(c) This section shall not be applicable to any person under 18 years of age at the time the offense was committed, provided, however, that the Attorney General may expressly direct, that any person over 16 years of age and under 18 years of age who is for the second or subsequent time convicted as an adult for violating this section by illegally manufacturing, distributing or dispensing,

in an amount equal to or in excess of one-tenth (1/10) of an ounce of, or the equivalent of one-tenth (1/10) of an ounce of, pure heroin or morphine and who, at the time he committed such violation, was not an addict, be treated as if he were a first offender under the provisions of this section, and sentenced accordingly.

"'(d) 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. 704".

On page 66, line 17, strike "and IV" and insert in lieu thereof ", IV, V and VI".

SEC. 502. (a) Subsection (e) of section 3575 of title 18, United States Code is amended (1) by striking out the period at the end of paragraph (3) thereof and inserting in lieu thereof a semicolon and the word "or", and (2) by adding immediately after paragraph (3) thereof the following new paragraph:

"(4) the defendant used a firearm (as defined in section 921(a)(3) of this title) to commit such felony, or unlawfully carried a firearm (as defined in section 921(a)(3) of this title) during the commission of such felony."

(b) Section 3575 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) Nothing in this section shall be construed as amending, altering, modifying, or otherwise affecting the provisions of subsection (c) of section 924 of this title, or as affecting the applicability of such provisions to any defendant sentenced pursuant to this section".

Mr. TALMADGE. Mr. President, I ask unanimous consent that William E. Pursley, Jr., of the staff of the Committee on the Judiciary, be accorded the privilege of the floor.

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

The question recurs on agreeing to the Talmadge-Bayh amendment as modified. Who yields time?

Mr. HUGHES. Mr. President, who controls the time in opposition?

The PRESIDING OFFICER. The Senator from Arkansas and the Senator from Indiana.

Mr. McCLELLAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLELLAN. Are we under controlled time?

Mr. MANSFIELD. Yes.

Mr. McCLELLAN. On each amendment?

The PRESIDING OFFICER. There is a limitation of 1 hour on the amendment. The Senator from Arkansas has 10 minutes.

Mr. MANSFIELD. Why does not the Senator from New York State take the time on this side?

Mr. TALMADGE. Mr. President, I have no objection to yielding time to the Senator from Iowa. I yield the Senator such time as he may require.

Mr. HUGHES. I simply want to ask a question. I do not have these laws before me, or the printed amendment. Would the manager of the bill tell me specifically how this amendment would work in relationship to an addict? I, myself, after working for 4½ years now in connection with problems with drugs, am not certain what drugs this applies to. The Senator mentioned heroin and morphine specifically.

Mr. TALMADGE. That is all.

Mr. HUGHES. Does it apply to any other drug or narcotic?

Mr. TALMADGE. No, it does not.

Mr. BAYH. Mr. President, if the Senator will permit me to interject, this is one of the concerns I had last week when this matter was considered rather late in the day. I was concerned because we had not really narrowed it to the specific drugs that would be considered or made certain that we had a significant quantity of the drug.

In other words, a person could have had 4 ounces of grass mixed with an insignificant amount of a schedule 1 or 2 narcotic and come under the amendment's original definition. This is no longer the case.

Mr. HUGHES. As I understand it, then, Mr. President, it applies strictly to heroin and morphine.

Mr. TALMADGE. That is correct. And there must be at least one-tenth of an ounce of pure heroin or pure morphine. Such an amount brings, I might say, on the wholesale market, seven or eight hundred dollars, and on the resale market on the street several thousand dollars. The reason that definition was put in there is to get at the hardened drug pusher, not the addict. That is what this amendment is aimed at, no more and no less.

Mr. HUGHES. Could I ask the chairman of the committee to give me an example of a typical crime where this penalty would apply and what the total penalties applied would amount to, in years? Would it apply only to an individual who is not an addict himself?

Mr. TALMADGE. This aspect of the amendment would apply only to an individual who is not an addict himself and who sells or illegally manufactures a substance containing at least one-tenth of an ounce of pure heroin or morphine.

There is an exception. If a youthful first offender over 16 and under 18 is convicted as a public menace, this section will not be applied, but will be noted on his record. On a second conviction of a youthful offender over 16 and under 18, he may, at the option of the Attorney General, be sentenced as a first offender under this section.

This section is aimed at getting the cold-blooded, calculating pusher of narcotics who preys on the youth of our country for greed and avarice alone, and commits them to a life of crime. That is who the amendment is aimed at.

Mr. HUGHES. What are the provisions of the original law at the present time? I have not had time to understand or compare the two together. I may not object if I can understand what we are putting together. I am trying to understand it.

Mr. BAYH. Mr. President, will the Senator let the Senator from Indiana address a question to him? Was he seeking the definition of "addict" in the act to which this amendment applies?

Mr. HUGHES. Well, originally I was, but at the present time I am trying to determine what is the existing practice as a first sentence conviction, without this additional penalty.

Mr. TALMADGE. I have in my hand a statement given to me by the staff of the Judiciary Committee. I am informed that 76.3 percent of the violators of present law are sent to prison, and 51.3 percent receive 5 years and over.

Mr. HUGHES. What are the penalty provisions of the law?

Mr. BAYH. If I may, I will read the penalty provisions of the present law.

Public Law 91-513, section 401(b)(1)(A) provides:

In the case of a controlled substance in schedule I or II—

which covers heroin and morphine, of course—

which is a narcotic drug, such person shall be sentenced to a term of imprisonment of not more than 15 years, a fine of not more than $25,000, or both. If any person commits such a violation after one or more prior convictions of him for an offense punishable under this paragraph, or for a felony under any other provision of this title or title III or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 30 years, a fine of not more than $50,000, or both. Any sentence imposing a term of imprisonment under his paragraph shall, in the absence of such a prior conviction, impose a special parole term of at least 3 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 6 years in addition to such term of imprisonment.

Mr. HUGHES. If the Senator will yield, then, as I understand——

Mr. BAYH. May I suggest that this applies to addicts?

Mr. HUGHES. I beg the Senator's pardon?

Mr. BAYH. This applies to addicts, of course.

Mr. HUGHES. Then, as I understand the Senator from Indiana, a first offender who is a nonaddict selling heroin on the streets and picked up is subject, under existing law, to a sentence of up to 15 years?

Mr. BAYH. At the discretion of the judge.

Mr. HUGHES. At the discretion of the judge, and a $25,000 fine, or both.

Mr. BAYH. That is accurate.

Mr. HUGHES. I beg the Senator's pardon?

Mr. BAYH. That is accurate.

Mr. HUGHES. And then with this amendment, he would receive an additional minimum of 10 years and a maximum of 30 years?

Mr. BAYH. For a second offense. The first offense would be 5 to 15 in addition.

Mr. HUGHES. What am I reading here, then?

Mr. BAYH. No, I am sorry, the Senator is correct. It is 10 to 30. I was looking at the minimum provision.

Mr. HUGHES. Yes, an additional 10 to 30 years.

Mr. BAYH. That is right.

Mr. HUGHES. Which would run con-

secutively, and could not run concurrently, is that correct?

Mr. BAYH. That is correct.

Mr. HUGHES. Then the other thing, does the Senator think——

Mr. BAYH. I should like to point out to the——

Mr. HUGHES. Does the Senator think it is possible, under a combination of these sentences, that a judge may not even give a man, who is convicted, over 1 year on the first offense or under the original law?

Mr. BAYH. That is possible.

Mr. HUGHES. So that the total sentence would be 10 years.

Mr. BAYH. That is possible.

Mr. HUGHES. Then, as a matter of fact we may not be increasing the penalty at all, except for the fact that——

Mr. BAYH. It would all depend on the judge. That same judge might give him 1 year for this same horrible crime and we would do nothing about it——

Mr. HUGHES. Except no parole or probation, under the amendment.

Mr. BAYH. Under the amendment, that is accurate.

Mr. HUGHES. Of course, if the judge wanted to, he could give a man 15 years plus 30 years for a total of 45 years for a first offense with no parole.

Mr. BAYH. That is accurate.

Mr. HUGHES. Would he get any good time under the first offense?

Mr. BAYH. Not under the first offense.

Mr. HUGHES. Under the original law. Fifteen years—would he get good time?

Mr. BAYH. He gets good time under the first offense, yes, that is accurate.

Mr. HUGHES. Could any of that full 15 years be commuted or parole granted?

Mr. BAYH. Yes, it may be commuted, and parole may be granted, if there is a limit of 3 years on the first sentence and 6 years on the second sentence under the original act, but he could do less than that.

Mr. HUGHES. He would have to serve at least 3 years.

Mr. BAYH. Yes, before being paroled.

Mr. HUGHES. Then what has been the second sentence, but not in addition, would be a minimum of 10 years, a maximum of 30 years?

Mr. BAYH. That is right.

Mr. HUGHES. What I am trying to find out is, a first offender could have a minimum of 13 years and a $25,000 fine and a maximum of 45 years and a $25,000 fine.

Mr. BAYH. I think the Senator from Iowa is accurate in pointing out that these are very serious penalties. But, before he makes a final judgment, I think that all of us should understand that we are talking about a narrow category of individuals. We are not talking about the addict who is hustling to sustain a habit which has gotten out of control, but we are talking about someone who is sitting back knowingly trying to get others hooked so that he can make a buck out of it. The usual compassion that I have for a temperate system of jurisdiction is significantly diminished as far as this particular category of crime is concerned.

Mr. HUGHES. I am not talking from the point of view of the law, or emotion, or the feelings of either the originators or the consponsors of the amendment, but I should like to point out to the Senator from Indiana and the manager of the amendment that a 45-year sentence to a 21-year-old boy may well be a life sentence for a first offense, if the judge should throw the book at him. It may well mean that.

Mr. TALMADGE. If the distinguished Senator from Iowa would let me interject here, I am sure the distinguished Senator knows that the nonaddicted fellow who peddles hard drugs on the street is trying to get young men and women hooked on heroin or morphine, or other drugs. For those he hooks there is a lifetime of degradation and suffering, of crime, burglary, prostitution—the utmost depravity that mankind can experience. He is after not just one young man or woman, but thousands of them.

Mr. HUGHES. The Senator from Iowa has held literally hundreds of hours of hearings on this subject and agrees with the Senator from Georgia in his opinion of the depravity of those who prey upon humanity in this and other ways. We have no disagreement whatsoever on that.

But the principle of a sentencing law and its effect on the lives, not only of offenders, but those to whom drugs are sold, not simply the effect upon society of this kind of sentencing and what it may lead to, is of deep concern to me.

In essence, what we are doing, if a judge wants to, is allowing and providing for a first offense, which is in effect a lifetime sentence without commutation or parole for what is basically the average lifetime of the male American. I think that we all should be aware of that when we talk of the number of years involved.

If we are going to move into these types of sentencing laws, we should remember—if I remember my statistics correctly—that the most savage crimes in this country are committed while under the influence of alcohol. That is a legal drug, and a common drug, which is used today by 89 million persons almost every day of their lives.

We all agree on the amount of damage in our society that heroin does, yet on our public television and radio we see the common possession of a legal drug such as alcohol which leads to more crime in America than any other drug and, I might add, just as much depravity in the breaking up of homes, the committing of savage crimes against society, and so forth.

I have considerable difficulty, in the mind of this Senator at least, in seeing a first offense sentence against a criminal of one type who admittedly does everything that the Senator says he does, and I do not debate that for one moment, as being a life sentence, in effect, for this man, no matter what we call it on the books.

Mr. BAYH. If the Senator will permit me to interject one observation, I am not too sure as to the allocation of time, or where it is coming from. I hope that we can make some reconciliation before we run out of time, because these questions need to be asked, and answered.

I am concerned about someone being put away from 30 years for a first offense. That is why I was not willing to go along until we had defined it very carefully. But I should like to suggest to my good friend from Iowa that under the amendment as presented by the Senator from Georgia and the Senator from Indiana, it is a mandatory 10 to 30 years. Under the present act as it stands now, that same 21-year-old can be put away for a first offense for 15 years, which is a pretty good slug——

Mr. HUGHES. But that is a big difference from a life sentence which in effect is what 45 years would be to a 21-year-old man, when the average lifetime of the average male is 68.2 years, if I remember that figure correctly.

Mr. BAYH. Well, I would hate to think of anyone being placed in prison for life, but I do not think that I need to repeat what the Senator from Georgia just said. A man can sell one-tenth of an ounce of heroin on the street which makes 1,418 bags at 2 percent and 2,835 bags at 1 percent. The heroin commonly sold on the street today is no more potent than this. This amount of heroin would commit many lives to a life of drug addiction. Thus, such a drug pusher may be getting less than he deserves.

Mr. HUGHES. I would ask the distinguished Senator from Indiana, please, not to place the Senator from Iowa in a position of supporting a pusher who is out trying to destroy the lives of thousands of Americans. No one hates them any worse than I do. No one has spent more time in trying to bring them to justice than I have. What I am pointing out is that this type of sentencing law can lead to such things as mandatory castration for rape, and can lead to mandatory life sentences for other crimes. It leads, in my opinion, to a move backward in civilization so far as sentencing procedures are concerned, regardless of the danger of the crimes involved. There has to be some humanity in it.

Mr. BAYH. If the Senator will permit me to interject a thought there, I know of no Member of this body who has worked harder and who is more opposed to the practice to which we are addressing ourselves here than the distinguished Senator from Iowa (Mr. HUGHES). Just as I accept his judgment but respectfully disagree with him on the ultimate impact of what the sentence would be, I hope he would not infer that those of us who disagree with him would say there is a necessity for castration for rape and on and on and on. We can disagree and yet not go quite that far.

Mr. HUGHES. I think it is ironic that the Senator from Indiana and the Senator from Iowa find themselves debating this issue, because I happen to know that basically we would be in agreement on 99 percent of the procedures used in relation to rehabilitation and the redemption of human beings.

The existing sentencing laws, even with respect to first degree murder, allow for commutation. They allow the Executive to make the final decision. They allow an appeal to the Chief Executive of the land or the Chief Executive of a

State—to someone, somewhere—to stop this sort of thing.

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

Mr. HUGHES. I yield.

Mr. TALMADGE. This amendment makes no provision for a pardon by the Chief Executive. That is a constitutional provision. The Chief Executive can pardon any time he desires, and there is no way in which Congress can limit constitutional grant of power.

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

Mr. HRUSKA. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HRUSKA. What is the time situation?

The PRESIDING OFFICER. The Senator from Georgia has 14 minutes remaining, and the Senator from Arkansas has 10 minutes.

Mr. TALMADGE. Does the Senator desire time?

Mr. HRUSKA. Will the Senator yield me 5 minutes?

Mr. TALMADGE. I yield.

Mr. HRUSKA. Mr. President, it is my understanding that the pending amendment has a provision requiring mandatory sentences in certain cases of morphine and heroin trafficking. Additionally it has provision for mandatory sentences with respect to crimes committed with a gun. Finally, it would authorize limited appellate review of sentences so as to allow the increase of prison terms for dangerous special offenders.

In this latter regard it would amend the definition of dangerous special offenders as contained in the organized, Crime Control Act of 1970.

Mr. President, it happens that this Senator is in favor of the principle underlying each of these proposals. For years I have introduced a bill to provide appellate review of sentences. There is also pending in Congress S. 1300, a bill sent up by the administration as part of the President's crime program, dealing with heroin trafficking. These are all matters that should be legislated upon with deliberate speed.

I submit, however, that when we labor in committee and in the Senate Chamber, as we did 3 years ago, to define, dangerous special offenders and the appellate review of sentences contained therein, it is somewhat difficult to understand how we can fashion informally and on the floor of the Senate legislation which goes deeply and fundamentally into every one of these subjects.

I submit that it cannot be done. It cannot be done with due respect for this body's ideal deliberateness in the legislative process. None of these concepts is simple; none is simplistic. They are entitled to the considered evaluation of appropriate committees.

It would not be possible—notwithstanding my sympathy and my active work for enactment into law in proper fashion of these proposals—for me to favor this amendment under current operating procedures.

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

Mr. HRUSKA. I yield.

Mr. JAVITS. I agree with the Senator, and I favor some reasonable minimum mandatory sentences on measures which relate to pushers.

I must say that it simply boggles my mind that we would enact long-term sentences of life, as Senator Hughes has pointed out, without some evidence, some deliberation, some consideration of the relationship between these offenses statute by statute. It concerns me that on an hour's debate, despite the deeply held views of the two distinguished Senators who have sponsored this amendment we might simply legislate men's lives away, even though they are the worst criminals in the world. This flies in the face of every principle of providence and humanity which we know as lawyers.

I say to the Senator that I know how he feels about most things. His opinions differ from mine in many of these ideological matters; but upon one thing we must be together, as lawyers. What he has just said reflects the highest tradition of the legal profession and the highest sense of responsibility.

Mr. HRUSKA. Each of the proposals embodied in this amendment—which, of course, is divisible—is entitled to due processing. I do not believe however that they have had any processing so far.

The PRESIDING OFFICER. Who yields time?

Mr. TALMADGE. I yield 3 minutes to the distinguished Senator from Idaho.

Mr. McCLURE. I thank the Senator for yielding.

Mr. President, I take this time to commend the Senator for the pending amendment and to point out a parallel which exists between one section of his amendment and a bill I have sponsored in the Senate, which is pending, S. 651. This bill was introduced by me on January 31 of this year. It deals with penalties for the use of firearms in the commission of felonies.

Well over 2,000 laws affecting the use and registration of guns are presently on the books across the Nation. We know from experience that these restrictions have had absolutely no effect whatsoever on the crime rate. Rather than more controls over firearms, I believe that emphasis should be on efforts to control the person who wrongfully uses a firearm. With this amendment we are finally recognizing more vividly the need for stronger penalties against the gun-connected criminal.

Mr. President, the amendment which the Senator from Georgia has offered does not impose mandatory sentences in addition for the use of firearms, as my bill would do. However, I believe that it is a step in the right direction, and I support the amendment in that particular. I would have preferred that we had gone further and made additional sentences for the use of firearms mandatory.

The punishments called for in this amendment are stiff and they should be. As tired as the argument might be, a gun is no more dangerous than the man who uses it. Our law abiding citizens deserve every effort we can muster to deter the felon. It is high time the criminal gunmen in our country know that the law means business.

Many have decided they can solve our crime problem by locking up the guns. That is about as effective as pouring gasoline on a fire. The increased penalty called for in this amendment I am sure will have a beneficial effect on strengthening the laws we have today.

A number of people think that we can control crime by controlling firearms, and I think we are approaching the matter in the proper fashion when we look at the criminals who misuse firearms as the fault in the system rather than the possession of firearms.

I also point out that my bill would go one step further than the amendment of the Senator from Georgia, in that it would attempt to impose additional penalties where the gun is used in the employment of a crime punishable under State statute. My bill deals with a separate Federal offense punishable by trial under Federal law, and at the same time would not do the thing which I think is very dangerous, if that should become involved in it—attempt to federalize all the criminal codes of the various States.

I think the provisions of my bill with respect to mandatory sentencing of criminals using firearms, which goes further than the pending amendment, are perhaps in that respect superior to this amendment; but I commend the Senator from Georgia for his amendment and pledge my support.

I also point out one other feature contained in my bill that is not in the pending amendment—to do away with a couple of the problems in the ammunition registration section of the gun control laws. We have already lowered the voting age, by act of Congress, and by constitutional amendment, from 21 to 18; but we still have on the books, in regard to the purchase of ammunition, the 21-year-old restriction.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. HUGHES. Mr. President, will someone yield a few minutes?

Mr. McCLELLAN. I believe I have 10 minutes remaining on this amendment. I yield the Senator 3 minutes.

Mr. HUGHES. Mr. President, I should like to point out, in relation to the narcotics section of this amendment, that it is the opinion of the Senator from Iowa, after years of studying this question and chairing three subcommittees that relate to the use of narcotics and drugs, that this will leave those men who really manufacture or import or ship large quantities of heroin or morphine into this country, or manufacture it illegally, to deliberately make addicts out of people as salesmen, who deliberately use those people, sometimes perhaps even with forced addiction, perhaps under penalty of heavy borrowing or something else, to use heroin or morphine to avoid penalties of law, under the addict section of this law.

I think the probability is that it would, to some extent, increase addiction in this manner. I am in agreement with heavy penalties for those people who are non-addicts, who are illegally manufacturing

heroin or morphine. I have no objection to them being branded as public menaces. But I do not think it will diminish those people selling it. I think it will simply increase the number of addicts that sell it, and probably reduce the number of nonaddicts selling it, if such penalties cause a reduction thereof.

I think also of the possibilities of the latitudes for judges in this matter. I have believed in latitude in sentencing. But I believe it could lead to as much difference as 15 to 45 years in sentencing for the same sort of offense, which in one instance would leave a man the majority of his lifetime left to live after release from incarceration whereas in another instance it would, in effect, be a life sentence to the individual who received the sentence.

That breadth of latitude, in my opinion, is, in essence, death to one and life to another. I do not think there is any disagreement between those of us discussing this question.

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

Mr. McCLELLAN. I yield the Senator 2 additional minutes.

Mr. HUGHES. I thank the Senator.

I do not think there is any disagreement between the authors and the cosponsors of this amendment and the Senator from Iowa in the need for a harsh application and branding as a public menace those people who deliberately manufacture and sell large quantities of morphine and heroin which lead to the destruction of many lives in our society and the commission of so many crimes. But this type of sentencing law I am afraid is the forerunner of a retreat into the past in methodology of sentencing.

The Senator from Iowa is going to find himself placed in a position of voting against an amendment, with which he agrees in principle, on branding the criminal, of increasing the certainty of the penalty for the crime, because he disagrees completely with the philosophy of this amendment that defies rehabilitation, and that defies any potential possibility of recovery for the individual at all in our society.

I think the standard of civilization is being lost when we do that. I regret that there does not seem to be any possibility of reconciliation between the two differing positions. I would like to see the sentencing certainty of punishment strong, but I could not bring myself to vote for this amendment with the latitude of possibilities it has.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the name of the Senator from Georgia (Mr. NUNN) may be added as a cosponsor of the amendment.

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

Who yields time?

Mr. HART. Mr. President, will the Senator from Arkansas yield to me for 2 minutes?

Mr. McCLELLAN. Mr. President, I believe I have 5 minutes remaining.

The PRESIDING OFFICER. The Senator is correct.

Mr. McCLELLAN. I yield 2 minutes to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. HART. Mr. President, the writing of criminal law is perhaps as solemn a responsibility as any the Senate must assume. The place to write criminal law is not on the floor of the Senate and not under time limitation. This is so, whether we are dealing with a lovable group of possible defendants, which is rarely the case, or a bunch of bandits and ruffians, which is usually the case. The place to decide on a prudent course of action on the criminal code is in committee, after hearings, open discussion, markups and then, with committee record and report available, the Senate can make its judgment.

There is contained in this amendment some mandatory sentencing provisions. If this was a cheap, effective way to eliminate drug addiction and mugging, maybe I would be content to go along with mandatory sentencing. Mandatory sentencing, in the opinion of those most knowledgeable, so says the American Law Institute, the ABA, the National Committee on Crime and Juvenile Delinquency, and others, is not the way. We can have our favorite and unfavorite judges, but not one of us will ever know the circumstances of the individual who is going to be charged under what we are doing here; we will never know him or any aspect of the circumstances of the crime. As between us, who know not one aspect of a case, and the judge, who knows all that is possible of a case, is there any doubt that the wiser disposition of the specific case is more likely to be made by the judge? For this reason, I cannot support mandatory sentencing.

Mr. BAYH. Mr. President, if there is any time remaining, may I be recognized for a few minutes?

The PRESIDING OFFICER. The Senator from Georgia has 6 minutes remaining, and the Senator from Arkansas has 3 minutes remaining.

Mr. TALMADGE. I yield 3 minutes to the Senator from Indiana.

Mr. BAYH. I thank the Senator from Georgia. I have listened to my distinguished colleague from Michigan, and I usually find myself on the same side with him. I have also listened to the distinguished Senator from Iowa. I think it is important to look at exactly what we are doing. The Senator from Michigan referred to mugging. We are not talking about mugging. We are not talking about somebody who is involved in selling drugs because he has a habit but because he is in it to make money.

I have been very much concerned about this matter, and as chairman of the Subcommittee on Juvenile Delinquency I have done as much as anyone to try to reform our laws to provide for effective rehabilitation. For that reason we have excluded juveniles and addicts from this act because we hope to rehabilitate them. But for someone out there selling hard heroin or morphine—whether the amount is 2,835 one hundred milligram bags of 1-percent heroin or 1,418 bags of 2-percent heroin on the street—I have little compassion for that kind of person. Therefore, I come down on the side of teaching that fellow a lesson the only way we can.

Our amendment will significantly strengthen the hand of our law enforcement officials in dealing with what are in my view two of the most dangerous sorts of criminals in our society: those who use firearms in the commission of crimes, and those who are the purveyors of hard drugs. These serious crimes deserve and demand severe punishment. This amendment requires very severe punishment indeed.

When Senator TALMADGE first suggested that provisions dealing with these two pressing problems be added to this bill, I stated that I would support such legislation if it was effectively aimed at serious offenders. During the last few days, I have worked closely with Senator TALMADGE, and the amendment we offer today is intended to impose on hardened criminals penalties of the severity that their crimes warrant, while at the same time taking care not to mandate unnecessarily long terms for those for whom we can realistically hold out some hope of rehabilitation. We have drafted this amendment as precisely as we could, despite the time pressures and the lack of hearings and committee consideration. We think it urgent and proper to deal with those felons who use firearms to rob or to rape, and with those high level operators who, while not addicts themselves, push heroin and morphine on our citizens. These criminals have shown themselves by their offenses to be beyond the normal hope we hold out for rehabilitation in our society. Moreover, these criminals are the sort of cold, calculating characters who can be deterred by the specter of sure, swift, and severe punishment. The only solution for those who are not deterred and who commit these crimes is to put them away, and to put them away for a long time. This is what our amendment does.

With respect to those who use firearms to commit felonies, or who unlawfully carry firearms while committing a felony which threatens life or property, our amendment imposes, in addition to the penalties already provided by law, a minimum sentence of 5 to 15 years for the first offense, and 10 to 30 years for second offense. The imposition of the additional sentence on the first offender would be left up to the trial judge; but if he failed to impose this additional sentence, he would have to state his reasons publicly. For the second offense, the judge would have no such discretion: upon conviction, a mandatory minimum sentence of 10 to 30 years, would have to be imposed. These minimum sentences—which are, of course, over and above the penalties which exist in present law—could not be suspended, nor could probation be granted.

The United States leads all other West-

ern countries in the use of firearms in connection with serious crimes. I have long been an advocate in this Chamber of controls on the distribution of the small, easily concealable "Saturday Night Specials" which are favored by criminals. I believe that carefully drawn legislation, like that which passed the Senate last year, would make a significant contribution to safe streets by taking weapons away from criminals. I also believe that penalties of the severity in this amendment are appropriate for those who use such firearms in highly dangerous illegal activity.

There is no criminal element in this country which is more dangerous and despicable than those who are the purveyors of heroin to our young people. Our amendment is designed to deal with these individuals very severely, as they should be dealt with. It is not aimed at addicts who are already hooked and who are trying to support their habit. For such people, laws already on the books and adequate treatment programs—together with capture and imprisonment of big-time dealers—offer the best hope. Our amendment is aimed at those who have hooked others and not themselves.

By the joint effort of the Senator from Georgia and myself, this amendment has been written to reach those who are the backbone of heroin trade and distribution in this country. Persons convicted of manufacturing, distributing or dispensing heroin or morphine in amounts equal to or in excess of one-tenth of an ounce of pure narcotic would receive, on the first offense, a mandatory minimum sentence of 10 to 30 years. For second convictions, these pushers would get a mandatory life sentence. In neither case would the offender be eligible for probation, suspended sentence, or parole—except after serving 30 years of a life sentence. In both cases the mandatory minimum sentence would have to be imposed in addition to the sentence provided under existing law; and in both cases the additional sentence would have to be consecutive to, not concurrent with, the existing punishment.

One-tenth of an ounce of heroin or morphine may seem to be a tiny amount, Mr. President, but it is as deadly as it is small. It can and is turned into a large number of bags of heroin on the street, and is worth a handsome sum. As a measure of the seriousness of the criminal conduct it is preferable to a 4-ounce mixture requirement. The 4-ounce level, the two measures are similar in terms of the value of street heroin. But our test assures that we reach the high-level dealers who handle very pure and very valuable heroin and who might circumvent a 4-ounce mixture standard. Our test also assures that we do not bring under these very severe penalties a person with a 4-ounce mixture which contains only traces of a narcotic. Under our amendment, the volume of the material sold or manufactured would not matter; the only question would be whether it contained the equivalent of one-tenth of an ounce of pure heroin or morphine.

Any nonaddict who manufactures, distributes, or dispenses one-tenth of an ounce of heroin or morphine is, we can be confident, a high-level trafficker who is rationally and for his own profit pushing drugs. Such a person deserves no quarter.

The penalties we propose in this amendment are extraordinarily severe. I support them because the dimensions of the problem are such as to demand that we take this exceptional action. But we must not deceive ourselves into believing that harsh penalties alone will solve our problems. Even with those who can be deterred from criminal conduct, the enforcement of the law—the certainty of capture and of punishment—is more important than the length of punishment. But by making the penalties mandatory and severe for certain persistent and destructive criminals, we will be providing a solid law enforcement tool where such tools are badly needed. These provisions combined with adequate enforcement, speedy trials, prisons which rehabilitate criminals instead of perpetuating crime, treatment for addicts, sufficient jobs and equal opportunities for all our citizens, will with effort bring the law, order, and justice we all want and deserve.

The PRESIDING OFFICER. The Senator's 2 minutes have expired. Who yields time?

Mr. TALMADGE. Mr. President, if the Senator from Arkansas and the Senator from Indiana are prepared to yield back their time I am prepared to yield back my time.

Mr. HATHAWAY. Mr. President, will the Senator yield for a question?

Mr. TALMADGE. I yield.

Mr. HATHAWAY. What evidence do we have that the district judge——

Mr. TALMADGE. Mr. President, may we have order?

Mr. HATHAWAY. Mr. President, would the Senator answer this question? What evidence do we have here, in hearings or otherwise, that our district court system is so lax in its duty that we cannot allow our district judges to have the jurisdiction of sentencing an individual in the type case listed in the Senator's amendment, and, indeed, to impose mandatory sentences, thereby taking away, as the Senator from Michigan pointed out necessary discretion needed to judge individual cases?

Mr. TALMADGE. Of course, let me say we are giving him discretion in the matter of the length of the sentence imposed; but, second, the Senator from Georgia is of the opinion that the gravest social and crime problem in the United States today is the cancerous spread of narcotics addiction. It escalates day by day, week by week, month by month, and year by year, to the point where it is unsafe for anyone to walk on the streets today because someone, usually addicted to drugs, is willing to murder and rob people night and day. It is the opinion of the Senator from Georgia that the only way we can stop that is to put the cold, calculating, professional peddler of drugs, who is a nonaddict, in the penitentiary and keep him there. That is the opinion of the Senator from Georgia.

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

Mr. TALMADGE. I yield.

Mr. HATHAWAY. Are not all district judges aware of the seriousness of crime?

Mr. TALMADGE. I cannot speak for judges, but I can say that we do give them some discretionary authority, and it is the idea of the Senator from Georgia—and I may say that of the President of the United States—to make the sentence severe enough to have the hardened, cold, calculating, nonaddicted professional peddlers of morphine and heroin put in the penitentiary and kept there. That is what this amendment will do.

Mr. HATHAWAY. I believe they should be punished, but I think the punishment can be left to the discretion of the district judges.

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

Mr. TALMADGE. I yield.

Mr. GURNEY. Will the Senator allow the Senator from Florida to be listed as a cosponsor of the amendment?

Mr. TALMADGE. Mr. President, I ask unanimous consent that the distinguished senior Senator from Florida be listed as a cosponsor of the amendment.

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

Mr. McCLELLAN. Mr. President, I yield myself 3 minutes.

I am going to vote for the amendment of the distinguished Senators from Georgia (Mr. TALMADGE) and Indiana (Mr. BAYH).

I would have preferred, of course, to have processed this amendment as a part of the normal course of the subcommittee's business, but now that it is before the Senate, I am going to support it.

I am going to vote for it because it will do precisely what needs to be done—strengthen the law at the point of enforcement.

No law works just because it is on the books. It works and is effective because it is enforced all the way through the criminal justice system.

Gunmen wound and kill, but what do we hear the voices of some calling for?

Take guns away from householders, who seek only to protect themselves.

Mr. President, I am going to vote for this amendment because it will put criminals in jail, where they belong.

I do not think we need new gun laws or new drug laws so much as we need to enforce the laws we now have on the statute books.

And if judges will not enforce the law when we give them discretion, then we will have to take their discretion away from them.

Mr. President, I ask unanimous consent to have inserted in the RECORD as a part of my remarks two tables, one on gun law statistics and the other on drug law statistics.

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

EXHIBIT NO. 1

U.S. DISTRICT COURTS, CRIMINAL SENTENCE ANALYSIS[1]

U.S. DISTRICT COURTS, CRIMINAL SENTENCE ANALYSIS[1] (OFFENSE—WEAPONS AND FIREARMS)

Defendants—	1967		1968		1969		1970		1971	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
1. Prosecuted	303	100	436	100	388	100	1,074	100	1,983	100
2. Not convicted	74	24.4	146	33.5	134	34.5	354	33.0	622	31.3
Dismissed	64	21.1	124	28.4	110	28.4	265	24.7	474	23.9
NARA							1	.1		
Found not guilty:										
By court	4	1.3	13	3.0	10	2.6	32	3.0	60	3.0
By jury	6	2.0	9	2.1	14	3.6	56	5.2	88	4.4
3. Convicted	229	75.6	290	66.5	254	65.5	720	67.0	1,361	68.6
Plea of guilty or nolo contendere	179	59.1	224	51.4	189	48.7	565	52.6	1,028	51.8
Found guilty:										
By court	12	4.0	19	4.4	20	5.2	75	7.0	119	6.0
By jury	38	12.5	47	10.8	45	11.6	80	7.4	214	10.8
4 Sent to prison	109	47.6	133	45.9	127	50.0	325	45.1	642	47.2
6 months and under	17	7.4	15	5.2	20	7.9	74	10.3	141	10.4
7 to 12 months	9	3.9	25	8.6	12	4.7	45	6.3	96	7.1
1 to 3 years	33	14.4	31	10.7	28	11.0	74	10.3	157	11.5
3 to 5 years	34	14.8	40	13.8	36	14.2	79	11.0	137	10.1
5 years and over	16	7.0	22	7.6	31	12.2	53	7.4	111	8.2
Average sentence (months)	30		32		37		30		27	
5. Put on probation	100	43.7	141	48.6	118	46.5	365	50.7	662	48.6
12 months and under	9	3.9	17	5.9	23	9.1	63	8.8	113	8.3
1 to 2 years	40	17.5	49	16.9	42	16.5	131	18.2	238	17.5
3 to 4 years	38	16.6	49	16.7	39	15.4	128	17.8	216	15.9
5 years	13	5.7	26	9.0	14	5.5	43	6.0	95	7.0
Fines and other sentences	20	8.7	16	5.5	9	3.5	30	4.2	57	4.2

EXHIBIT NO. 2

U.S. DISTRICT COURTS, CRIMINAL SENTENCE ANALYSIS (OFFENSE—NARCOTIC DRUG VIOLATIONS)

Defendants—	1967		1968		1969		1970		1971	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
1. Prosecuted	1,344	100	1,355	100	1,510	100	1,568	100	2,366	100
2. Not convicted	247	18.4	284	21.0	366	24.2	469	29.9	974	41.2
Dismissed	212	15.8	237	17.5	293	19.4	411	26.2	880	37.2
NARA			3	.2	17	1.1	13	.8	19	.8
Found not guilty:										
By court	18	1.3	29	2.1	25	1.7	23	1.5	30	1.3
By jury	17	1.3	15	1.1	31	2.1	22	1.4	45	1.9
3. Convicted	1,097	81.6	1,071	79.0	1,144	75.8	1,099	70.1	1,392	58.8
Plea of guilty or nolo contendere	790	58.8	780	57.6	863	57.2	813	51.8	1,060	44.8
Found guilty:										
By court	91	6.8	90	6.6	70	4.6	64	4.1	58	2.5
By jury	216	16.1	201	14.8	211	14.0	222	14.2	274	11.6
4. Sent to prison	841	76.7	869	81.1	915	80.0	819	74.5	1,062	76.3
6 months and under	19	1.7	17	1.6	27	2.4	17	1.5	44	3.2
7 to 12 months	15	1.4	14	1.3	9	.8	17	1.5	23	1.7
1 to 3 years	99	9.0	83	7.7	98	8.6	72	6.6	123	8.8
3 to 5 years	143	13.0	131	12.2	128	11.2	110	10.0	158	11.4
5 years and over	565	51.5	624	58.3	653	57.1	603	54.9	714	51.3
Average sentence (months)	67		73		75		79		65	
5. Put on probation	244	22.2	181	16.9	221	19.3	268	24.4	313	22.5
12 months and under	13	1.2	16	1.5	14	1.2	19	1.7	12	.9
1 to 2 years	43	3.9	38	3.5	47	4.1	60	5.5	54	3.6
3 to 4 years	111	10.1	61	5.7	86	7.5	109	9.9	129	9.3
5 years	77	7.0	66	6.2	74	6.5	80	7.3	118	8.5
Fines and other sentences	12	1.1	21	2.0	8	.7	12	1.1	17	1.2

[1] Prepared for the use of the Subcommittee on Criminal Laws and Procedures of the Committee on the Judiciary, U.S. Senate, by the Administrative Office of the U.S. Courts. See hearings before the Subcommittee on Criminal Laws and Procedures, of the Committee on the Judiciary, U.S. Senate, "Reform of the Federal Criminal Laws," pt. IV—Appendix (Courts and Corrections), 92d Cong. 2d sess., 1972.

Mr. McCLELLAN. Mr. President, I am prepared to yield back the remainder of my time——

Mr. DOMINICK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMINICK. Under what time limits are we operating under now?

Mr. McCLELLAN. Mr. President, I yield to the Senator from Colorado any time I may have left.

The PRESIDING OFFICER. The Senator from Arkansas has 1 minute remaining.

Mr. McCLELLAN. I yield the 1 minute to the Senator.

Mr. DOMINICK. Mr. President, is there any other time available?

The PRESIDING OFFICER. There are 30 minutes on each additional amendment. There is no time limit on the bill.

Mr. DOMINICK. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMINICK. Does this time have to expire before an amendment to the amendment can be offered?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMINICK. Mr. President, if the Senator from Arkansas would be willing

to yield back the remainder of his time, I have an amendment to the Talmadge amendment.

The PRESIDING OFFICER. The time has now expired.

Mr. DOMINICK. Mr. President, I submit an amendment, but I must say to the Parliamentarian and to the Chair that it was drafted in the form of an original amendment, as opposed to an amendment to an amendment, so I ask unanimous consent that I may take 3 minutes on a quorum call so that I can get a copy made of the amendment and show it to the Senator from Georgia.

The PRESIDING OFFICER. Is there objection?

Mr. HUGHES. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HUGHES. Has the amendment already been amended?

The PRESIDING OFFICER. The amendment has been modified by the Senator who originally offered the amendment.

Mr. HUGHES. Was that an amendment in the first degree?

The PRESIDING OFFICER. It becomes original text since it was a modification, and not an amendment, so the amendment itself is in the first degree and thereby subject to amendment.

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

Mr. JAVITS. Mr. President, before the Senator suggests the absence of a quorum, I wish to make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Will a call for a quorum lie as of right, without unanimous consent?

The PRESIDING OFFICER. Yes.

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

The PRESIDING OFFICER. The clerk will call the roll.

Mr. BAYH. Mr. President, a parliamentary inquiry. Where does the time for the quorum call come from?

The PRESIDING OFFICER. Debate is not in order. A quorum call has been ordered.

Mr. BAYH. I want to see where we are. The time comes out of what?

The PRESIDING OFFICER. There is no time limit on the bill. The time on the amendment has expired. There is no time limit on the bill. A quorum call is in order. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMINICK. 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. DOMINICK. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. DOMINICK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

To amend the pending amendment to S. 800, as follows:

In view the language proposed in the bill by the pending amendment to section 501 insert the following section 501:

"(c) Whoever—

"(1) uses a firearm to commit any felony for which he may be prosecuted in a court of the United States; or

"(2) carries a firearm 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 for the additional offense defined in this subsection to a term of imprisonment for not less than one year nor more than ten years. In the case of his second or subsequent conviction under this subsection, such person shall be sentenced to a term of imprisonment for not less than two nor more than twenty-five years.

"The execution or imposition of any term of imprisonment imposed under this subsection may not be suspended, and probation may not be granted. Any term or imprisonment imposed under this subsection may not be imposed to run concurrently with any term or imprisonment imposed for the commission of such felony."

Mr. DOMINICK. Mr. President, earlier this year I submitted an amendment to the Federal Criminal Code dealing with this same subject. It was cosponsored by Senators BROCK, CURTIS, GOLDWATER, SCHWEIKER, BIBLE, STEVENS, BUCKLEY, BELLMON, HASKELL, THURMOND, FANNIN, MONTOYA, DOMENICI, TALMADGE, and BARTLETT.

At that time, I did so for the reason that the original Mansfield amendment, of which I had been a cosponsor and a strong supporter, had been interpreted by the 10th Circuit Court of Appeals, in Colorado, to mean something different from what I had thought was the intent of Congress in the adoption of the so-called Mansfield amendment. I believe Congress intended separate crimes and separate sentences for crimes involving the use of a sun. The court's interpretation of that section has caused doubt as to Congress' intent. Therefore, we were in serious trouble, both in the aspect of the habitual-criminal statute and in the sentences that were being imposed.

It was for that reason that I introduced what was called the clarifying amendment.

I offer this amendment as an amendment to the Talmadge amendment, specifically putting back into that amendment the original legislation which I had proposed earlier this year.

The reason for this, as has been stated on many occasions on this floor, is that it seems far sounder to me to deal with the criminal than just with the object of the criminality, the gun. Most of the bills that have been introduced to date—and I am not talking about the Talmadge amendment, because it is not in that category—have dealt with registration. What we are dealing with is people who are carrying a firearm while they commit a felony.

It seems to me and has seemed to me since the beginning that if we are going to deal just with the weapon or instrumentality, we ought to abolish automobiles, because they cause as much trouble and as many violations of the law as firearms, and cause just as much harm and death. If we are going to deal with the object instead of the person using it, then I think we ought to abolish the automobile.

This is kind of silly, but I think the abolition or registering of guns is just as silly, for the same reason.

What my amendment would do is get after the criminal, and not just the gun. That is also what the Talmadge amendment proposes to do. The question, then, is what is the difference between the Talmadge amendment and mine?

As I recall, having briefly scanned that amendment—and I invite the comments of the Senator from Georgia on the matter—the major differences are two. First of all, in subsection (b) of the Talmadge amendment, on line 5, he uses the words "carries a firearm unlawfully." In ours, we have not used the word "unlawfully."

The reason for that, in my opinion, was that this means the criminal would have to use, not just carry the gun in the commission of a felony. But the fact of the matter is that there are many crimes committed where the gun is either in the back of the car or it is hidden under a floor board or something of that kind, and not actually used by the criminal. My question to the Senator from Georgia, and I am sure he will be happy to give me enlightenment on it, is whether under those circumstances, if the man is eventually convicted of a crime, he would also be convicted of carrying a gun unlawfully?

Mr. TALMADGE. Mr. President, I point out to the Senator that that language is in the bill for a specific purpose. We did not want to convict someone under this provision of the amendment, for instance, who had filed a fraudulent income tax return and was thus guilty of a felony, and was illegally carrying a gun at the same time.

What we are trying to get at is someone who unlawfully carries the weapon in the commission of a crime that threatens life or property, for which he may be prosecuted in the courts of the United States.

That is the problem we are confronted with in the United States today, in my judgment.

Mr. DOMINICK. Mr. President, I subscribe to most of what the Senator has been saying, but let me ask him this question, just to clarify the record: Suppose a man was carrying a rifle, a shotgun, or a revolver in the back of his car and committed a felony by assault with a club or by some other mechanism.

Would he then be involved in carrying a gun or firearm unlawfully in the commission of a crime?

Mr. TALMADGE. No, that would have no reasonable relationship to the crime.

Mr. DOMINICK. That is what I was somewhat concerned about, and that is why I raised the question originally, because it strikes me that the mere possession of a gun in the process of committing a crime is, in and of itself, terrorism on the part of the criminal against the victim, and whether he is

doing it unlawfully or not, the fact of the matter is that he has a gun there. If it is loaded, the fellow who is being accosted, held up, or whatever it is, will be terrorized.

Mr. TALMADGE. Criminals, I point out to the Senator, almost always carry firearms unlawfully. They almost never carry them lawfully.

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

Mr. DOMINICK. So, if he did not have a permit, the Senator says he is carrying it unlawfully and will be subjected to the penalty?

Mr. BAYH. If I might be permitted to try to reconstruct a crime which is very close to but not specifically the one referred to by the Senator from Colorado. If two men were involved in holding up a liquor store and one of them had a firearm and the other one beat the owner of the liquor store to death with a poker, then the gun is a part of the crime, even though the gun was not used in that particular instance. This is very different, it seems to me, from someone who has a shotgun or a rifle in the back end of his car, is intoxicated, runs over someone, and is found guilty of reckless homicide where the gun is not a part of the crime.

Mr. DOMINICK. I can appreciate the problem, and I remember a discussion the Senator from Indiana and I had about this the last session. I want to try to make the record clear that while it went through as a part of the law on the Saturday night special bill that we passed, the Senator and I made a record at that time to show that the amendment which I offered, and which was adopted, was designed to apply particularly to crimes of violence, not to embezzlement or things of that nature. I think we made a pretty good record on it.

What the Senator is saying here follows along the same line, except that by using the word "unlawfully" he thinks he has tied it down even more, is that correct?

Mr. BAYH. That is the opinion of the Senator from Indiana. And I think the Senator from Georgia, from a private discussion we had a moment ago, would concur in that opinion.

Mr. DOMINICK. The other difference, then, between the Talmadge amendment with his cosponsors and the one that I have proposed is in the sentencing.

My amendment provided for 1 to 10 years on a first offense; the Talmadge amendment applies 5 to 15. On a second offense, mine applies 2 to 25, and his 10 to 30; so it is far more severe.

I am not a bit sure that we can, in this particular format, determine what is or is not a proper penalty, but I am willing to go along, in the interests of getting this done.

So, Mr. President, I withdraw my amendment and ask unanimous consent that I may be added as a cosponsor of the Talmadge amendment.

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

Mr. ERVIN. Mr. President, I share the desire of my friend from Georgia, Senator TALMADGE, to provide for effective criminal sanctions against felons using firearms and drug pushers. Especially with respect to persons who peddle the horrible habit of narcotic addiction, I believe we must strengthen our law enforcement program.

Nevertheless, I must respectfully disagree with the amendment proposed by Senator TALMADGE which provides for mandatory minimum sentences. I am opposed to this amendment for two reasons. In the first place, I do not believe that the institution of mandatory minimum sentences will be effective in deterring these crimes or insuring proper punishment for the guilty. Experience shows and logic demonstrates that mandatory sentences in some cases actually encourage prosecutors to dismiss or break down charges to lesser offenses and encourage judges and juries to acquit the guilty. If a judge or jury believes the mandatory sentence does not fit the defendant under the circumstances, acquittal will be a great temptation.

The second objection I have to mandatory minimum sentences is the unfortunate restrictions they place upon the discretion of judges. Although, like other Americans, I do not always agree with the way in which judges exercise their traditional discretion in sentencing, I strongly believe in preserving this flexibility built into our system of criminal justice. It is the trial judge, not Congress, which hears all of the evidence, observes firsthand the particular defendant, and becomes acquainted with his background through the presentencing report. Mandatory sentences deprive trial judges of discretion to make the punishment fit the crime and the criminal.

While the Congress can and should establish the range of appropriate criminal sanctions for criminal conduct, only the court has the practical capacity to express the precise public will as to the particular, necessarily unforeseen individual case.

The American Bar Association's Report on Standards for Criminal Justice has concluded:

> The legislature should not specify a mandatory sentence for any sentence category or for any particular offense.

For these reasons, Mr. President, I strongly oppose mandatory minimum sentences. If I thought that this approach to sentencing held out any reasonable hope of curtailing drug traffic and punishing those who peddle drugs among our citizenry, I would support it. I am convinced, however, that it would not only be an ineffective answer to the problem of serious crime but actually handicap our courts in dealing with these crimes.

In addition to the reasons stated above, I am also disturbed that the Judiciary Subcommittee on Criminal Laws and Procedures has not had any opportunity to study and to consider this proposal. I have the greatest respect for the chairman of this Subcommittee, Senator JOHN MCCLELLAN. Over the years, he has demonstrated great knowledge and understanding of our criminal justice system. Every major bill dealing with criminal justice which I can recall has been processed by Senator MCCLELLAN'S subcommittee. This year, Senator MCCLELLAN'S subcommittee is considering S. 1 and S. 1400, proposals to revise and reform our entire Federal criminal code. I consider it inappropriate and unfortunate that this present proposal for mandatory minimum sentences has not been given 1 hour of consideration by the Senate subcommittee which has both jurisdiction and expertise on this subject.

Mr. President, I am as concerned as any Senator about crime in America. I have joined my colleagues Senator MCCLELLAN and Senator HRUSKA in introducing S. 1, a comprehensive bill to revise and reform the Federal criminal law. I have introduced again in this Congress a bill to provide for speedy trials which, if enacted, would bring swift and sure justice to the criminal. I am anxious to review and support any legislative proposal which promises to make our communities safe and improve our system of criminal justice. Nevertheless, Mr. President, I cannot support measures such as the pending amendment which represent false hopes for crime control and which have not been considered at all by any Senate committee.

Mr. CHURCH. Mr. President, I support the amendment offered by the Senator from Georgia. Since I first came to the Senate in 1957, I have maintained that the way to control crimes committed with a firearm is to punish those who commit the crime—not restrict the rights of honest citizens.

The Senator's amendment would achieve that goal. It provides that once a person is found guilty of the commission of a felony with a firearm, he may be punished for that crime by imposing an additional penalty of from 5 to 15 years in prison. During that term, no court could suspend the sentence imposed or grant probation.

I commend the Senator for offering his amendment. It has my full support and I am sure it has the support of the majority of the people in the State of Idaho.

As to the second part of the Senator's amendment dealing with sentences for drug pushers, that too has my support. I have no sympathy for an adult, not himself an addict, who pushes hard drugs. Any adult who engages in hard narcotics traffic for profit should be punished severely. Under this proposal, a pusher could be given from 10 to 30 years and during the term of the sentence imposed, no probation could be granted.

It is time we made clear to the criminal element in this country that we will not tolerate the abuse of firearms and the illicit traffic in drugs that is becoming all too common even in rural America.

I strongly urge the adoption of the amendment.

Mr. MCGOVERN. Mr. President, I am privileged to join with my distinguished colleague from Georgia in introducing an amendment to S. 800, the omnibus crime bill.

The amendment provides for separate and additional penalties for persons who sell or manufacture in excess of one-tenth of an ounce of pure morphine or pure heroin. Addicts and first-time juvenile offenders are expressly exempted. A first-time adult offender would be

sentenced 10 to 30 years in addition to the existing penalties now provided by law. A second-time offender would receive a life sentence with the right to parole after 30 years.

The amendment is tailored to hit the organized criminal who sells or manufactures hard drugs for profit at the wholesale level. The streetpusher addict who needs medical and psychiatirc treatment will continue to be subject to the existing penalties.

By raising the stakes for the hardened criminal who preys on the addict, we will deter those at the source of the hard drug traffic, whose only motive is profit—the courier, the refiner, and the wholesaler. The organized criminal will be faced with the prospect of spending most of his adult life in jail.

Our amendment also provides for harsher mandatory penalties for the criminal who uses a gun in committing Federal crimes. This is a step in the right direction. We must make it more costly for the criminal to use firearms. However, the relatively small number of Federal crimes indicates that such penalties will only act as a deterrrent to the criminal use of firearms when the States enact similar penalties.

Mr. President, the country badly needs this amendment. It is not the complete answer, but is a step in the right direction. It has broad bipartisan support. I hope it soon becomes the law of the land.

QUORUM CALL

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

The PRESIDING OFFICER. (Mr. HANSEN). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. 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. JAVITS. Mr. President, I send an amendment to the amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

Amend Sec. 405A(a) as follows: strike "ten" and insert "7", strike "thirty" and insert "25."

Mr. JAVITS. Mr. President, I have 10 minutes, I understand?

The PRESIDING OFFICER. The Senator has 10 minutes.

Mr. JAVITS. Mr. President, I have introduced this amendment to the amendment and will introduce whatever other amendments need to be introduced, in order to increase the time available to talk about this subject, because I think this matter is altogether too important in terms of the impact on the jurisprudence of this country and in terms of its impact on the youth of the country to rush as rapidly as we have.

I wish to state to the manager of the bill and to the Senator from Indiana (Mr. BAYH), however, that I have no intention or desire to delay it beyond a very approximate hour this afternoon. We will act on it. It is a matter of getting the time and none is available.

I wish to emphasize first that I am for reasonable mandatory sentences. I have myself introduced S. 1137 a bill on this very same subject on it, to increase penalties and to impose mandatory sentences in narcotics trafficking cases, and I think that the use of firearms is most reprehensible. I should also like to point out that I have long supported strong gun control legislation, which is the real way to get at this problem. I question seriously whether the massive penalties, which could be written down as being beyond the limits of what is humanitarian, will really have the effect that my colleagues think it will have.

So far as I know, the dealth penalty did not end murders, nor did life imprisonment end murders. We still have homicides in New York. I remember very well the stringent Boggs bill which passed when I was in the House of Representatives years ago, and it did not end narcotics peddling, whether by the pusher or the narcotics addict.

I think that this is a narrow way to look at the problem we have. The problem, in my judgment, will yield only when we have a trilogy of remedies, when we have adequate remedies in the criminal justice system for those who are criminals.

I think the real problem is the fact that our courts are bogged down, and with plea bargaining, because if the fixed sentences are too high, there will be acquittals and dismissals when there should not be, and even more plea bargaining than there is today, so that we may very well proliferate our problem rather than solve it.

In addition, where there are such fearsome penalties as 45 years mandatory for a first offense, we merely drive that individual into a corner and he commits more serious crime because he will be imprisoned for life or tantamount to it. So why hold back? He might as well go all out. He is an outlaw of society, anyway. Society is through with him. This is the history of penology.

That is why I suggested the wisdom, when we were dealing with such long mandatory sentences.

Frankly, I am not a bit appalled by the fact that it could be argued, as it has already been argued, that the minute we talk about penalties, we are somehow "soft" on crime, or on pushers or on narcotics addicts. In that case, where do we stop? Do we want to draw and quarter them? Why stop at all? What is the limit? Why have any limit for any crime?

At one time, they used to cut off a man's hand for minor crimes, including Anglo-Saxon England. Why not do it again, and have no restraints, no limits, no qualifications whatsoever? Why not 30 years instead of 20 years? Or why not 40 years instead of 30 years? Maybe we will be heroes if we say to our colleagues, "You are too soft on crime; 30 years is too short. Make it 40 years, 50 years—102 years. Even if the criminal does not live that long, we will show our intention that he must suffer."

So, Mr. President, this subject should not be approached without very careful consideration of what is the present law and practice with regard to this problem, including the problem of delayed justice—which is justice frustrated. Hearings should establish whether this could or could not be counterproductive. Maybe it would, maybe it would not.

The distinguished Senator from Nebraska (Mr. HRUSKA) tells us that the Judiciary Committee will do exactly that. In my judgment, we should send this bill to the Judiciary Committee. There is undoubtedly overwhelming sentiment for tough mandatory sentences, in which I join with both Senators TALMADGE and BAYH with respect to the very kinds of crime which they have put in their amendment.

I think the fact that we have excluded the addict is a most important change and I hope that that will be continued in anything the Judiciary Committee does. I would propose that we set a short time limit on the measure, if sent back to the Judiciary Committee. That committee, as the Senator from Nebraska (Mr. HRUSKA) tells us, is taking up this subject. All of us have seen this amendment for the first time today, other than as presented by the Senator from Georgia (Mr. TALMADGE) the other day.

For all those reasons, Mr. President, it would be my judgment that we would be very much better advised to proceed in that way rather than to endeavor immediately to legislate on so awesome a subject.

It would, therefore, be my intention to move at an appropriate time to refer S. 800 to the Judiciary Committee, with instructions to report it back to the Senate within 2 weeks from this date with its recommendations to the Senate. Then I think we could legislate in an intelligent and appropriate way on this, as I say, awesome question of a human life and its fate, even though it is the fate of a criminal offender.

Mr. BAYH. May I ask the Senator this question: Does the Senator direct his motion to the entire bill (S. 800), which has many other facets and on which there is little disagreement, or would he rather just confine his motion to the amendment of the Senator from Georgia and the Senator from Indiana?

Mr. JAVITS. Well, I am constrained to say that it is going to be a motion to refer back so that we can get the chance here, within a short period of time, to consider this carefully. We cannot make it any other way. The only other way would be to table it. I can do that, testing the question that way, but it seems to me that is not an adequate or a proper test. If I were unsympathetic, that would be one thing, but I have no such desire. All I say is that it is so awesome a question that we should have the best advice we can from the committee which is charged with the matter. It is the very thing for which Senator HRUSKA pleaded. The only way that can be done is by sending the whole bill back. If anybody can tell me a better way, I would like to do it.

If I move to table, it will only result in the charge that I am trying to kill it. I am not. I have no such desire. I will make it a week, if the manager of the bill will accept that—any time which would let some deliberative group in the Senate really pass on this, match it with other law, and come back and tell us that this is the right thing to do or the wrong

thing to do, but at least give us their views on it, which I think is highly desirable, instead of legislating such a severe penalty statute within the little time available. Even if all Senators were available, people have to look at it. We do not know what other statutes relate to it, what the practice is in the courts, how it is working out.

I think that what I have suggested is the proper course, and I hope to pursue that course as soon as the moment is appropriate.

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

Mr. JAVITS. I yield.

Mr. HRUSKA. Does the Senator consider a week or 2 weeks as a realistic period of time in which the Judiciary Committee could consider this matter in depth and return it to the floor with any degree of utility at all?

Mr. JAVITS. I think 2 weeks would at least give us a pause to look at it. I am trying to show good faith, I say to the Senator from Nebraska, as well as to show some decent concern for human beings.

I think Senator HUGHES argued very eloquently that the severity of punishment can have no limits, if that is our only standard or judgment. How severe can we make it? We can be experts in conjuring up ways to make it even more severe than the authors have already made it, and I think this is ill-advised.

Mr. BAYH. Will the Senator withhold momentarily? I speak only for myself. I do not want to speak for the Senator from Georgia. He is more than able to speak for himself.

Of course, the Senator from New York is the final repository of his motion. I do not think it is fair to suggest—and perhaps the Senator from New York does not care to imply this—that the authors of this amendment have just gone out willy-nilly and chosen an amendment with endless punishments. I do not think anybody here really suggests that. We are trying to deter——

The PRESIDING OFFICER. The time of the Senator from New York has expired.

Mr. JAVITS. Mr. President, I withdraw my amendment, and 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. JAVITS. 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. JAVITS. Mr. President, I move in accordance with the written motion which I have at the desk with reference to this bill, which I ask the Chair to direct the clerk to report.

The PRESIDING OFFICER. The motion will be stated.

The assistant legislative clerk read as follows:

I move to refer S. 800 to the Committee on the Judiciary with instructions to report it back to the Senate in two weeks with the committee's recommendations thereon.

The PRESIDING OFFICER. Under the agreement previously entered into, time on this referral is 10 minutes to the Senator from New York, 10 minutes to the Senator from Georgia, and 10 minutes to the Senator from Arkansas.

Mr. JAVITS. I yield myself 5 minutes.

Mr. President, I hope we can terminate this very quickly and have a vote. I ask for the yeas and nays on the motion.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, I have made the argument, essentially. All I want is wise consideration by the appropriate committee of what is a very important measure, for which its proponents—and I am very likely to join them, I wish to emphasize—claim a measure of deterrence.

All I would like to find out is whether they can establish that it will be a deterrent and what the other factors are which are inhibiting the effective administration of the criminal law so that we have to lay on these extremely severe penalties, even for a first offense.

I have already argued the fact that there are no absolutes in respect of punishment, that we try to adjudge them as humanity and experience dictate is appropriate to fit the crime and to be adequate deterrents. I have already argued that not only deterrence is involved. Other factors are involved, such as cutting off the supply, treating those who are the customers of the pushers, and so forth.

Second, how many of us know individually—I think we all do—the young people who have gone wild and used a firearm, children of families where it is the last thing in the world one would ever think of? And just think of that mother and the famous statement that "There, but for the grace of God, am I."

When that child is put away for life, on a mandatory sentence which can go up to 45 years, and without any opportunity whatever, no matter what he does, to even get a probation or parole. Society may have to do that. I am not trying to beg that question. But at the very least, the Senate should not pass on that on a written motion sent up to the desk a few moments before it is argued and whizzed through.

Senators may say, "Sure, this bill is not going anywhere. It is loaded down." Or they might say, "Let the other body take care of it, or we will fix it up in conference." That is not the way we do our work, and it is not the way to abide by the oath we have taken to our people and to our country and to the Senate. We are here to do justice, even to the worst felons, and to render due process of law. This is not an annihilistic society. We take care of the sick and we take care of the most hardened criminal.

I have not moved to table. I think these are footless motions. We all want to find out more about this. The bill is a desirable bill and it should be passed. But in view of this amendment, which goes to a totally different subject, we cannot, in my judgment, act so improvidently. I, like other Senators who will vote on the RECORD, must risk the fact that our people are humane and intelligent enough to want to stop the crimes such as those involved here. I do not think anyone who looks at the matter in an American way can justly accuse me or any other Senator who votes that we are soft on crime. We are going to be tough on crime and because we are tough on crime we are going to be thoughtful and prudent.

Therefore, Mr. President, whenever the Senator from Georgia and the Senator from Indiana are ready, I am ready to vote.

Mr. TALMADGE. Mr. President, I yield myself such time as I may need. I shall be brief.

I ask unanimous consent that my distinguished colleague, the junior Senator from Georgia (Mr. NUNN), may be added as a cosponsor of this amendment.

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

Mr. TALMADGE. Mr. President, the motion of the distinguished senior Senator from New York would send S. 800 back to the Committee on the Judiciary with instructions to report the bill and the committee's recommendations within 2 weeks. The Committee on the Judiciary has worked long and hard on S. 800. The motion of the distinguished Senator from New York does not even relate to the pending amendment, the pending business at this time. The Committee on the Judiciary would not be under instructions to report the pending amendment or anything related to it back. Nothing has been discussed ad infinitum, ad nauseum, as much as the act of peddling hard drugs to the youth of this country; nothing has been discussed ad infinitum, ad nauseum, as much as the use of firearms in the commission of felonies. In recent history, we have seen a President of the United States shot down, and we have seen colleagues in the Senate shot down, and we have seen private citizens shot down with firearms.

Some people think the remedy is to outlaw firearms. I think the remedy is to put the man who uses them in the commission of a crime in the penitentiary. I think the remedy for this Mafia group that peddles hard narcotics and for those who hang around schoolhouses and sell heroin and morphine to our youth, is to put them in the penitentiary. That is what my amendment would do.

It is time to put up or shut up. If Senators want to do something about narcotics, the time is now while this amendment is pending before the Senate. We have the vehicle, we have the measure, and we have the time. I hope the Senate will not approve the motion of the Senator from New York.

I yield such time as he may need to the distinguished Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. BAYH. Mr. President, I think this matter has been debated rather at length. I appreciate the sincerity of my colleague from New York.

If the recipients of these penalties were not involved in the most heinous crimes against society, the Senator from Indiana would be marching shoulder to shoulder with the Senator from New York, as is often the case. I cannot do so on this

issue because of reasons I have already cited in the previous debate.

I add one other practical aspect. As I look around this Chamber, I see five members of the Committee on the Judiciary, as well as a sixth member, the distinguished author of this resolution who previously had been a member of the Committee on the Judiciary, familiar with the workings of the committee. We know the workload they are now carrying and the degree of study the Committee on the Judiciary gives almost every issue before it.

I really believe it is rather unrealistic to expect that this or any other measure could be sent to that committee and come out again with the kind of careful study the Senator from New York wants it to have in the 2-week time period.

Mr. JAVITS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 6 minutes remaining.

Mr. JAVITS. Mr. President, I yield myself 3 minutes for a brief rebuttal.

First, I am not an amateur in criminal prosecution. I was attorney general for New York in 1955 and 1956. I have been a very active practicing lawyer for years and years, more years than I care to think about, in the New York courts in every conceivable kind of practice, trial, appellate, criminal, civil, and so forth. My abhorrence for crime, my reasonable knowledge of how prosecutions go, and what deterrents mean, the issue of plea bargaining are not strangers to me, nor is the reluctance of juries to convict when they think the penalty is too tough and they may let the accused off on that ground. Unreasonable severity can be counterproductive.

But laying all that aside, the fact is there are no absolutes in these matters. That is all I am saying. Sentences have to be matched to existing conditions to determine what should be done.

I would like to point out that the Senator from Indiana said that the Committee on the Judiciary is busy. When I want to get something done, I give it to a busy man. They are also experienced. I do not think they would let the Senate down. I might not like what I get. They might recommend much more severe penalties. This is fine. That is their duty.

Second, I think the Senator from Georgia himself must recognize they will have this amendment before them. The amendment is pending and is on this bill. It can be testified to before them. I fully respect their sincerity as they respect mine.

Mr. President, the concerns here have always been rooted in the Constitution. We must be against barbarous punishment, and everything the Constitution sets out—respect for courts, law, and the rights of any defendant support this I would be less than true to my oath if I were to try to pass on a matter of this importance in 1 hour or 2 hours of debate and without any understanding of its real consequences or in light of the law and the circumstances.

For those reasons, and in the interest of sheer prudence and humanity the Senate will send this matter to the Committee on the Judiciary with instructions.

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

Mr. JAVITS. I yield.

Mr. ERVIN. I am not going to vote for the Senator's motion, but I would like to make my position clear. I am opposed to mandatory sentences. I think that mandatory sentences deprive the judge of the power to exercise his intelligence to judge the case on its individual merits. So I am opposed to mandatory sentences on that ground.

Also, despite my highest respect for my good friend from Georgia, I am very sorry this matter has been offered as an amendment to bills which deal with other aspects of the criminal field. I think the amendment should have been introduced in the form of a separate bill or should have been offered as an amendment to some bill dealing with penalties for criminal violations.

I will not vote for a motion to recommit, because the other bills have been before the Judiciary Committee for a considerable period of time, but if the Senator from New York had made a motion that the amendment be committed to the Judiciary Committee with instructions to report back immediately with the amendment eliminated, I would vote for that kind of motion. Otherwise I just have to content myself with expressing my great reluctance for mandatory sentences which have the effect of depriving the judge of the capacity to exercise his intelligence and judge each case on the basis of its own merits rather than on the basis of the category into which it falls.

I thank my colleague for yielding.

Mr. JAVITS. Mr. President, if I have some time left, I yield myself 1 minute to make a parliamentary inquiry.

Is the motion which I have made amendable?

The PRESIDING OFFICER (Mr. COTTON). The motion to refer is amendable by adding instructions.

Mr. JAVITS. Mr. President, I am willing to do anything that Members of this body want done. All I want is a pause so that we can think this thing over. Anything that any Member of this body can think of is amenable to me, but I could not think of anything but offering the motion which I did.

Mr. BAYH. Mr. President, will the Senator permit me to make a suggestion?

The PRESIDING OFFICER. Who yields time?

Mr. TALMADGE. Mr. President, I yield time to the Senator.

Mr. BAYH. Mr. President, I think that the Senator from New York has an excellent record and nobody would accuse him of being soft on crime. If this proposal is defeated, the Senator from Georgia and the Senator from Indiana—and perhaps the Senator from New York will join us—can introduce a separate bill, which can be referred. But, I think the issue should be joined.

Mr. JAVITS. May I answer that the Senator from New York is caught in a trap. There is no other way to challenge this issue that I can think of without taking a position in opposition that would be unfair to me. I may very well not be in opposition. That is why I made the motion. It is the only way. I am ready to vote.

Mr. McCLELLAN. Mr. President, I believe I have 10 minutes, but I do not intend to use all of it.

Mr. President, I hope that we will proceed to vote on this amendment and on the bill. As every Senator knows, all of it except this amendment has been under consideration for some 2 years by the Senate, and particularly by the Senate Judiciary Committee. Four titles of this bill were passed by the Senate last year, both in an omnibus bill such as this, and separately. Due to the time factor, we were not able to get the bill passed by the House.

One bill was passed by the House, the conferees agreed upon the measure, and were ready to file the report, but the House did not have a quorum and had to adjourn. Consequently, the bill was not enacted into law.

It seems to me every Senator knows what this amendment contains. It is very simple. He is either for it or against it. There is no reason, in my judgment, why the amendment cannot be voted up or down.

If a majority of the Senate does not want mandatory sentences, they can vote the amendment down. If they are willing to have mandatory sentences, they can vote for the amendment and get it disposed of.

I see no reason for delay. I think every Senator has considered this issue, not only on the floor, but in his own discussions and considerations off the floor, and he already knows whether he favors mandatory sentences or does not. That is the issue. More time will not change votes. I hope we will not refer this bill back to committee. We are all burdened with work today. It is not intended as a dilatory tactic, I know, but it further delays action on a matter that I feel the Members of this body are competent to express their judgment on today.

I yield back my time.

Mr. TALMADGE. Mr. President, I yield back my time.

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

Mr. TALMADGE. Mr. President, I withdraw the yielding back of my time.

Mr. McCLELLAN. Mr. President, I withdraw my statement, and I yield to the Senator.

Mr. HRUSKA. Mr. President, I suggest that the Senator from Arkansas has eloquently stated that we all know whether we are for or against the objectives of the bill. Of course, we all know whether we do or do not want to make criminal sanctions more severe in certain cases and whether we favor mandatory sentences in certain cases and whether we would authorize review of sentences applicable to special dangerous offenders.

However, I arose to criticize the amendment and the fashion in which it was proposed, it was because I did not know—I doubt if anyone knows—the fashion or the language in which these objectives are effected in the amendment which is before the Senate. I would glady vote for such a purpose, but it is difficult to support the language of an amendment which we have not had the opportunity to study.

My objection was not to its purpose,

not to the idea of what it seeks to do, but to the form in which it was developed here on the floor. I find it hard to endorse that kind of procedure.

Mr. McCLELLAN. Mr. President, I want to make one further observation.

It is not a good practice to offer amendments to bills on the floor that have not been considered by the committee which reported the bill, but that happens on almost every bill that comes in to this body. If we are going to establish a precedent here to refer a bill back to committee for further consideration of an amendment that has been offered on the floor but not considered in committee, then we are going to have a stumbling block to the expedition of legislation in the Senate. If we are not going to establish that kind of precedent, this would be a good place to resolve it.

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

Mr. McCLELLAN. I yield.

Mr. MANSFIELD. Mr. President, the Committees of the Senate are the servants of the Senate, and what the Senate does is what counts, not what the committees do.

Mr. McCLELLAN. That is right, and we can vote it up or down on the floor. That is what I suggest.

Mr. HRUSKA. Mr. President, the motion to refer to the Judiciary Committee is not effective. It would be nothing more than a gesture to refer a matter of this kind for only 2 weeks in the present state of affairs and the present calendar.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the distinguished junior Senator from Florida (Mr. CHILES) be listed as a cosponsor of the amendment.

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

Mr. TALMADGE. Mr. President, I am prepared to yield back my time.

Mr. McCLELLAN. I yield back my time.

The PRESIDING OFFICER. Does the Senator from Georgia yield back his time?

Mr. TALMADGE. I yield back my time.

Mr. JAVITS. 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. BAYH. Mr. President, a parliamentary inquiry. Is this a quorum call?

The PRESIDING OFFICER. A quorum call is in progress.

Mr. GRIFFIN. On whose time, Mr. President?

The PRESIDING OFFICER. Debate is not in order. All time has been yielded back. A quorum call is in progress. The clerk will continue to call the roll.

The second assistant legislative clerk continued to call the roll.

Mr. JAVITS. 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. PASTORE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. JAVITS. Mr. President, I withdraw my motion.

The PRESIDING OFFICER. It requires unanimous consent to do so because the yeas and nays have been ordered.

Mr. JAVITS. Mr. President, I ask unanimous consent to withdraw my motion.

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

Mr. HUGHES. Mr. President, I move to table the amendment.

Mr. TALMADGE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. HELMS). The question is on agreeing to the motion to table the Talmadge-Bayh amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. EASTLAND) is necessarily absent.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE) is absent by leave of the Senate on official business.

The Senator from Arizona (Mr. FANNIN) is absent on official committee business.

The Senator from Arizona (Mr. GOLDWATER) and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

The result was announced—yeas 18, nays 76, as follows:

[No. 78 Leg.]

YEAS—18

Abourezk	Hart	Kennedy
Aiken	Hatfield	Muskie
Case	Hathaway	Percy
Clark	Hruska	Stevenson
Curtis	Hughes	Tunney
Ervin	Javits	Williams

NAYS—76

Allen	Fong	Montoya
Baker	Fulbright	Moss
Bartlett	Gravel	Nelson
Bayh	Griffin	Nunn
Beall	Gurney	Packwood
Bellmon	Hansen	Pastore
Bennett	Hartke	Pearson
Bentsen	Haskell	Pell
Bible	Helms	Proxmire
Biden	Hollings	Randolph
Brock	Huddleston	Ribicoff
Buckley	Humphrey	Roth
Burdick	Inouye	Schweiker
Byrd,	Jackson	Scott, Pa.
Harry F., Jr.	Johnston	Scott, Va.
Byrd, Robert C.	Long	Sparkman
Cannon	Magnuson	Stafford
Chiles	Mansfield	Stevens
Church	Mathias	Symington
Cook	McClellan	Taft
Cotton	McClure	Talmadge
Cranston	McGee	Thurmond
Dole	McGovern	Tower
Domenici	McIntyre	Weicker
Dominick	Metcalf	Young
Eagleton	Mondale	

NOT VOTING—6

Brooke	Fannin	Saxbe
Eastland	Goldwater	Stennis

So the motion to table the Talmadge-Bayh amendment was rejected.

Mr. TALMADGE. Mr. President, I ask for the yeas and nays on the amendment.

Mr. JAVITS. Mr. President, I ask for a severance of the two parts of the amendment. I demand a severance. I wish a division.

The PRESIDING OFFICER. The amendment will be divided into two parts.

Mr. BAYH. Mr. President, a parliamentary inquiry.

Mr. JAVITS. Mr. President, I have the floor. Will the Chair state the particular point of division?

The PRESIDING OFFICER. Title V and title VI.

Mr. JAVITS. "Title V—Additional Sentences for Commission of a Felony With Use of Firearm." "Title VI—Controlled Substances Act Amendments."

They are to be voted on separately, and the yeas and nays have been ordered. How would the yeas and nays be applied?

The PRESIDING OFFICER. There will be a yea-and-nay vote on each title.

Mr. JAVITS. The first vote to come on title V?

The PRESIDING OFFICER. The Senator is correct.

Mr. HUGHES. As I understand, title V has been amended or revised. Is that correct?

The PRESIDING OFFICER. Title V has been modified.

Mr. HUGHES. Is it permissible to have the title of the amendment read before we vote?

The PRESIDING OFFICER. Yes. Does the Senator wish to have it read?

Mr. HUGHES. I wish to have a reading of the section before the vote.

The PRESIDING OFFICER. The clerk will read.

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 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 which threatens life or property for which he may be prosecuted in a court of the United States,

may, 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. In any case in which such additional sentence is not imposed, the court shall state in writing its reasons for so deciding. The imposition or execution of such additional sentence if imposed shall not be suspended nor probation 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 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 as provided in paragraph (1) 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 and probation shall not be granted.

"'(3) In no case shall any additional term of imprisonment imposed pursuant to this subsection run concurrently with any time of imprisonment imposed for the commission of any such felony.

"'(4) A conviction shown on direct or col-

lateral 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.

The amendment of the Senator from Montana (Mr. MANSFIELD) is as follows:

SEC. 502a. "Subsection (e) of section 3575 of title 18, United States Code is amended (1) by striking out the period at the end of paragraph (3) thereof and inserting in lieu thereof a semicolon and the word "or", and (2) by adding immediately after paragraph (3) thereof the following new paragraph:

"(4) the defendant used a firearm (as defined in section 921(a)(3) of this title) to commit such felony, or unlawfully carried a firearm (as defined in section 921(a)(3) of this title) during the commission of such felony."

(g) Section 3575 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) Nothing in this section shall be construed as amending, altering, modifying, or otherwise affecting the provisions of subsection (c) of section 924 of this title, or as affecting the applicability of such provisions to any defendant sentenced pursuant to this section".

The PRESIDING OFFICER (Mr. CRANSTON). The question is on agreeing to the first part of the amendment of the Senator from Georgia (Mr. TALMADGE).

On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. EASTLAND) and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

I also announce that the Senator from Mississippi (Mr. STENNIS), is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE) is absent by leave of the Senate on official business.

The Senator from Arizona (Mr. FANNIN) is absent on official committee business.

The Senator from Arizona (Mr. GOLDWATER) and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

The result was announced—yeas 81, nays 12, as follows:

[No. 79 Leg.]

YEAS—81

Aiken	Fong	Moss
Allen	Fulbright	Nelson
Baker	Gravel	Nunn
Bartlett	Griffin	Packwood
Bayh	Gurney	Pastore
Beall	Hansen	Pearson
Bellmon	Hartke	Pell
Bennett	Haskell	Percy
Bentsen	Hatfield	Proxmire
Bible	Helms	Randolph
Biden	Hollings	Ribicoff
Brock	Hruska	Roth
Buckley	Huddleston	Schweiker
Burdick	Humphrey	Scott, Pa.
Byrd,	Inouye	Scott, Va.
Harry F., Jr.	Jackson	Sparkman
Byrd, Robert C.	Johnston	Stafford
Cannon	Long	Stevens
Chiles	Magnuson	Symington
Church	Mansfield	Taft
Cook	Mathias	Talmadge
Cotton	McClellan	Thurmond
Cranston	McClure	Tower
Curtis	McGee	Tunney
Dole	McGovern	Weicker
Domenici	McIntyre	Young
Dominick	Mondale	
Eagleton	Montoya	

NAYS—12

Abourezk	Hart	Kennedy
Case	Hathaway	Metcalf
Clark	Hughes	Stevenson
Ervin	Javits	Williams

NOT VOTING—7

Brooke	Goldwater	Stennis
Eastland	Muskie	
Fannin	Saxbe	

So the first part of Mr. TALMADGE'S amendment was agreed to.

Mr. MANSFIELD. Mr. President, I move to reconsider the vote by which the first part of the amendment was agreed to.

Mr. TALMADGE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on all votes from now on the time limit be reduced from 15 to 10 minutes. I understand there will be two more votes.

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

The question now recurs on the second part of the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. EASTLAND), and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE) is absent by leave of the Senate on official business.

The Senator from Arizona (Mr. FANNIN) is absent on official committee business.

The Senator from Arizona (Mr. GOLDWATER) and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

The result was announced—yeas 81, nays 12, as follows:

[No. 80 Leg.]

YEAS—81

Allen	Fong	Nelson
Baker	Fulbright	Nunn
Bartlett	Gravel	Packwood
Bayh	Griffin	Pastore
Beall	Gurney	Pearson
Bellmon	Hansen	Pell
Bennett	Hartke	Percy
Bentsen	Haskell	Proxmire
Bible	Helms	Randolph
Biden	Hollings	Ribicoff
Brock	Huddleston	Roth
Buckley	Humphrey	Schweiker
Burdick	Inouye	Scott, Pa.
Byrd,	Jackson	Scott, Va.
Harry F., Jr.	Javits	Sparkman
Byrd, Robert C.	Johnston	Stafford
Cannon	Long	Stevens
Case	Magnuson	Symington
Chiles	Mansfield	Taft
Church	Mathias	Talmadge
Cook	McClellan	Thurmond
Cotton	McClure	Tower
Cranston	McGee	Tunney
Curtis	McGovern	Weicker
Dole	McIntyre	Williams
Domenici	Mondale	Young
Dominick	Montoya	
Eagleton	Moss	

NAYS—12

Abourezk	Hart	Hughes
Aiken	Hatfield	Kennedy
Clark	Hathaway	Metcalf
Ervin	Hruska	Stevenson

NOT VOTING—7

Brooke	Goldwater	Stennis
Eastland	Muskie	
Fannin	Saxbe	

So the second part of Mr. TALMADGE'S amendment was agreed to.

Mr. TALMADGE. Mr. President, I move to reconsider the vote by which the second part of the amendment was agreed to.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 72

Mr. STEVENS. Mr. President, I call up amendment No. 72.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

On page 52 following line 26, insert the following:

SEC. 529. (a) There is hereby established an honorary award for the recognition of outstanding service by public safety officers. The award shall be known as the President's Award for Distinguished Public Safety Service. Each award shall be suitably inscribed and an appropriate citation shall accompany each award.

(b) The President's Award for Distinguished Public Safety Service shall be presented by the President to public safety officers for extraordinary valor in the line of duty or for exceptional contribution to the field of public safety.

(c) The Attorney General shall advise and assist the President in the selection of persons to whom the award shall be tendered. In performing this function, the Attorney General shall seek and review recommendations submitted to him by Federal, State, county, or local government officials, and shall decide which of them, if any, warrant presentation to the President. The Attorney General shall transmit to the President the names of those persons determined by the Attorney General to merit the award, together with the reasons therefor. Recipients of the award shall be selected by the President.

(d) There shall not be awarded in any one calendar year in excess of twelve such awards.

(e) The Attorney General is authorized and directed to issue such regulations as may be necessary to carry out this section.

Mr. STEVENS. Mr. President, the amendment which I am proposing to S. 800, title III, is a revised version of S. 187, my bill to establish law enforcement awards. My amendment provides for the issuance of the President's Award for Distinguished Public Safety Service, and it calls for a maximum of 12 such honorary awards to be presented annually by the President for outstanding service and extraordinary valor in the field of public safety by public safety officers, as defined in S. 800. I am con-

vinced that such recognition is long overdue for our public safety officers who each day risk their safety on our behalf.

My amendment directs the Attorney General, after reviewing recommendations by Government officials, to advise and assist the President in his selection of recipients of the award, with the President making the final choices. This procedure allows Government officials at all levels to participate in this program of proper recognition of our public safety representatives.

During floor deliberations on the Omnibus Crime Control and Safe Streets Act of 1970, the Senate incorporated without objection my bill to establish the President's Award for Distinguished Law Enforcement Service, but the amendment was subsequently deleted by the conference. My present amendment has been appropriately redrafted to include all public safety officers, as defined in S. 800, and it is, therefore, germane to S. 800. The Department of Justice has reported on the bill I introduced in the 91st Congress to establish such a program, and urged its prompt and favorable consideration. I have the letter from Attorney General Kleindienst to the Committee on the Judiciary dated August 26, 1970, and I ask unanimous consent to have it printed in the RECORD.

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

OFFICE OF THE
DEPUTY ATTORNEY GENERAL,
Washington, D.C., August 26, 1970.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on S. 4193, "To establish the President's Award for Distinguished Law Enforcement Service."

This bill establishes an honorary award program to recognize outstanding service by State, county and local law enforcement officers. A maximum of twelve awards annually will be presented by the President for extraordinary valor in the line of duty or for exceptional contribution in the field of law enforcement. The Attorney General will advise and assist in the President's selection of award recipients by reviewing recommendations made by State, county and local officials. The cost of carrying out this award program will be listed in the annual budget request of the Department of Justice.

This legislation will serve as an affirmative, public declaration by the Congress which enacts it, and the President who approves it, of the esteem in which the American people hold law enforcement officers.

The Department of Justice urges its prompt and favorable consideration.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's Program.

Sincerely,

RICHARD G. KLEINDIENST,
Deputy Attorney General.

Mr. STEVENS. Mr. President, there are certain criteria necessary to the successful performance of public safety employment. These employment demands are illustrated by an excerpt from a Brookings Institution publication entitled "Upgrading the American Police," by Charles B. Saunders, Jr. While these demands apply to policemen in this excerpt, they have broader application to all officers of public safety, and they illustrate some of the standards by which the award provided by my amendment may be granted. I ask unanimous consent that this excerpt be printed in the RECORD.

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

UPGRADING THE AMERICAN POLICE

* * * * *

Bruce Smith, the foremost scholar of police administration, emphasized the human factor in the law enforcement equation in his landmark study which appeared in 1940:

The policeman's art, then, consists in applying and enforcing a multitude of laws and ordinances in such degree or proportion and in such manner that the greatest degree of social protection will be secured. The degree of enforcement and the method of application will vary with each neighborhood and community. There are no set rules, nor even general guides to policy, in this regard. Each policeman must, in a sense, determine the standard which is to be set in the area for which he is responsible. Immediate superiors may be able to impress upon him some of the lessons of experience, but for the most part such experience must be his own. . . . Thus he is a policy-forming police administrator in miniature, who operates beyond the scope of the usual devices for popular control. . . .

Hence the task of raising the level of police performance does not hinge upon the use of mechanical aids, as so many suppose. It depends upon sound organization and efficient procedures which are applied to—and by—alert and intelligent servants of the police organism. Since the human factor proves the most difficult to control and may actively resist all change, the process of raising the general level of police service sometimes proves to be a lengthy one. . . .[14]

In the last three decades the human factor has assumed ever greater importance as police agencies have had to cope with the tensions and dislocations resulting from population growth, increasing urbanization, developing technology, the civil rights revolution, changing social norms, and a breakdown of traditional values. Such factors have enormously complicated the law enforcement task, making more critical the need for the "truly exceptional men" Vollmer sought in the 1930s.[15]

Today's local patrolman must be aware of these factors and understand their psychological and sociological implications for his community. He must deal with all of its citizens—rich and poor, young and old, of whatever cultural and ethnic backgrounds—in ways which will maintain their support and confidence. He must be able to provide a variety of services while serving as protector of life, property, and personal liberty. He must be a law enforcement generalist with a working knowledge of federal, state, county, and municipal law, traffic law, and criminal procedures.

THE POLICE PATROLMAN: A JOB DESCRIPTION

The complex demands of the patrolman's job and the attributes required for successful performance have recently been analyzed by a university research team whose findings, reported as a list of essential behavioral requirements, serve as scientific validation of the point Vollmer made three decades earlier. On the basis of extensive field observation, the scholars concluded that a patrolman must

(1) endure long periods of monotony in routine patrol yet react quickly (almost instantaneously) and effectively to problem situations observed on the street or to orders issued by the radio dispatcher (in much the same way that a combat pilot must react to interception or a target opportunity).

(2) gain knowledge of his patrol area, not only of its physical characteristics but also of its normal routine of events and the usual behavior patterns of its residents.

(3) exhibit initiative, problem-solving capacity, effective judgment, and imagination in coping with the numerous complex situations he is called upon to face, e.g., a family disturbance, a potential suicide, a robbery in progress, an accident, or a disaster. Police officers themselves clearly recognize this requirement and refer to it as "showing street sense."

(4) make prompt and effective decisions, sometimes in life and death situations, and be able to size up a situation quickly and take appropriate action.

(5) demonstrate mature judgment, as in deciding whether an arrest is warranted by the circumstances or a warning is sufficient, or in facing a situation where the use of force may be needed.

(6) demonstrate critical awareness in discerning signs of out-of-the-ordinary conditions or circumstances which indicate trouble or a crime in progress.

(7) exhibit a number of complex psychomotor skills, such as driving a vehicle in normal and emergency situations, firing a weapon accurately under extremely varied conditions, maintaining agility, endurance, and strength, and showing facility in self-defense and apprehension, as in taking a person into custody with a minimum of force.

(8) adequately perform the communication and record-keeping functions of the job, including oral reports, preparation of formal case reports, and completion of departmental and court forms.

(9) have the facility to act effectively in extremely divergent interpersonal situations. A police officer constantly confronts persons who are acting in violation of the law, ranging from curfew violators to felons. He is constantly confronted by people who are in trouble or who are victims of crimes. Besides his dealings with criminals, he has contact with para-criminals, informers, and people on the border of criminal behavior. (He must also be "alley-wise.") At the same time, he must relate to the people on his beat—businessmen, residents, school officials, visitors, etc. His interpersonal relations must range up and down a continuum defined by friendliness and persuasion on one end and by firmness and force at the other.

(10) endure verbal and physical abuse from citizens and offenders (as when placing a person under arrest or facing day-in and day-out race prejudice) while using only necessary force in the performance of his function.

(11) exhibit a professional, self-assured presence and a self-confident manner in his conduct when dealing with offenders, the public, and the courts.

(12) be capable of restoring equilibrium to social groups, e.g., restoring order in a family fight, in a disagreement between neighbors, or in a clash between rival youth groups.

(13) be skillful in questioning suspected offenders, victims, and witnesses of crimes.

(14) take charge of situations, e.g., a crime or accident scene, yet not unduly alienate participants or bystanders.

(15) be flexible enough to work under loose supervision in most of his day-to-day patrol activities (either alone or as part of a two-man team) and also under the direct

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[14] Smith, *Police Systems in the United States* (Harper & Bros., 1940), pp. 21–22. The continuing validity of this point is indicated by the use of the identical passage two decades later in the second revised edition (Harper & Row, 1960), pp 19–20.

[15] August Vollmer, *The Police and Modern Society* (University of California Press, 1936), p. 223.

supervision of superiors in situations where large numbers of officers are required.

(16) tolerate stress in a multitude of forms, such as meeting the violent behavior of a mob, arousing people in a burning building, coping with the pressures of a high-speed chase or a weapon being fired at him, or dealing with a woman bearing a child.

(17) exhibit personal courage in the face of dangerous situations which may result in serious injury or death.

(18) maintain objectivity while dealing with a host of "special interest" groups, ranging from relatives of offenders to members of the press.

(19) maintain a balanced perspective in the face of constant exposure to the worst side of human nature.

(20) exhibit a high level of personal integrity and ethical conduct, e.g., refrain from accepting bribes or "favors," provide impartial law enforcement, etc.[36]

These behavioral requirements are basic to the job of a patrolman, regardless of the size and nature of the community in which he works. If competent performance of the law enforcement task is expected, these attributes should characterize every member of the force, from the newest recruit to the oldest veteran. They should be standard equipment for any man in uniform, whether he patrols a sleepy rural street, a congested business district, or a ghetto alley.

Mr. STEVENS. Mr. President, my amendment provides for a positive recognition of the valuable service which public safety officers render to the citizens of this Nation. Their routine duties expose them to extreme danger and require significant personal sacrifice to the extent that national public acknowledgment by the issuance of honorary awards as provided by my amendment is necessary and justified.

Mr. President, this is the same amendment I proposed to a crime bill in 1970. I have discussed the amendment with the chairman of the committee and with the ranking minority member of the committee. The amendment would create the President's Award for Distinguished Public Safety Service. No expense is involved and the amendment has been approved by the Attorney General. We have not had a hearing on it, but under the circumstances in which this bill is being passed again I ask the chairman if he is prepared to accept the amendment.

Mr. McCLELLAN. Mr. President, this amendment was accepted and became part of a crime bill passed in 1970. I know of no objection to it. I would support the amendment. It is not controversial. It provides for a medal for distinguished public safety service. I am sure no one objects to that.

Mr. HRUSKA. I would associate myself with the remarks of the distinguished senior Senator from Arkansas (Mr. McCLELLAN) in this instance.

Mr. President, if no other Senator wants to discuss the matter, I am ready to yield back the remainder of my time.

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

[36] Melany E. Baehr, John E. Furcon, and Ernest C. Froemel, "Psychological Assessment of Patrolman Qualification in Relation to Field Performance," Preliminary Report to Office of Law Enforcement Assistance, Department of Justice (processed, 1968), pp. II-3 to II-5. The project was conducted by the Industrial Relations Center of the University of Chicago under a grant to the Chicago Police Department.

The PRESIDING OFFICER. All time on the amendment having been yielded back, the question is on agreeing to the amendment of the Senator from Alaska.

The amendment was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be offered, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. WILLIAMS. Mr. President, it is my privilege to have joined with the distinguished chairman of the Subcommittee on Criminal Laws and Procedures as a cosponsor of S. 800, the Victims of Crime Act of 1973. This comprehensive piece of legislation would assist the various States in aiding the innocent victims of violent crimes.

Crime has created an atmosphere of unparalleled fear among this Nation's citizenry. In 1969, a survey taken in a major city on the eastern seaboard indicated that between 30 and 43 percent of the people lived in fear of being the victim of a street crime in their own neighborhood. In the high-crime districts of the city, 60 percent of the residents considered it likely that they would be victimized by a criminal in their own community.

FBI crime statistics suggest that the public's fears about crime are well founded. They disclose not only that a staggering volume of crime is committed in this country each year, but also that the volume of crime continues to increase.

The risk of becoming a victim of violent crime in New Jersey in particular is increasing at an enormous rate. There wasa 12-percent increase in crime from 1970 to 1971 and a 56-percent increase from 1967 to 1971. Violent crimes rose disproportionately—28 percent from 1970 to 1971, and constituted 12 percent of the total crime index reported for 1971.

We must take steps to bring a halt to crime itself. We have taken action, and one particularly noteworthy example is the Omnibus Crime Control and Safe Streets Act of 1968 to which S. 800 is an amendment. Nevertheless, as long as law enforcement officers and other innocent victims continue to suffer injury at the hands of criminals, society ought also to take steps to make them whole.

S. 800 would establish a nationwide, federally subsidized program of life and dismemberment insurance for public safety officers. Because of the obvious hazards of their profession many policemen, firemen, correctional officers, et ceteria, either have difficulty in obtaining insurance or find it to be unusually expensive. Since they are placed at a disadvantage because of the sacrifice they make for society, it seems only fair to me that we should put them back on an equal footing with the other members of society.

Along these same lines, S. 800 would provide a lump sum death benefit to the dependent survivors of public safety officers when the officer has been killed in the line of duty.

S. 800 would also establish a program to compensate the innocent man or woman on the street who is the victim of a violent crime. Several States, including my own State of New Jersey, have already established programs to compensate innocent victims of crimes, and it is my understanding that this bill will allow the Federal Government to assume most of the cost of these programs.

Finally, S. 800 would extend antitrust type remedies to the victims of racketeers. The United States itself would be permitted to sue for actual damages when it is injured in its business or property by reason of a violation of the Organized Crime Control Act of 1970, and the United States would also be allowed to intervene in private suits of public importance.

The Victims of Crime Act of 1973 embodies the recognition that we have an obligation to provide compensation to our public safety officers and other innocent victims who are killed or seriously injured by criminals, and I commend it to my colleagues.

Mr. EAGLETON. Mr. President, I consider passage of the Omnibus Victims of Crime Act of 1973 to be of the utmost priority in this Nation's fight against crime. I am especially pleased that this legislation incorporates the Public Safety Officers' Group Life Insurance Act and the Public Safety Officers' Benefits Act, which I have voted for previously when they passed the Senate.

No element is more significant than the human one—our policemen and firemen—in protecting the public safety and reducing crime. Unfortunately, the danger inherent in their jobs too often leaves them and their families facing severe financial hardship.

In recent years there has been an alarming increase in the number of deaths of policemen and firemen in the line of duty. The following table from the 1970 Uniform Crime Report illustrates starkly the risks our police officers take:

	Number killed
1961	37
1962	48
1963	55
1964	57
1965	53
1966	57
1967	76
1968	64
1969	86
1970	100
1971	126
1972	112

In 1970 there were 115 firefighters killed in the line of duty and in 1971 there were 106 deaths.

Injuries increased nationally from 18 per 100 policemen in 1970 to 18.7 per 100 in 1971. Injuries among firemen increased from 38 per 100 in 1970 to 39.6 per 100 in 1971.

By providing increased financial security through death benefits to an officer's surviving family and by providing a program of basic group life insurance, we cannot only improve the morale of our public safety officers and their families, but we can also greatly enhance our ability to attract and retain qualified public safety personnel.

At the present time, an officer's family is often dependent on the charity of a

community after his death. While these efforts are commendable, I do not think that those men who preserve our public safety should have to depend on those who are public spirited to be sure that their children get an education or their widows can pay the mortgage.

The provision in this bill for a $50,000 payment to the dependent survivors of policemen, firefighters, corrections officers, and other public safety personnel has my wholehearted support. I also favor the establishment of a nationwide program of group life, accidental death, and dismemberment insurance for State and local police, firefighters, corrections guards, and court officers, patterned after that available to Federal civilian employees and members of the Armed Forces.

Because of the hazards of their jobs, life insurance is either unavailable or prohibitively expensive for these public safety officers. I think it is a Federal obligation, in order to fulfill our social aims of improved safety and reduced crime, to provide the means for such officers to protect themselves and their families against death and disability—whether on or off the job.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. EASTLAND), and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE) is absent by leave of the Senate on official business.

The Senator from Arizona (Mr. FANNIN) is absent on official committee business.

The Senator from Arizona (Mr. GOLDWATER) is necessarily absent.

The result was announced—yeas 93, nays 1, as follows:

[No. 81 Leg.]

YEAS—93

Abourezk	Cranston	Jackson
Aiken	Curtis	Javits
Allen	Dole	Johnston
Baker	Domenici	Kennedy
Bartlett	Dominick	Long
Bayh	Eagleton	Magnuson
Beall	Ervin	Mansfield
Bellmon	Fong	Mathias
Bennett	Fulbright	McClellan
Bentsen	Gravel	McClure
Bible	Griffin	McGee
Biden	Gurney	McGovern
Brock	Hansen	McIntyre
Buckley	Hart	Mondale
Burdick	Hartke	Montoya
Byrd, Harry F., Jr.	Haskell	Moss
	Hatfield	Nelson
Byrd, Robert C.	Hathaway	Nunn
Cannon	Helms	Packwood
Case	Hollings	Pastore
Chiles	Hruska	Pearson
Church	Huddleston	Pell
Clark	Hughes	Percy
Cook	Humphrey	Proxmire
Cotton	Inouye	Randolph
Ribicoff	Stafford	Tower
Roth	Stevens	Tunney
Saxbe	Stevenson	Weicker
Schweiker	Symington	Williams
Scott, Pa.	Taft	Young
Scott, Va.	Talmadge	
Sparkman	Thurmond	

NAYS—1

Metcalf

NOT VOTING—6

Brooke	Fannin	Muskie
Eastland	Goldwater	Stennis

So the bill (S. 800) was passed, as follows:

S. 800

An act 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

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".

STATEMENT OF FINDINGS AND PURPOSE

The Congress finds that (1) there is an increase in crimes of violence, racketeering activity, and theft; (2) the increase in such crimes increases the chances of a person becoming a victim of such crime; (3) on an increasing basis crimes of violence are being directed at public safety officers; (4) the perpetrators of crimes of violence, when identified, apprehended, and convicted, are often not financially responsible; (5) the victims of crimes of violence, or their surviving dependents, are often themselves unable to bear the consequent losses; and (6) the victims of crimes of racketeering activity and theft could, with strengthened civil remedies, often help themselves to meet the financial consequences of such crimes.

It is, therefore, the purpose of this Act to commit the United States to meet its moral obligation to assist the innocent victims of violent crime or their surviving dependents within the area primarily of Federal responsibility to bear the consequential losses and to assist the States to aid those within the area primarily of State responsibility; to establish insurance and death benefit programs for public safety officers or their surviving dependents; and to strengthen the civil remedies available to victims of racketeering activity and theft.

TITLE I—COMPENSATION FOR VICTIMS OF VIOLENT CRIME

DECLARATION OF PURPOSE

SEC. 101. It is the declared purpose of Congress in this title 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 parts:

"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 a State for at least eight years, to be appointed by the President, by and with 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 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 or 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 damages 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 any 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, ommission, 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, whichever 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 3036A 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 allotted 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 possessions:

"(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

"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, not a member of the Council, appointed pursuant to subsection (d) of this section shall receive $100 a day, including travel time, for each day he is engaged in the actual performance of his duties as a member of the committee.

"(f) Each member of the Council or advisory committee shall 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 and 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 Crimes 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 Crimes 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.

TITLE II—GROUP LIFE INSURANCE FOR PUBLIC SAFETY OFFICERS

DECLARATION OF PURPOSE

SEC. 201. It is the declared purpose of Congress in this title 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. 202. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is further amended by adding after part F the following 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 officers' 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 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 (within 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 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 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 writing 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. 10. (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. This 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 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) Assistance under this subpart shall not exceed one-third of the premiums attributable to the public safety officers enrolled in such State or unit of general local government program or such assistance as would be available to the public safety officers if they were enrolled under subpart 1 of this part, whichever is less, to the extent the amount of coverage under the State or unit of general local government program is comparable with the amount of coverage 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 program 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 Insurance Revolving Fund which may be utilized only for the purposes of subpart 1 of this part."

TITLE III—DEATH BENEFITS TO DEPENDENT SURVIVORS OF PUBLIC SAFETY OFFICERS

DECLARATION OF PURPOSE

SEC. 301. It is the purpose of this title to promote the public welfare by establishing a Federal minimum death benefit to dependent survivors of public safety officers.

SEC. 302. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is further amended by adding after part G the following new part:

"PART H—DEATH BENEFITS TO DEPENDENT SURVIVORS OF 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.

"(e) In lieu of the benefit provided under subsection (a), any recipient eligible under section 527 may elect to receive compensation under the provisions 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.

"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; or

"(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.

"SEC. 529. (a) There is hereby established an honorary award for the recognition of outstanding service by public safety officers. The award shall be known as the President's Award for Distinguished Public Safety Service. Each award shall be suitably inscribed and an appropriate citation shall accompany each award.

"(b) The President's Award for Distinguished Public Safety Service shall be presented by the President to public safety officers for extraordinary valor in the line of duty or for exceptional contribution to the field of public safety.

"(c) The Attorney General shall advise and assist the President in the selection of persons to whom the award shall be tendered. In performing this function, the Attorney General shall seek and review recommendations submitted to him by Federal, State, county, or local government officials, and shall decide which of them, if any, warrant presentation to the President. The Attorney General shall transmit to the President the names of those persons determined by the Attorney General to merit the award, together with the reasons therefor. Recipients of the award shall be selected by the President.

"(d) There shall not be awarded in any one calendar year in excess of twelve such awards.

"(e) The Attorney General is authorized and directed to issue such regulations as may be necessary to carry out this section."

TITLE IV—CIVIL REMEDIES FOR VICTIMS OF RACKETEERING ACTIVITY AND THEFT

PURPOSE

SEC. 401. It is the purpose of this title to promote the general welfare by strengthening the civil remedies available to the victim of racketeering activity and theft.

RACKETEER CIVIL REMEDIES

SEC. 402. (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 of 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 proceedng";

(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. 403. (a) Section 659 of title 18 of the United States Code 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 the 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 three-fold 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 defend-

ant 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 a 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 thereof."

(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 victim of theft."

TITLE V—ADDITIONAL SENTENCES FOR COMMISSION OF A FELONY WITH USE OF FIREARM

PENALTIES

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 which threatens life or property for which he may be prosecuted in a court of the United States, may, 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. In any case in which such additional sentence is not imposed, the court shall state in writing its reasons for so deciding. The imposition or execution of such additional sentence if imposed shall not be suspended nor probation 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 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 as provided in paragraph (1) 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 fifteen years. In any case in which such additional sentence is not imposed, the court shall state in writing its reasons for so deciding. The imposition or execution of such additional sentence if imposed shall not be suspended nor probation 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 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 as provided in paragraph (1) 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 and probation shall not be granted.

"(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."

DANGEROUS SPECIAL OFFENDERS

SEC. 502. (a) Subsection (e) of section 3575 of title 18, United States Code is amended (1) by striking out the period at the end of paragraph (3) thereof and inserting in lieu thereof a semicolon and the word "or", and (2) by adding immediately after paragraph (3) thereof the following new paragraph:

"(4) the defendant used a firearm (as defined in section 921(a)(3) of this title) to commit such felony, or unlawfully carried a firearm (as defined in section 921 (a)(3) of this title) during the commission of such felony."

(b) Section 3575 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) Nothing in this section shall be construed as amending, altering, modifying, or otherwise affecting the provisions of subsection (c) of section 924 of this title, or as affecting the applicability of such provisions to any defendant sentenced pursuant to this section."

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 provisions of this Act or of any other law, any person who violates section 401(a)(1) 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 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, 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)(1) of this Act by illegally manufacturing, distributing or dispensing, in an amount equal to or in excess of one-tenth (1/10) of an ounce of, or the equivalent of one-tenth (1/10) of an ounce of, pure heroin or morphine and who, at the time he committed such violation, was not an addict.

"(c) This section shall not be applicable to any person under eighteen years of age at the time the offense was committed: *Provided, however,* That the Attorney General may expressly direct, that any person over sixteen years of age and under eighteen years of age who is for the second or subsequent time convicted as an adult for violating this section by illegally manufacturing, distributing or dispensing, in an amount equal to or in excess of one-tenth (1/10) of an ounce of, or the equivalent of one-tenth (1/10) of an ounce of, pure heroin or morphine and who, at the time he committed such violation, was not an addict, be treated as if he were a first offender under the provisions of this section, and sentenced accordingly.

"(d) 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."

TITLE VII—MISCELLANEOUS PROVISIONS

AUTHORIZATIONS

SEC. 701. 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 subsections:

"(b) In addition to the appropriations authorized by subsection (a) of this section, there is authorized to be appropriated—

"(1) for the purposes of part F, $5,000,000 for the fiscal year ending June 30, 1973;

"(2) for the purposes of part G, $20,000,000 for the fiscal year ending June 30, 1973, and $25,000,000 for the fiscal year ending June 30, 1974; and

"(3) for the purposes of part H, $10,000,000 for the fiscal year ending June 30, 1973, and $10,000,000 for the fiscal year ending June 30, 1974."

USE OF APPROPRIATIONS

SEC. 702. 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.

SEVERABILITY

SEC. 703. If the provisions of any part of this Act are found invalid or any amendments made thereby or the application there-

of 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 DATES

SEC. 704. (a) Titles I, II, IV, V, and VI of this Act shall become effective on the date of enactment of this Act.

(b) Title III of this Act shall become effective on the date of enactment of this Act and the benefits thereunder shall be retroactive with respect to any death of a public safety officer as defined in part II of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by this Act, which occured on or after October 17, 1972.

Mr. McCLELLAN. Mr. President, I move to reconsider the vote by which the bill was passed.

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.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make certain technical corrections in the bill, S. 800, passed by the Senate today.

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

TRIBUTE TO SENATOR M'CLELLAN ON PASSAGE OF VICTIMS OF CRIME ACT

Mr. MANSFIELD. Mr. President, to the distinguished Senator from Arkansas (Mr. McCLELLAN) the Senate again owes its deepest gratitude. Both in committee and here in this Chamber he labored tirelessly to steer the Victims of Crime Act through to its overwhelming success. Needless to say, without his splendid advocacy and outstanding leadership the measure would not have been received with such overwhelming approval by this body. Today's achievement, may I say, would add the victim of crime to this Nation's system of criminal justice; a system in which JOHN McCLELLAN has played such an effective role toward shaping and improving over the years. The Senate is in his debt once again.

The distinguished Senator from Nebraska deserves similar praise. His cooperation was indispensable.

ORDER FOR RECOGNITION OF SENATORS GRIFFIN AND ROBERT C. BYRD TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, the distinguished Senator from Michigan (Mr. GRIFFIN) be recognized for not to exceed 15 minutes and that he be followed by the junior Senator from West Virginia (Mr. ROBERT C. BYRD) for not to exceed 10 minutes.

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

THE LEGAL SERVICES PROGRAM—ACCOMPLISHMENTS OF AND PROBLEMS FACED BY ITS GRANTEES

Mr. JAVITS. Mr. President, there is no more embattled element of the anti-poverty program than the legal services program.

Its history is marked by controversy and attempts by the Congress or the executive branch to restrict the independence of the Legal Services attorneys to represent their clients—the poor. In 1968, the Congress unsuccessfully attempted, through the so-called Murphy amendment, to give Governors an absolute veto over legal services programs in their States; this is not retained in conference. Just last year in the Senate, restrictions were tacked onto H.R. 1, the Social Security Amendments of 1972, but fortunately also dropped in conference.

This year the future of the program once again is dangerously "up in the air," caught in a battle between the Congress and the Executive over future funding and administration. The last few months have witnessed the discharge of the Acting Director of the program, Mr. Tetzlaff, and interruptions in funding of programs and essential support centers, throughout the Nation including those in my own State.

The administration's fiscal 1974 budget proposal contains a request for continuation of the program—but only if it is to be conducted by a new legal services corporation for which the administration plans to submit authorizing legislation; as of this date no such legislation has been submitted.

The Congress—unable to reach agreement with the administration respecting the board of directors of a new corporation—regrettably dropped from the Economic Opportunity Amendments of 1972, a proposal for the establishment of such an entity; however it did provide for continuation of the existing program for 2 years and gave priority to that effort.

The Economic Opportunity Act Amendments of 1972, signed into law by the President on September 19, 1972, authorize $840,000,000 for fiscal year 1973 and $870,000,000 for fiscal year 1974 for antipoverty programs conducted by the Office of Economic Opportunity and provides that of those amounts in each fiscal year, the Director of the Office of Economic Opportunity shall reserve and make available not less than $71.5 million for legal services programs. On October 31, 1972, the President signed into law—Public Law 92-607—the Supplemental Appropriations Act appropriating $71.5 million for legal services for the current fiscal year, 1973.

It is my intention, together with Senator TAFT, the ranking minority member of the Subcommittee on Employment, Manpower, and Poverty; Senator NELSON, the chairman of that subcommittee; Senator MONDALE and Senator CRANSTON, members of that subcommittee, to seek advance funding for the program for fiscal 1974, whether the program is to be administered by OEO or by a new legal services corporation, as we hope it will.

Underlying much of the controversy over the program and its future has been the question of so-called law reform cases, often brought against State and local government.

In that regard, it was very reassuring when President Nixon said, in his message to the Congress on May 5, 1971, submitting his original proposal for the establishment of a corporation:

The legal problems of the poor are of sufficient scope that we should not restrict the right of their attorneys to bring any type of civil suit. Only in this way can we maintain the integrity of the adversary process and fully protect the attorney-client relationship so central to our judicial process.

It appears now that the Office of the Comptroller General not only agrees that law reform actions are legitimate activities, but in fact may be considered a principal goal of the program; interestingly and contrary to the charges of the critics of the program, the GAO has found that not enough attention has been given to that goal in the administration of programs in the field.

A GAO report issued March 21, 1973, entitled "The Legal Services Program—Accomplishment of and Problems Faced by Its Grantees," based on field evaluations of seven legal services grantees in six States—New York, California, Montana, Minnesota, Colorado, and Puerto Rico—and selected written evaluations of 19 other efforts, concludes—at page 14:

One of the principal missions of OEO's Legal Services program is to have program grantees challenge . . . by class action or test cases—that portion of the statutory, regulatory and administrative base of the existing order considered to discriminate against the poor.

and then finds—at page 2:

GAO noted only limited achievements by most grantees in the economic development and law reform areas. This partly happened because the grantees had neither clearly defined objectives and priorities nor set operating plans to achieve these goals.

The report provides, at page 20, statistics with respect to seven programs reviewed in the field in support of this conclusion:

Service	Percent	Number of cases
Advice	51	42,798
Litigation	28	23,218
Advice and representation without litigation	17	14,511
Administrative hearings	4	3,776
Appeals		225
Total	100	84,528

These figures, based on the grantees studied, show that less than two-tenths of 1 percent of effort is devoted to the appeals area, where most law reform usually takes place. Of the 28 percent of service devoted to litigation, legal service attorneys have a success rate to be admired by the most prestigious of law firms: 72 percent won, 16 percent settled out of court and only 12 percent lost.

It should be noted that the programs reviewed are among those considered to be most radical and heavy on law reform, for instance programs in New York and California; this aspect suggests that the charge that legal services attorneys nationwide are too involved in "law reform" activities, is subject to serious question.

Mr. President, it should be noted that despite these findings on congressional intent, the present managers of OEO appear to take a different view—which is perhaps reflected in policy, and administered the program and ultimately in these findings of the GAO. In that connection, I note the following statement contained in the comments of J. Lau-

rence McCarty, Acting Associate Director, Office of Legal Services in the official comments on the GEA report contained in an appendix to the report itself:

Another major "deficiency" discussed in your report, is the failure of some grantees to meet the law reform goals of the program. This criticism points up the occupational schizophrenia from which many of our programs have suffered. This has resulted from intense pressure on the attorneys to engage in more law reform (test case litigation, legislative advocacy, group organizing, etc.) even if it meant keeping individual clients waiting. . .

. . . I am not in principle opposed to class actions, suits against the government, test case litigation, legislative advocacy or any other kind of law reform. Properly considered, they are simply some of the tools which the conscientious attorney must employ on occasion in serving a particular client. What I do strongly object to, however, is the elevation of these tools to the status of ends, separated from the goal of service to individual clients and subordinated in turn to some transcendent goal such as social change.

Mr. President, I am also concerned with the finding that efforts in the area of economic development have been limited. This is very unfortunate, since—as in the case of law reform—a single effort may effect many of the poor, thus contributing to the cost-effectiveness of the program.

There is a great unreached potential, for example, in the establishment of community economic development corporations authorized under the new title X of the Economic Opportunity Act coauthored by Senator Kennedy and I and which under the previous authority, title I–D of the act, has demonstrated such success in mobilizing resources for the poor in such depressed urban and rural areas as Bedford-Stuyvesant, N.Y.

Coupled with increased funds for the establishment for such corporations, efforts of legal services attorneys can be very helpful in bringing new community development corporations and similar efforts to life.

Mr. President, the GAO report is not limited to the question of law reform or economic development, but deals comprehensively with the extent to which programs have met other goals with respect to services in various areas; its overall conclusion is very favorable. At page 10, the report notes:

The program grantees provided the poor with the same scope of civil representation that was available to persons able to afford private attorneys.

The report highlighted a number of areas where the program could stand improvement. Particular stress was given to the need to improve reporting and management and administration generally, including tightening up with respect to eligibility, control over clients deposits, and similar areas.

These criticisms and recommendations must be taken seriously by the Executive and the Congress and as the ranking minority member of the Senate Committee on Labor and Public Welfare, I intend to give them full consideration both in the context of continuing the existing program and in the establishment of any new national legal services corporation.

Mr. President, so that the members of the Senate and those who operate these programs may be fully aware of the GAO findings and act upon them where appropriate, I ask unanimous consent that it be printed in full at this point in the RECORD, along with a a statement which I made on February 15, 1973, setting forth my position with respect to the future of the legal services program. I also ask unanimous consent that there be included a letter from John E. Berry, executive director, New York State Bar Association, and a resolution announcing that association's support—which is very key and gratifying—for the establishment of a National Legal Services Corporation, paralleling the support on the national level of the American Bar Association.

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

[From the CONGRESSIONAL RECORD, Feb. 6. 1973]

THE FUTURE OF FEDERAL GOVERNMENT ANTI-POVERTY PROGRAMS

Mr. JAVITS. Mr. President, as the ranking minority member of the Senate Labor and Public Welfare Committee and a member of the Subcommittee on Employment, Manpower and Poverty, and a supporter of the antipoverty program, I wish to indicate my general position with respect to the administration's plans for the program as disclosed in the fiscal 1974 budget submission and related announcements.

The administration's plans consist of four basic elements:

First, the administration proposes completely to eliminate the Office of Economic Opportunity, beginning July 1, 1973, by not requesting any funding for fiscal 1974.

Mr. President, this is notwithstanding that the Economic Opportunity Amendments of 1972, which the President signed on September 19, 1972, provide for a continuation of OEO through fiscal 1974—June 30, 1974.

It is extremely important that the poor—who number 24 million, or over one-twelfth of our population—continue to have an advocacy agency within the Federal "establishment" which may serve their needs.

As President Nixon himself said on February 19, 1969, in a message to the Congress concerning the antipoverty program:

"From the experience of OEO we have learned the value of having in the Federal Government an agency whose special concern is the poor."

Second, the administration proposes the cut-off of Federal funding for community action operations and activities—so-called "local initiative"—as of July 1, 1973; in that regard, the fiscal 1974 budget submission states—at page 122:

"After more than seven years of existence, Community Action has had an adequate opportunity to demonstrate its value. In addition to private funds, State and local governments, may, of course, use general and special revenue sharing funds for these purposes."

The 1972 amendments signed by the President reserved $328.9 million for these activities out of $870 million authorized for programs administered by the Office of Economic Opportunity during fiscal 1974.

It is expected that the administration will take the position that since they are not requesting funds for OEO, the reservation is inapplicable.

The elimination of Federal funding for community action agencies—which aggregate 1,000—may well sound a "death knell" for them in many areas; although it is true that in a number of cases they may be successful in obtaining funds from and establishing new relationships with the departments and agencies of the Federal Government and with State and local government—and should begin now to do so—I am concerned that in a substantial number of instances they will not be extended the benefit of general revenue sharing funds, and they will go out of business. Too many community action agencies have had to "take on" State and local government in order to carry out their chartered role as "advocate for the poor" and it is not reasonable to expect that States and cities will come running to the assistance of their former antagonists if the Federal lifeline is cut.

The administration's proposal to eliminate Federal funding for CAA's overlooks the administration's own strategy with respect to the role of the community action agencies in the community.

Since 1970, the administration has been developing community action agencies as catalysts, rather than protagonists, on the local level, and those efforts have borne fruit.

A report entitled "Utilization Test Survey Data for 591 CAA's" dated January 1973 by the Office of Operations of the Office of Economic Opportunity concludes—on the basis of an extensive survey of approximately 60 percent of the 1,000 community action agencies:

"CAA's are rapidly becoming very positive forces in their communities, that can play significant roles in helping communities rise to the challenges of revenue sharing and other forms of government decentralization."

The report documents the fact that between 1965 and 1972, with an aggregate Federal expenditure of approximately $1.1 billion in local initiative funds, 591 community action agencies have mobilized $1.3 billion in resources from State and local governments, the private sector and other Federal sources—thus more than doubling the Federal investment.

Accordingly, sound Federal policy dictates that we continue Federal funding for community action agencies in order to make general and special revenue sharing work for the poor.

The concept which underlies revenue sharing—that those on the local level can best determine their future—applies to the poor on the local level, as well.

Thus, I consider it essential that Federal funding for community action agencies continue, beyond July 1, 1973, so that they can find a meaningful and secure place in the local fabric emerging under decentralization, and so that we will not precipitously bankrupt those very agencies which may well provide the means of making decentralization work effectively for the poor.

Third, the administration's fiscal 1974 budget provides $71.5 million for legal services, assuming enactment of legislation for a legal services corporation which the administration intends to submit. No funds are included in the budget for the current legal services program under administration by the Office of Economic Opportunity.

In contrast, the Economic Opportunity Amendments of 1972 expressly provide for a reservation of $71.5 million for legal services program for fiscal 1974.

I believe in the concept of a national legal services corporation and considered most unfortunate the decision made last year to drop the legal services title from the Economic Opportunity Amendments of 1972.

At my request the conference committee included the following language as a part of the joint explanatory statement of the committee on the conference of September 5, 1972: (Report No. 92–1086, at page 26).

"The Conferees regret that it was necessary to delete title IX, which would have established a National Legal Services Corporation as a result of the failure to reach agreement with respect to the composition of the Board of Directors and certain other elements of the Corporation.

"The Conferees continue to strongly support the existing legal services program and

the concept of a legal services corporation and intend to continue to seek appropriate means of expanding the program and insuring its independents, to provide the poor greater access to our system of justice under law."

To implement this commitment, I intend to sponsor, or cosponsor new legislation for the establishment of a legal services corporation. I believe deeply in the current legal services program which defends the legal rights of the poor and contributes so much to the sense of dignity of the poor—and in the desirability of giving the legal services program a new home where its independence, professionalism, and adequate funding may be more readily secured. I will make every effort toward fulfillment of that objective early in this Congress both in my own efforts and in respect to any proposal that is forthcoming from the administration; their commitment to pursue the concept of the corporation is most welcome. However, if we fail to enact a specific legal services measure before the beginning of fiscal 1974, the current program should continue and I shall take whatever steps are necessary to see that the program receives the appropriations to which it is entitled.

Fourth, the administration plans to delegate or transfer a number of programs to other agencies or have them assumed by such agencies. As indicated at page 122 of the administration's budget request:

"In 1974 responsibility for certain programs now funded through the Office of Economic Opportunity will be assumed by other agencies, as follows: the migrant program will be delegated to the Department of Labor; Indian programs will be assumed by HEW; Community Economic Development program grantees will be funded by the Office of Minority Business Enterprise at Commerce; health projects will be transferred to HEW; research and development functions will be transferred to the agencies which have statutory responsibility in the fields of current OEO activity."

The administration has not revealed at this time details of its plans for implementation of these actions in terms of the legal basis upon which they intend to proceed and the effect on existing programs in terms of funding and mode of operation, but again I shall try to hold substantively to the specified programs.

Mr. President, in closing, the administration's proposals are very serious and I am concerned that they be not received by the poor as depressant to their own efforts.

In his second inaugural address, President Nixon said:

"The shift from old policies to new will not be a retreat from our responsibilities, but a better way to progress."

Mr. President, I will be openminded to any changes that may be made, we must seek better ways to progress and needs to phase in the new while we do not retreat from the responsibilities assumed by the Congress and the Executive 4½ months ago in enacting the 2-year extension, and what the poor themselves have given life under the Economic Opportunity Act of 1964 and the recent amendments.

The administration's proposal at this point is only that—a proposal; it is not enacted into law and is subject to action by the Congress.

It is my fervent hope—and one to which I shall give all my efforts as ranking minority member of the committee—that we will in time avoid a confrontation on this issue.

This is no time for further divisions at home between the community of the poor exemplified in the community action movement and the community at large; now that peace in Southeast Asia is being secured, it is time for reconciliation.

We have a great opportunity here. The American public wants progress for the poor: a Harris poll conducted in December of last year documented that 62 percent of Americans supported increased spending for the poor.

We must work together to secure that progress mindful not only of the dictates of the "new federalism" and the economy, but of the benefits and toil of the past and the necessity of maintaining the momentum of the national commitment contained in the Economic Opportunity Act and which OEO, community action agencies and the poor have sought to translate into programs to arrest the syndrome of poverty.

As the President said in his message of February 19, 1969, to which I referred earlier:

"How the work begun by OEO can best be carried forward is a subject on which many views deserve to be heard—both from within Congress, and among those many others who are interested or affected, including especially the poor themselves."

I want very much that we work together in that spirit.

NEW YORK STATE BAR ASSOCIATION,
March 14, 1973.

Hon. JACOB JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: Our Association has long been concerned with the vital problem of furnishing adequate legal services to the poor.

Enclosed is copy of report and resolution adopted by our House of Delegates on March 3, 1973 urging the creation of a national legal services corporation to fill this important need.

Your continued interest in, and support of, this program will be much appreciated.

Very truly yours,

JOHN E. BERRY,
Executive Director.

Enclosure.

NEW YORK STATE BAR ASSOCIATION,
March 8, 1973.

To: New York State Congregational Delegation.

Re Creation of a National Non-profit Corporation for Legal Services.

This will advise that on March 3, 1973 the House of Delegates of this Association adopted the following resolution:

"Resolved that the New York State Bar Association reaffirm its support of a national legal services corporation as urged by the American Bar Association and ask the Congress and the Administration to join in the enactment of a law to establish a National Legal Services Corporation and to take such action as is necessary to assure the continuity and adequate funding of the national legal services program."

Enclosed for your information are statements by the Association's president and copies of prior reports dealing with this proposed legislation.

We urge and will appreciate your support of this proposal.

JOHN E. BERRY,
Executive Director.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C.

To the PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES:

This is our report on the accomplishments of and problems faced by Legal Services program grantees. Federal participation in this program is administered by the Office of Economic Opportunity.

We made our review pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67).

We are sending copies of this report to the Director, Office of Management and Budget, and the Acting Director, Office of Economic Opportunity.

ELMER B. STAATS,
Comptroller General of the United States.

REPORT TO THE CONGRESS: THE LEGAL SERVICES PROGRAM—ACCOMPLISHMENTS OF AND PROBLEMS FACED BY ITS GRANTEES: OFFICE OF ECONOMIC OPPORTUNITY

(By the Comptroller General of the United States)

DIGEST

(NOTE.—Page numbers listed refer to original report.)

Why the review was made

The public and the Congress are concerned about the operations and accomplishments of the Legal Services program of the Office of Economic Opportunity (OEO).

The General Accounting Office (GAO) reported to the Congress on the effectiveness and administration of the program in August 1969. (See p. 17.)

To follow up on the matters reported then and to provide the public and the Congress with current information, as well as suggestions for improvements, GAO reviewed the activities of eight Legal Services program grantees.

GAO also reviewed 19 randomly selected annual evaluation reports of program grantees. These reports were prepared during 1970 and 1971 under contracts awarded by OEO.

The President's budget for fiscal year 1974 contains no direct appropriations for OEO. Legislation establishing a Legal Services corporation to operate the program has been introduced in the Congress. Observations in this report should be of value to the successor organization (if created) in establishing policies and procedures to govern the provision of legal services.

Background

The Legal Services program seeks to provide representation which will benefit the poor and help alleviate their problems through legal processes.

The program began in 1965 as a $600,000 experiment and has grown steadily. Through fiscal year 1972, the Federal Government invested about $315 million in the program. About $71.5 million will be spent in fiscal year 1973.

GAO reviewed seven standard program grantees in New York, Puerto Rico, California, Montana, Colorado, and Minnesota which employed attorneys to provide legal services. GAO also reviewed the Wisconsin Judicare project, under which legal services provided by private attorneys were paid for by the project from OEO funds.

The review covered grantee activities during 12-month grant periods ended during calendar year 1971. OEO provided the eight grantees with about $8 million for these periods.

Findings and conclusions

Results of operations

The seven standard program grantees provided legal services to a number of persons to whom such services otherwise might not have been available. Adequate data was not available to determine these numbers.

Grantees could increase their programs' effectiveness if they developed clearer and more detailed plans to achieve program goals and if OEO developed a reliable system to gather data on grantees' accomplishments.

GAO noted only limited achievements by most grantees in the economic development and law reform areas. (See p. 11.) This partly happened because the grantees had neither clearly defined objectives and priorities nor set operating plans to achieve these goals. (See pp. 11 and 17.)

The grantees provided the poor with the same scope of civil representation that was available to those able to afford attorneys.

in the following areas, which are goals of the OEO Legal Services program:

Providing quality legal services to the greatest possible number of poor people. (See p. 19.)

Educating target-area residents as to their legal rights and responsibilities. (See p. 22.)

Ascertaining what rules of law affecting the poor should be changed to benefit the poor and achieving such changes (law reform). (See p. 14.)

Serving as advocates for poor clients in the social decisionmaking process. (See p. 22.)

Helping the poor in forming self-help groups (economic development). (See p. 11.)

Involving the poor in the grantees' decisionmaking processes. (See p. 23.)

GAO had considerable difficulty interpreting and analyzing results reported by the grantees. They had not defined their objectives in operational terms. Their records were inadequate. And the confidentiality of the attorney-client relationship precluded GAO from reviewing certain records.

Adequate data was not available to determine the actual number and types of cases handled, to measure achievements in some program goal areas, and to compute the average cost for cases handled. (See p. 25.)

Management and administration

Standard program grantees need to improve their management and administration so they can use resources more effectively and efficiently. Grantees could improve their determinations of persons' eligibility for legal assistance by—

Complying more with income limitations (see p. 31),

Recording complete data supporting persons' eligibility (see pp. 31 to 33), and

Requiring supervisory reviews of grantee attorneys' client eligibility determinations (see p. 33).

Non-Federal contributions need to be documented adequately and should represent allowable contributions. (See p. 35.) Grantee controls over client deposits also need to be improved. (See p. 36.)

Wisconsin Judicare

Although established in 1966 as an alternative method of providing legal services to the rural poor, Wisconsin Judicare was not designed to test its own effectiveness nor its effectiveness in comparison to standard Legal Services program grantees.

Consequently, Wisconsin Judicare has not been evaluated in depth, and standard methods of delivering legal services and the value of the judicare concept remain in question.

OEO did not establish—

A systematic method of extracting information, such as the cost of each type of legal case handled, needed for documenting judicare results and for comparing Wisconsin Judicare with standard program grantees (see p. 42) or

A model standard Legal Services program grantee having a system for collecting data for comparison to Wisconsin Judicare (see p. 42).

Emphasis should be placed on developing more reliable data on and measures of judicare accomplishments and on developing a system of collecting data for comparison purposes, so that a basis would exist for objectively assessing and comparing the judicare method with the methods used by standard program grantees.

OEO took steps in August 1972 to improve the information on judicare project results; however, further improvements are necessary. (See p. 44.)

Wisconsin Judicare provided free legal services in diverse areas to a number of persons to whom such services otherwise might not have been available. The project was involved to some extent in all program goal areas. (See pp. 47 to 49.)

GAO noted the following problems relating to Wisconsin Judicare's operations.

Private attorneys were involved very little in law reform and economic development. (See p. 45.)

Services provided in education, advocacy, and economic development were limited to a narrow spectrum of target-area residents. (See p. 45.)

Private attorneys were not involved in appellate actions. (See p. 46.)

Management and administration of the judicare project should be improved in areas relating to documentation of judicare payments to private attorneys, client eligibility, and non-Federal contributions. (See pp. 51 and 52.)

Recommendations or suggestions

The Director of OEO should take actions necessary to remedy the conditions noted above. (See pp. 18, 29, 33, 36, 50, and 53.)

Agency actions and unresolved issues

OEO generally concurred in GAO's recommendations and promised to take corrective actions so that it could bequeath to the proposed successor organization, the Legal Services corporation, a mechanism that would function effectively in meeting the legal needs of the poor. (See app. II.)

Matters for consideration by the Congress

The Congress has expressed interest in how effectively and efficiently program grantees operate. In its deliberations on legislation to establish a Legal Services corporation, the Congress may wish to consider the information in this report on program grantees' achievements and operating problems.

CHAPTER 1.—INTRODUCTION

The legal profession has long acknowledged a responsibility to provide legal services to persons who cannot afford attorneys. At the turn of the century the profession established free legal aid offices to handle civil matters. This was followed by locally funded public defender offices to provide legal services in criminal matters.

Although the number of legal aid and public defender offices throughout the country has increased, the advent of the Legal Services program in 1965 significantly increased the availability of free legal assistance for low-income persons. When initiated, the Legal Services program was placed in the Community Action Program (CAP) of the Office of Economic Opportunity (OEO). In recognition of the importance of legal assistance for the poor, the program was elevated in fiscal year 1970 to the status of an independent office reporting to the Director of OEO.

The President's fiscal year 1974 budget contains no direct appropriations for OEO and provides for the transfer of most OEO programs to other Federal agencies. Legislation establishing a Legal Services corporation to operate a Legal Services program has been introduced in the Congress.

We evaluated the results of program grantees' operations and the manner in which they were administered. Our observations should be of value to the successor organization (if created) in establishing policies and procedures to govern the provision of legal services.

By letter dated March 12, 1973 (see app. II), OEO informed us that it generally agreed with our recommendations and that it would give top priority to remedying the deficiencies pointed out in this report, so that it could bequeath to the proposed successor organization, the Legal Services corporation, a mechanism that would function effectively in meeting the legal needs of the poor.

The overall mission of the Legal Services program is to provide representation which will benefit the poor and help alleviate their problems through the legal process. The program, which began as a small experiment within OEO, funded 265 grantees which operated 934 offices and employed over 20,000 attorneys in 50 states, the District of Columbia, and Puerto Rico during fiscal year 1971. Under the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2701 et seq.), OEO provided most of the funds ($71.5 million) for program grantees during fiscal year 1973.

OEO provided about $8 million to the eight grantees—seven standard Legal Services program grantees and the Wisconsin Judicare project—for the periods reviewed. (See app. I.) We also reviewed 19 randomly selected annual evaluation reports for program grantees prepared during 1970 and 1971 under contracts awarded by OEO, to ascertain the grantees' achievement of program objectives.

Economic Opportunity Act

The Economic Opporunity Act of 1964, commonly referred to as the War on Poverty act, was enacted August 20, 1964, to strengthen, supplement, and coordinate efforts to eliminate poverty in the United States. The act authorized various programs intended to give everyone the opportunity to be educated and trained to work, and to live in decency and dignity. To lead this endeavor, the act created OEO, headed by a director, in the Executive Office of the President.

When first enacted, the Economic Opportunity Act enumerated various programs that could be federally financed but did not mention a Legal Services program. In 1965 the law was amended so as not to preclude the financing of programs other than those expressly enumerated.

In 1966 the Economic Opportunity Act mentioned a Legal Services program for the first time. The 1966 amendments expressly authorized programs providing legal advice and legal representation to persons unable to afford private attorneys. This amendment also specifically authorized funds for the programs.

The Legal Services program provisions of the Economic Opportunity Act were amended in 1967. Under these amendments, the progam is categorized as one of eight special programs under CAP to stimulate actions to meet or deal with particularly critical needs or problems of the poor which are common to a number of communities.

Program goals

Section 222 of the act provides for a Legal Services program to: "* * * further the cause of justice among persons living in poverty by mobilizing the assistance of lawyers and legal institutions and by providing legal advice, legal representation, legal counseling, education in legal matters, and other appropriate legal services."

Each grantee is expected to participate, to some extent, in each of the following goals of the Legal Services program.

1. Provide quality legal services to the greatest possible number of poor people in accordance with program goals and the size of the staff.

2. Educate target-area residents as to their legal rights and responsibilities in areas of concern to them.

3. Ascertain what rules of law affecting the poor should be changed to benefit the poor and achieve such changes through test cases[1] and appeals, statutory reforms, or changes in the administrative process.

4. Serve as advocate for poor clients in the social decisionmaking process.

5. Help the poor in forming self-help groups, such as cooperative purchasing organizations and other businesses.

6. Involve the poor in the grantee's decisionmaking process and, to the extent feasible, include target-area residents on the grantee's staff.

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[1] Cases that test the legality or interpretation of a law or regulation.

Organization of the legal services program

Legal Services program grantees may be sponsored by community action agencies or other local groups, bar associations, and/or legal aid societies, as determined by the local community.

Although program grantees are usually funded as a part of CAPs, a governing board separate from the local community action agency directs them. OEO's Legal Services program guidelines state that this separation is to insure grantees' independence.

The Office of Legal Services in the OEO headquarters administers the Legal Services program. This office is responsible to the Director of OEO for conducting the program, coordinating program grantees, evaluating the effectiveness of the program, and developing policies and program guidelines.

Administration of the Legal Services program at OEO headquarters is divided into five major units: (1) Operations, (2) Special Counsel for Legal Services, (3) Program Development and Training, (4) Budget and Program Management, and (5) Planning, Technical Assistance, and Evaluation.

Each of the 10 regional Legal Services offices implements headquarters' plans and instructions and is responsible for directing day-to-day activities in its geographical area.

Funding

OEO funding of the Legal Services program has increased steadily from $600,000 in fiscal year 1965 to an estimated $71.5 million for fiscal year 1973. OEO reported that Federal funds of about $315 million and matching funds from non-Federal sources of about $59 million had been invested in the Legal Services program through fiscal year 1972.

In addition, some funds have been made available to the Legal Services program through the Department of Health, Education, and Welfare (HEW). All States, under the fair hearing requirements of the Social Security Act (42 U.S.C. 1302, as implemented by 45 CFR 205.10), were required to make lawyers' services available to clients desiring them in public welfare hearings by July 1, 1969.

HEW announced on November 8, 1968, that it would initiate a legal services program which would provide legal counsel to welfare recipients on such matters as evictions, divorces, and wage garnishments. This program is not mandatory; individual States decide on their participation.

One method by which HEW has provided legal services under this program is having State public welfare agencies buy such services from existing OEO-funded Legal Services program grantees. OEO estimates that HEW will provide about $2 million to its Legal Services program grantees during fiscal year 1973.

CHAPTER 2.—ACHIEVEMENTS AND PROBLEMS OF STANDARD PROGRAM GRANTEE'S OPERATIONS

The information we obtained on program results provided some insight into the achievements and problems in grantees' operations. The seven standard program grantees we reviewed provided legal and related services to a number of persons to whom such services otherwise might not have been available.

However, there were indications that most program grantees had not been adequately involved in the program goal areas of economic development and law reform. We believe the achievement of these goals was limited partly because the grantees had neither clearly defined their objectives and priorities nor developed a plan for achieving these objectives.

The program grantees provided the poor with the same scope of civil representation that was available to persons able to afford private attorneys. In some instances the grantees advocated institutional reform of laws and practices which adversely affected the poor, carried on programs which educated the poor as to their legal rights, served as advocates for the poor in the social decisionmaking process, and involved the poor in the decisionmaking process.

We had considerable difficulty interpreting and analyzing the results reported by the grantees because (1) grantees had not defined their objectives in operational terms, (2) grantee records were inadequate, and (3) the confidentiality of the attorney-client relationship precluded our review of certain grantee records.

Adequate data was not available to determine the actual number and types of cases handled; to measure achievements in law reform, economic development, and education; and to compute the average cost for cases handled. In addition, we were unable to fully evaluate the quality and extent of legal services provided by the grantees because attorneys' case files containing pertinent information were confidential and were not available to us.

We believe that emphasis should be placed on developing better operational, managerial and administrative techniques that will enable program grantees to better serve their intended beneficiaries and provide more reliable data on grantee accomplishments.

The results of the Legal Services grantees' operations and the problems relating to grantee achievements follow:

Inadequate involvement in economic development and law reform

Our examination showed that all seven grantees had been involved to some extent in the program goal areas of economic development and law reform and that some grantees had considerable success in law reform. Some specific activities in these two goal areas are discussed in more detail on pages 13 and 16.

Despite these successful efforts, there were indications that most grantees had not been adequately involved in (1) encouraging the poor to form self-help groups and (2) identifying and seeking appropriate reform of statutes, regulations, and administrative practices that unfairly affected the poor. Our analysis of the results of annual evaluations made of 19 program grantees disclosed that a number of the grantees were not doing an effective job in these goal areas.

We believe the achievement of these goals was limited partly because the grantees had neither clearly defined their objectives and priorities nor developed a plan for achieving these objectives.

The absence of data on grantee accomplishments in these goal areas and in the education goal area is discussed on page 27.

Economic Development

There were indications for 6 of the 7 grantees which we reviewed and 12 of 19 grantee evaluation reports which we analyzed that there had not been adequate involvement in the economic development goal area.

OEO's Office of Legal Services recognized that successful use of the courts and reform of governmental processes, by themselves, would not significantly improve the lives of the poor. It believed that, to break the cycle of poverty and to have the poor achieve middle-class living standards, more far-reaching changes would have to occur in the private sector than in the public sector. It noted that, despite the availability of substantial amounts of Federal funds for housing and economic development, there had been few visible signs of improved conditions in low-income communities. The Office of Legal Services attributed this lack of progress to private entrepreneurs who did not fully use available Federal and private funds for projects in poverty areas.

The Office of Legal Services' approach to economic development is to help the poor in forming self-help groups in their communities; it is hoped that these groups will generate funds to provide more adequate housing, retail facilities, loans, and employment.

The following items indicated that the six grantees had not been adequately involved in economic development.

Grantee

A. A 1971 evaluation report stated that the grantee did not have a dynamic economic development activity. The grantee's executive director, in a 1971 self-evaluation report, stated that little had been accomplished in this area.

B. An OEO official informed us in January 1972 that the grantee had achieved nothing significant in economic development since 1969.

C. A 1970 evaluation found that only 1 of the grantee's 10 corporations had worked in the area of economic development. As of October 1971 the grantee had fully staffed only four of the nine economic development units required under its grant.

D. The grantee's deputy director informed us in December 1971 that activities in economic development were nonexistent.

E. A consultant evaluated the grantee and reported to OEO in February 1971 that the grantee had made virtually no progress in economic development.

Of 29 staff attorneys we talked with, 23 said they had not participated in economic development, 3 estimated that they had spent only 1 or 2 percent of their time, 2 estimated that they had spent about 25 percent of their time, and 1 did not estimate his time.

F. The grantee had been involved in organizing and structuring six business enterprises since 1969; five were either never organized enough to become operating businesses.

Our analysis of 19 grantee evaluation reports showed that only 5 grantees were reportedly adequately helping the poor in forming self-help groups and that 12 grantees were deficient in this goal area. Moreover, 7 of these 12 grantees were reportedly not involved at all in this goal area. We were unable to determine the extent to which two grantees were involved in economic development because of limited information in the evaluation reports.

As we said earlier, all seven grantees included in our review devoted some effort to economic development. Examples of grantee activities in this goal area during the period covered by our review include—

Preparing a lease for a building to house a bus depot;

Assisting tenants in purchasing a 42-unit apartment building;

Assisting a group of State penitentiary inmates to establish a janitorial service to provide employment for ex-felons;

Drafting articles of incorporation for a development corporation in a Model Cities target area;

Preparing a proposal for a food cooperative; and

Assisting in forming a nonprofit grocery store, gas station, and development corporation for migrant farmworkers.

Law Reform

There were indications for four of the seven grantees which we reviewed and eight of the grantee evaluation reports which we analyzed that there had not been adequate involvement in the law reform goal area.

One of the principal missions of OEO's Legal Services program is to have program grantees challenge—by class action [1] or test case—that portion of the statutory, regulatory, and administrative base of the existing order considered to discriminate against the poor; to research conflicting or discriminat-

[1] An action brought on behalf of named plaintiffs and other persons similarly situated but too numerous to be named as plaintiffs.

ing applications of laws or administrative rules; and to propose administrative and legislative changes.

The magnitude of the benefits that the poor can realize through program attorneys' law reform efforts was indicated by a former director of the Office of Legal Services who stated that—

"In a series of 16 cases challenging the constitutionality of the welfare residence laws, which were so strongly condemned by the Riot Commission, legal services lawyers have increased the income of the poverty population by several million dollars."

If their clients' position is sustained in the Supreme Court, as much as $100 million per annum or more will have been gained for over 100,000 poor people each year.[2]

The following items indicated that four grantees reviewed had not been adequately involved in law reform.

Grantee

A. A 1970 evaluation reported that law reform activities needed strengthening. A grantee official informed us that a heavy caseload in the area of individual services precluded the grantee from emphasizing law reform.

B. A 1969 OEO evaluation reported that grantee corporations had not markedly implemented the national goal. As of October 1971, only four of the eight law reform units required under its grant were operational.

C. The grantee's 1970 self-evaluation report stated that a substantial, organized, and effective law reform program was lacking. The grantee's executive director reported in May and August 1971 that the law reform unit was in a state of flux and not able to produce as much as has been anticipated.

D. A grantee official informed us that the project had not been involved in any significant law reform activities.

Our analysis of 19 grantee evaluation reports showed that only 10 grantees were reportedly adequately engaged in law reform activities and that 8 grantees were deficient in this goal area. Moreover, four of the eight grantees were reportedly not involved at all in this goal area. We were unable to determine the extent to which one grantee was involved in law reform activities because of limited information in the evaluation report.

As we said earlier, all seven grantees included in our review devoted some effort to law reform. Some grantee attorneys had secured important decisions and legislation for the poor. Examples of law reform cases handled by the grantees during the period covered by our review follow.

1. *Serrano* v. *Priest*, 487 P. 2d 1241 (1971)—The grantee was successful in this case in which a particular State's use of local property taxes to finance public schools was ruled unconstitutional by the State Supreme Court. The grantee's clients in this case were a group of poor school children and their parents who alleged that they were discriminated against on the basis of wealth because the quality of their education depended largely upon the value of the property that happened to be in their school district.

2. *California Welfare Rights Organization* v. *Carleson*, 482 P. 2d 670 (1971)—This was an action which called for the repeal of certain changes made by the California State Department of Social Welfare in the standards and regulations for determining welfare payments which resulted in reduced welfare payments. The State Supreme Court held that the reductions were beyond the Department's authority and that the new standards were partially invalid and inconsistent with welfare regulations. This decision prevented a 24-percent reduction—an average of about $44 a family—in monthly welfare payments for about 1.4 million recipients.

3. *Escalera* v. *New York City Housing Authority*, 425 F. 2d 853 (1970)—This was an action against the housing authority for violation of tenants' rights of due process in eviction and penalty proceedings. The court of appeals determined, and thus established the precedent, that the housing authority's procedures for determining tenancy on the basis of breach of rules and regulations or on the basis of nondesirability violated the minimum standards of due process guaranteed by the 14th amendment.

The seven grantees' grant applications either contained no provisions relating to economic development and law reform goals or the provisions included were generally descriptive and did not specify information such as what the grantee intended to accomplish, how these objectives would be achieved, and the amount of resources to be allocated.

Grantee officials said that the main reason for the low activity in economic development and law reform was the lack of adequate resources. Grantee officials informed us that their attorneys were fully occupied with meeting individuals' day-to-day needs and that they were therefore unable to devote more time to economic development and law reform.

Also, some attorneys did not agree with the economic development program objective. A number of grantee officials informed us that, because of limited resources and grantee attorneys' lack of expertise in business matters, Legal Services grantees should not assume an active part in economic development activities.

In our August 7, 1969, report on the "Effectiveness and Administration of the Legal Services Program Under Title II of the Economic Opportunity Act of 1964" (B–130515), we also reported that there was little activity in economic development and law reform. We reported, at that time, that apparently only 2 of 34 Legal Services program grantees evaluated were effectively engaged in economic development and only 6 of the 34 grantees were effectively engaged in law reform activities.

On the basis of our review of 34 annual evaluation reports, we concluded that achievement of these objectives had been limited partly because OEO had neither clearly defined program objectives and priorities nor provided the essential direction and guidance to program grantees on how to engage in activities directed toward law reform and economic development. Accordingly, we recommended to the Director of OEO that he more clearly define program objectives and priorities and instruct grantees on how to engage in these activities.

OEO disagreed with our conclusion. It informed us in 1969 that it viewed its immediate objective as one of increasing its law reform and economic development activities without neglecting basic client services and that it had consciously refrained from issuing guidelines, monographs, and formal policy statements on priorities and methodologies because it believed that such determinations could not be made at that time on the basis of the program's limited experience.

Conclusions

We recognize that certain aspects of the Legal Services program are experimental and innovative and that the program has been in existence less than 8 years. We recognize also that OEO has increased the degree of grantee involvement in economic development and law reform since our 1969 review.

We also recognize the difficulties inherent in establishing precise objectives and priorities for all Legal Services program grantees. We believe, however, that for Legal Services program grantees to adequately plan, program, and budget their resources to meet the major program goals, it is essential for program grantees to have clearly defined objectives and priorities and a plan for achieving these objectives.

We believe that one feasible method of insuring clearly defined objectives and priorities at this time would be for the Office of Legal Services to require grantees, in their grant applications, to define their objectives and priorities and to develop a plan for achieving economic development and law reform objectives.

Recommendation to the Director, OEO

We recommend that the Director of OEO require program grantees to include in their grant applications statements defining objectives and priorities and indicating how economic deevlopment and law reform objectives are to be achieved.

Program results in other goal areas

During the 12-month periods covered by our review, the seven Legal Services program grantees provided legal services in diverse areas. The grantees provided a full range of legal work—advice, representation, litigation, and appeal—to a number of clients and were involved to some extent in the Legal Services program goal areas of education, advocacy, and involvement of the poor in the decision-making process.

A discussion of achievements in these goal areas follows.

Providing Quality Legal Services to the Greatest Possible Number of Poor People

We were unable to fully evaluate the quality of legal services provided to clients by the grantees because of the confidentiality of the attorney-client relationship discussed on page 10. However, the clients were interviewed generally expressed satisfaction with the services they received. Also, judges whom we interviewed informed us that grantee attorneys generally provided competent legal representation for their clients.

The caseload data which follows is data reported to OEO by the grantees. The discrepancies we noted in this data, which prevent the ascertainment of the actual number and types of cases handled by the grantees, are discussed on pages 25 to 27.

Extent of legal services provided

Records showed that the seven grantees had accepted 127,309 cases during the 1971 program year. The social program areas in which services were rendered for these cases are summarized below. This data was available for only 9 months of the program year for one of the seven grantees.

Social program area	Number of cases	Percent
Housing	38,637	30
Domestic relations	35,783	28
Administrative matters	16,338	13
Consumer and employment	13,335	11
Miscellaneous	23,216	18
Total	127,309	100

During the 1971 program year, the grantees closed 84,528 cases and referred 15,394 persons to private attorneys or to Government and social service agencies for nonlegal services. The grantees' services for the closed cases are summarized below. The amount of legal work required to dispose of a case may vary from a few minutes to a number of days, depending on the nature of the case.

[2] The Supreme Court of the United States upheld the judgments of the district courts in three of the cases, holding that the statutory provision which denies welfare assistance to residents of the State or the District of Columbia who have not resided within their jurisdictions for at least 1 year immediately preceding their applications for such assistance is unconstitutional (*Shapiro* v. *Thompson*, 394 U.S. 618 (1968)). The other district court cases were stayed pending the decision of the Supreme Court.

Service	Number of cases	Percent
Advice	42,798	51
Litigation	23,218	28
Advice and representation without litigation	14,511	17
Administrative hearings	3,776	4
Appeals	225	
Total	84,528	100

The most common types of services provided by the grantees were advice only and advice and representation without litigation—usually a telephone call or a letter. Although these types of services on the average represented about 68 percent of the caseloads for the seven grantees, they accounted for as much as 85 to 87 percent of the caseloads of four of the seven grantees. Staff attorneys estimated that such cases usually involved from one-half hour to 4 hours of an attorney's time.

About 28 percent of the cases closed by the grantees involved court appearances. Major concerns in these cases included domestic relations and juvenile offenders. Six [3] grantees reported the following results for 3,990 litigated cases.

Results of litigation	Number of cases	Percent
Cases won	2,890	72
Cases lost	465	12
Cases settled out of court	635	16
Total	3,990	100

Quality of services provided—clients' views

Most of the 115 grantee clients interviewed stated that they were satisfied with the services they had received. Ten clients were dissatisfied for such reasons as difficulty in communicating with attorneys and attorneys' failure to explain the nature of the case to the client.

Quality of services provided—judges' views

The 18 judges interviewed stated that grantee attorneys generally were well prepared and provided competent legal representation for their clients. Some judges stated that they had had problems with some grantee attorneys. The problems pointed out by the judges were courtroom disruptions, disrespectful behavior, falsification of documents, and attorneys who, in the opinion of one judge, were militants interested only in battling the establishment.

Accessibility of grantee offices

The grantees' neighborhood law offices generally were convenient to the population they were designated to serve. The 7 grantees operated 72 offices which generally had convenient office hours for their clients.

Educating Target-Area Residents

OEO's Legal Services program guidelines provide that a Legal Services program educate eligible people about their legal rights and obligations.

The seven grantees had initiated steps to educate organizations and individuals as to their legal rights and obligations. The grantees used conventional methods, including printed materials, oral presentations, and radio and television announcements. Examples of the grantees' efforts in legal education include—

Appearing before various community groups, such as welfare rights organizations, to provide information relating to legal rights and changes in the law.

Advising senior citizens' groups on such matters as preparing wills.

Publishing periodic newsletters on such issues as credit and evictions.

Participating in a Spanish-speaking traveling theater project which identified and illustrated law-related problems prevailing in rural communities and how program attorneys could help.

Publicizing the availability of the grantee's services on radio and television.

Advocacy for the Poor

Advocacy for poor clients generally refers to the representation of organized community groups of poor people before State and local government agencies and, more broadly, to the counseling of such groups on questions of policy, procedure, legal rights, and remedies.

All seven grantees had served as advocates for poor clients. For example, grantees—

Assisted community workers and public housing residents in obtaining approval of funding for the assignment of 16 patrolmen to certain public housing projects.

Prepared a study that disclosed an urgent need for senior citizens' housing in one county. Subsequently, funds were made available to ease this problem.

Represented minority groups concerned with increasing minority membership in unions in negotiations with a building trade union.

Provided representation at a meeting with State and local welfare officials which resulted in policy changes making food stamp purchases more convenient.

Obtained a local school board's agreement to expand the school lunch program and automatically entitle welfare family students to reduced-price lunches.

Involving the Poor

The seven grantees had involved the poor, or representatives of the poor, in the grantees' decision-making processes by including them on the governing boards and by employing target-area residents on their staffs.

The Economic Opportunity Act requires that each community action agency have a governing board which has at least one-third of the board members chosen in accordance with democratic selection procedures adequate to insure that they are representative of the poor in the area served.

Generally, at least one-third of the membership of the seven grantees' governing boards comprised representatives of the poor. Most of these representatives had good attendance records at board meetings during 1971.

Also, target-area residents were employed on the seven grantees' staffs. For example, at December 31, 1971, all of one grantee's 57 nonprofessional staff members had been hired from the poverty community through recommendations by representatives of the poor or a local employment service.

Program data

The number and magnitude of the discrepancies we noted in the grantee's data on accomplishments prevented us from reconstructing accurate caseload data for the grantees and from developing precise data on grantee accomplishments. Consequently, we could not establish the actual number and types of cases handled by the grantees during the 1971 program year nor could we measure grantee achievements in certain program goal areas.

In August 1967, OEO established a management information system (MIS) to help program management at the local level and to aid OEO in its monitoring activities. According to OEO, MIS was designed to identify and describe the types of individuals being helped by the various antipoverty activities and to provide information about program content, progress, impact, and costs—thus providing a basis for evaluating the effectiveness of individual programs, comparing the various programs, and providing a factual justification for continuing, discontinuing, or modifying particular programs.[4]

We examined the MIS reports submitted by the seven grantees to OEO for the 1971 program year to (1) test the accuracy of the reported data, (2) evaluate the accomplishments of the grantees, and (3) evaluate the usefulness of the data to OEO.

We found that—

program grantees were not adhering to the MIS reporting requirements;

MIS statistical reports on grantee activities were inaccurate and incomplete;

MIS had not provided management with data needed for monitoring grantee operations, such as data on grantee accomplishments in the program goal areas of economic development, law reform, and education; and

OEO made little use of the MIS reports.

MIS produces quarterly statistical and narrative reports of program operations. OEO considers these reports to be one of the primary means of documenting the accomplishments of Legal Services program grantees. The Legal Services program's quarterly statistical report provides information on client characteristics, social program areas in which services were rendered, types of services provided, overall caseload, sources of clients, staff composition, number of legislative bills drafted, number of oral presentations made, and written materials distributed on legal education. The narrative reports are designed to supplement and interpret the programs' quantitative aspects reported in the statistical section and to give an account of the program's nonquantifiable aspects.

OEO's Legal Services program guidelines provide that grantees' records include an analysis of the kinds of cases handled, the results of cases, and the methods and results of legal education.

For the 1971 program year, each of the seven grantees was required to prepare and submit to OEO four quarterly statistical and narrative reports. We found that 9 of the 28 statistical reports and 15 of the 28 narrative reports were not submitted. An OEO official informed us that less than 75 percent of the Legal Services program grantees submit MIS reports regularly.

Our analysis of source documents and grantees' statistical reports showed that the reports were inaccurate and incomplete. Source data for these reports comes from case intake and disposition forms prepared for each client.

Our test of the intake and disposition forms of three grantees showed that the data in the statistical reports on grantee accomplishments did not agree with the supporting intake and disposition forms. The results of one of our tests of supporting documents maintained by two offices of one grantee for cases handled during one quarter of the 1971 program year follow.

	Number of cases reported	Number of cases shown by supporting documents	Number of cases reported in excess of supporting documents
Accepted	545	449	96
Rejected	183	165	18

Our analysis of the statistical reports also showed that three grantees' reports did not contain information on certain reporting items, such as the results of civil court proceedings and the number of appeals; also two grantees' reports contained mathematical errors.

Although the MIS reports are designed to answer certain basic questions, such as how

[3] One grantee did not report the results of litigated cases, and the data reported by another grantee covered only a 3-month period.

[4] Effective June 1, 1971, OEO terminated MIS as a national reporting requirement, except for Legal Services and health program grants, while a revised national MIS system was being developed.

many people the grantee served, the report format contains no provisions to show the accumulation of grantee accomplishments in economic development, law reform, and education of target-area residents. For example, the MIS report does not reflect the amount of effort and results obtained by grantees in law reform. Therefore, if a grantee is concentrating on law reform, the MIS reports would probably show a decreasing caseload for the grantee while accomplishments may actually be increasing.

In addition, the MIS report format contains no provisions to show expenditures for each individual case by litigation category. Our tests of four grantees' records showed they did not maintain records of each legal case's costs.

We found that the narrative sections of the MIS reports contained brief comments on community relations, grantee operations, and administration and, in some instances, a description of a few significant cases handled by the grantee. For example, one grantee's narrative report commented that certain board members were continually absent from meetings and that insufficient funds had restricted travel and prevented the hiring of certain poor persons.

We also found that OEO made little use of the MIS reports. OEO officials informed us that the Office of Legal Services did not use MIS reports extensively for program management or for refunding decisions. OEO had not compiled an overall summary of the data provided by the MIS reports since 1969. An OEO official informed us in December 1972 that the Office of Legal Services was revising the MIS format to make it more responsive to the informational needs of the Office of Legal Services.

In our 1969 report on the Legal Services program, we reported that the MIS reporting format should be revised to show selective meaningful data for review by management and that Legal Services program grantees should be required to adhere to the reporting requirements of MIS.

By letter dated May 7, 1969, the Acting Director of OEO informed us that OEO was revising MIS and that OEO had conducted two nationwide surveys of all Legal Services program grantees to obtain data for management purposes and for establishing priority needs.

Because OEO was revising the MIS format, we made no recommendation in the 1969 report concerning the contents of the MIS report. Instead, we recommended that the Director of OEO, in association with the development of an improved MIS to meet the needs of the Legal Services program, insure that program grantees comply with the system's reporting requirements.

Conclusions

We believe that the MIS reports could help management monitor program activities if Legal Services program grantees were required to comply with the reporting requirements of MIS and if the MIS format was revised to obtain selective meaningful data on grantee accomplishments for review by management.

Because needed revisions in the MIS report have been discussed since 1969 but not implemented as of December 1972, OEO officials need to see that the changes are made. It is also essential for all Legal Services program grantees to prepare and submit accurate narrative and statistical reports so that adequate data on the results of program grantee's operations can be accumulated and so that the Office of Legal Services can continually monitor program activities and compare the results with approved plans and objectives.

RECOMMENDATIONS TO THE DIRECTOR, OEO

We recommend that the Director of OEO—

Require program grantees to comply with the eporting requirements of MIS;

Take steps to insure that revisions in the Legal Services program MIS report are made;

In improving MIS, insure that consideration is given to including revisions in the report format which provide management with selective meaningful data on grantee accomplishments; and

Require OEO Legal Services program officials to use the MIS reports in monitoring grantee activities.

CHAPTER 3—IMPROVEMENTS NEEDED IN STANDARD GRANTEES' MANAGEMENT AND ADMINISTRATION

Standard Legal Services program grantees need to improve their management and administration so that they can use available resources more effectively and efficiently. Grantees could improve their determinations of a person's eligibility for legal assistance by

Complying more with eligibility income limitations;

Obtaining and recording complete data supporting a person's eligibility for legal assistance, particularly in cases involving law reform issues, groups of individuals, and nearly poor persons; and

Requiring supervisory reviews of grantee attorneys' client eligibility determinations.

Non-Federal contributions need to be adequately documented and should represent allowable claims. Also, grantee controls over client deposits need to be improved.

Eligibility

OEO's Legal Services program guidelines provide that OEO not give free legal assistance to individuals who can afford a private attorney. Also eligibility criteria established by legal services programs must include such factors as (1) income and dependents, (2) assets and liabilities, (3) cost of a decent living in the community, and (4) an estimate of the cost of the legal services needed.

The grantees established annual income limits, usually those specified in the OEO poverty guidelines, to determine income eligibility. For example, in 1971 the OEO poverty guidelines provided that a nonfarm family of four qualified for assistance if its annual income was $3,800 or less.

We examined financial information on 5,693 cases handled by the seven grantees primarily during the 1971 program year. We examined this information, maintained at 13 neighborhood grantees' law offices, for various periods of the 1971 program year.

For 4,879 of the 5,693 cases, the records show that reported income was within the grantees' income standards. For the 814 remaining cases (14 percent), we found that for 582 (10 percent) reported annual income exceeded the grantees' income limitations; for 232 (4 percent) we were unable to determine whether the income limitations had been adhered to because such necessary information as incomes and numbers of dependents had not been recorded. In addition, 2 of 13 law offices kept no records on the eligibility of their clients. The rate of questionable eligibility because of overincome and lack of supporting data for the individual grantees ranged between 4 and 25 percent for the cases tested.

The following table shows the extent to which reported annual income exceeded the income limitations for the 582 cases. As shown below, 55 percent of the cases exceeded the annual income limitations by over $1,000.

Annual income in excess of limitations	Number of cases	Percent
$1 to $500	132	23
$501 to $1,000	128	22
$1,001 to $1,500	97	17
$1,501 to $3,000	141	24
$3,001 to $4,500	48	8
Over $4,500	36	6
Total	582	100

We also found indications that grantee attorneys did not apply the income limitations uniformly. Attorneys in one neighborhood law office were using higher income limitations than those prescribed by the grantee. Attorneys for another grantee were interpreting the income limitations to mean gross income in some cases and net income in other cases. A staff attorney for one grantee informed us that he had accepted many cases in which clients' incomes exceeded the income limitations because the cases involved problems with the credit bureau and he used these cases to challenge the credit bureau's practices.

The lack of information to determine eligibility appeared to be a problem particularly in cases involving law reform issues and group representations. We reviewed one grantee's financial records for 168 cases which the grantee identified as being representative of significant law reform issues. For 84 (50 percent) we found that no financial records had been prepared.

We found that the same grantee had provided legal services to certain groups without clearly determining their eligibility. OEO permits group representation if a majortiy of the persons in the group qualify individually for services.

In some instances, we could find no supporting eligibility data for groups represented by grantee attorneys; when data was recorded, it was usually not sufficiently complete to determine the eligibility of the group or the individual members. For example, in one case the grantee represented a church after a woman requested legal assistance to obtain a refund of $1,200 paid for church choir robes that she considered to be defective. Although the woman's and the church's eligibility were not established, a staff attorney of the grantee accepted the case and wrote letters to the company requesting it to rescind the contract for the robes and make a full refund to the church. The case was still open at the time of our review.

Grantee officials gave us various reasons for assisting ineligible clients, such as extenuating circumstances existed, eligibility was borderline, new attorneys handled the cases, the cases involved a law reform issue, the client's high unemployment history precluded continual employment, only advice was required, and applicants who were $500 over the income limitation were accepted because poor people usually have large outstanding debts.

OEO's Legal Services program guidelines also provide that no eligibility standard be inflexible and that an allowance be made in cases of unusual hardship. OEO policy permits grantee attorneys to handle legal cases when a client is nearly poor, if mitigating reasons exist in the person's financial situation.

It should be noted, however, that grantee records were not documented to show mitigating reasons as justification for accepting nearly poor persons as clients, and, as discussed on page 31, 55 percent of the overincome cases exceeded the annual income limitations by over $1,000.

We found that generally grantee attorneys made eligibility determinations which were not subject to supervisory review. In addition, 14 of the 19 grantee evaluation reports which we analyzed did not contain any information on the propriety of eligibility determinations.

Conclusions

Since Legal Service program grantees offer free, but valuable, professional services, the determination of who receives services is significant. By devoting resources to servicing ineligible clients, grantees are depriving those disadvantaged by poverty from obtaining free legal services.

We believe that grantees need to improve their compliance with income limitations and their data supporting a person's eligibility

for legal assistance, particularly in cases involving law reform issues, groups of individuals, and nearly poor persons.

Such improvements would help insure that available resources are used more effectively and efficiently and would also enable OEO to better measure the extent to which grantees are reaching persons most disadvantaged by poverty.

Recommendations to the Director, OEO

We recommend that the Director of OEO—

Emphasize to Legal Services program grantees the need to comply with established eligibility income limitations and to obtain and record complete data supporting persons' eligibility for legal assistance, particularly in cases involving law reform issues, groups of individuals, and nearly poor persons and

Require that the propriety of grantee attorneys' eligibility determinations be reviewed by grantee officials and be closely monitored by OEO through the annual grantee evaluation and spot checks by OEO regional office personnel.

Non-Federal contributions

The legislation authorizing the Legal Services program generally requires that a grantee provide a specified percentage of total project costs in cash or in-kind contributions. The rate of non-Federal contributions for six of the seven grantees[1] reviewed was 20 percent for five grantees and 10 percent for one grantee. Grantee records showed that, for the 1971 program year, the six grantees had recorded non-Federal contributions totaling about $638,000.

We examined selected non-Federal contributions totaling $180,780 recorded in the 1971 program year. We found that contributions of about $68,500 recorded by four grantees were questionable because the grantees did not have adequate documentation supporting the contributions or the contributions were not proper. Examples of the contributions questioned and the basis for questioning follow.

OEO instructions pertaining to donated services recorded as non-Federal contributions require that the records show the specific duties performed. Donated services of $11,572 recorded by two grantees were not substantiated by records showing the specific duties performed.

OEO instructions pertaining to donated services also prohibit adding to the non-Federal contribution recorded for an attorney's volunteer work the value of assistance provided in this work by attorney employees. Donated *services of* $552 recorded by one grantee represented the value of services performed by volunteer attorney secretaries.

Conclusion

Contributions from non-Federal sources represent a significant part of the resources available to program grantees for providing legal assistance to the poor. There is a need for improving program grantee compliance with OEO instructions pertaining to non-Federal contributions to insure that amounts claimed are allowable and supportable.

Recommendations to the Director, OEO

We recommend that the Director of OEO require program grantees to comply with OEO instructions on the allowability and documentation requirements of non-Federal contributions. We also recommend that OEO closely monitor grantee efforts to bring about the needed compliance.

Controls over client deposits

Our review showed that program grantees had not established adequate controls over cash deposits made by clients to pay for incidental costs, such as court filing fees and publication costs. Two grantees reported client deposit account balances totaling about $13,100 at the time of our review. The balance on hand for another grantee could not be determined because of inadequate records. Examples of the weaknesses identified in three grantees' controls over client deposits follows:

1. Records were not kept to identify deposits with the names of the individuals making the deposits.

2. The same individual was responsible for accepting money from clients, making bank deposits maintaining bookkeeping records, and reconciling the bank accounts.

3. Records of individual client deposits could not be reconciled with the deposit control account.

4. Procedures were not established to insure that unneeded deposits were returned promptly to clients.

Conclusion

Program grantees had not established adequate controls over clients' cash deposits. Grantees need to improve their records on and their handling of client deposits, to adequately account for and safeguard client deposits.

Recommendation to the Director, OEO

We recommend that the Director of OEO require that OEO's accounting requirements for Legal Services program grantees be revised to provide for the maintenance of adequate records and the establishment of procedures for handling client deposits.

CHAPTER 4. WISCONSIN JUDICARE

Although established in 1966 as an alternative method of providing legal services to the rural poor, Wisconsin Judicare was not designed to test its own effectiveness nor its effectiveness in comparison to standard Legal Services program grantees.

OEO did not establish a systematic method of extracting information needed for documenting judicare results and for comparing them to standard program grantees' results. Data available on project results was inaccurate and incomplete and was not designed to provide for the collection of certain data needed for comparison, such as the cost of each type of legal case handled. Consequently, data was not available to determine such results as the actual number and types of cases handled and the extent and impact of judicare project activities in such program goal areas as law reform.

OEO did not establish a model standard program grantee having a system for collecting data for comparison to Wisconsin Judicare. Consequently, Wisconsin Judicare has not been evaluated in depth, and standard methods of delivering legal services and the value of the judicare concept as an alternative method of providing legal services to the rural poor remain in question.

OEO took steps in August 1972 to improve the information on judicare project results; however, further improvements are necessary to insure adequate systems for collecting, comparing, and evaluating data.

We believe that emphasis should be placed on developing more reliable data on and measures of judicare accomplishments and on developing a system of collecting data for comparison purposes, so that a basis would exist for objectively assessing and comparing the judicare method with the methods employed by standard program grantees.

The information we obtained on project results provided some insight into the benefits and problems of Wisconsin Judicare. Wisconsin Judicare provided free legal services in diverse areas to a number of persons to whom such services otherwise might not have been available. The project was also involved to some extent in all Legal Services program goal areas.

Our analysis of available records and discussions with project officials showed that (1) private attorneys were involved very little in law reform and economic development, (2) services provided in education, advocacy, and economic development were limited to a narrow spectrum of target-area residents, and (3) private attorneys were not involved in appellate actions. We believe these problems have adversely affected the project's effectiveness.

Wisconsin Judicare needs to improve its management and administration. Judicare payments to private attorneys need to be supported by evidence that clients received legal services, eligibility determinations need to be adequately supported, and non-Federal contributions need to be adequately documented and must represent allowable contributions.

Background

OEO's Office of Legal Services has been concerned with the problem of providing legal assistance to the rural poor who are widely dispersed. The Office of Legal Services has tried to solve the problems posed by distance and population density in rural areas by: (1) circuit riding, in which an attorney regularly visits a series of small substations (churches, apartment houses, general stores) to provide legal assistance and (2) establishing decentralized staff projects which involve several permanent one- or two-man offices distributed over a wide geographic area.

In November 1965, the Wisconsin State Bar Association proposed to OEO a comprehensive program of legal assistance in the rural areas of Wisconsin which would use the judicare concept of providing legal services. Under the proposal, legal services would be provided to the rural poor by private attorneys who would be reimbursed out of funds provided by OEO, rather than by attorneys employed by an OEO-funded organization using circuit riding or decentralized staff methods of providing services.

OEO approved the State bar association's proposal in April 1966 and limited the area to be served by the grant to 26 counties in the northern part of the State. This area was later expanded to cover two more counties and inmates of the State's correctional institutions.

OEO's initial grant of $240,181 to the Wisconsin State Bar Association for operating the Wisconsin Judicare project covered the period June 1, 1966 to July 14, 1967. OEO has provided funds totaling about $2 million for the operation of the judicare project through July 31, 1973.

Wisconsin Judicare's objectives, as defined by its rules and bylaws, are to give underprivileged persons

Equal opportunities in litigation and other legal matters,

Equal freedom to choose their attorneys, and

High quality legal services.

At the time of our review, the judicare project was governed by a board of directors responsible to the State bar association for establishing operating guidelines for the project. The project was administered by a headquarters office in Madison, Wisconsin, until May 1, 1972, when the headquarters was transferred to Wausau, Wisconsin. The headquarters staff consisted of a director, four attorneys, two law students, and an administrative staff of six persons. Their duties included reviewing applicants' eligibility for judicare cards, paying private attorneys, and participating in the Legal Services program goal areas of law reform, economic development, and group advocacy.

Under the judicare project, low-income persons in the 28-county area apply for a judicare card at community action or welfare agencies. These agencies accept judicare card applications, perform preliminary eligibility reviews, issue cards to eligible applicants, and forward a copy of each application to Wisconsin Judicare's headquarters office.

[1] One grantee, a delegate agency of a community action agency, did not record or expend non-Federal contributions because the contributions required for all city anti-poverty programs were provided in cash by the city government.

Persons do not have to have a legal problem when they apply for a judicare card.

Judicare cards authorize the holder to obtain civil legal services from licensed attorneys in the county of residence or in an adjoining county. The cards expire on May 31 of each year and are renewable for a year on the basis of an affidavit indicating that the cardholder's economic situation has not changed. At August 31, 1971, 2,780 target-area residents held judicare cards.

Any licensed attorney is eligible to provide services through the project if he lives in the target area and is willing to provide legal services to eligible persons at fees established by Wisconsin Judicare. Reimbursements to private attorneys are fixed by a fee schedule for certain services and by certain hourly rates for services not provided for by the schedule in an amount not to exceed 80 percent of the State bar association's minimum fee schedule. Total fees to an individual attorney cannot exceed $5,000 a year, nor can fees for a single case exceed $300.

Under Wisconsin Judicare's procedures governing payments to private attorneys, a $5 fee is paid to a private attorney after he has held the first conference with a person eligible for legal services. Upon receipt of the attorney's billing for the conference, Wisconsin Judicare determines whether further payments may be made for the type of case involved and notifies the attorney if further payments are not reimbursable. If such a notification is not received, the private attorneys proceed with the case and are paid the balance of the fee on the basis of the final billing which they submit upon completion of services.

Data available for comparative analysis

Wisconsin Judicare's MIS reports submitted to OEO were inaccurate and incomplete and did not provide for the collection of certain data needed for comparison purposes. OEO required Wisconsin Judicare to use a MIS identical to the system used by other Legal Services program grantees.

Our test of Wisconsin Judicare's records which served as the basis for preparing the MIS statistical reports showed, for example, that the number of people participating in the judicare project as of June 30, 1971, was overstated by 130 and that divorces and annulments sought were overstated by 206. Our analysis also showed that some reports did not contain information on certain reporting items, such as the number of referrals and advice cases closed, and that some reports had mathematical errors.

Also, there were no provisions in the report format for accumulating certain data needed for comparison purposes, such as the cost for each type of legal case handled and the extent and impact of involvement in the Legal Services program goal areas of law reform, economic development, and education.

OEO did not establish a model standard program grantee having a system for collecting data for comparison to Wisconsin Judicare. Consequently, past evaluations of Wisconsin Judicare, with one exception, were restricted to identifying project weaknesses and did not compare Wisconsin Judicare to standard program grantees. Past evaluation reports also indicated that the lack of certain data had limited the observations. For example, a July 10, 1970, evaluation report concluded, in part, that:

"All evaluators were of the unanimous opinion that this was not a good evaluation. It is not complete and another evaluation should be made in depth. None of us were satisfied with either the quantity or quality of information obtained."

Only one evaluation attempted to compare the results of Wisconsin Judicare's operations with those of standard Legal Services program grantees. The Bureau of Social Science Research, in a January 1972 report prepared under an OEO grant, reported to OEO on alternative approaches to the provision of legal services for the rural poor.

The bureau's report attempted to compare Wisconsin Judicare with three Legal Services program grantees which were using the decentralized staff method of providing legal services to the rural poor. The bureau compared grantees in terms of cost and the extent of their involvement in the Legal Services program goal areas.

Although the report did identify some differences in grantees' performance, the observations were limited because certain data for the judicare project and the decentralized staff grantees was not available. The bureau recognized the limitations of its report in comparing grantee operations. The report states that:

"Part of the difficulty lies in the fact that most of the available information upon which it is based was collected for administrative purposes, and therefore tended to have a fiscal and policy orientation. * * * With respect to some program features it is not comparative at all, merely presenting information on one program or another; there is far more information presented on the Wisconsin Judicare program than on any of the three staff programs, only because the former has been the object of greater attention and frequent study by others."

The limited information available to compare grantees is illustrated by the bureau's attempt to compare grantee costs by type of case. The report states that the cost comparison was limited because the decentralized staff grantees did not keep the kind of records which would permit detailed comparison of costs for all types of cases.

The bureau selected two types of cases—divorces and bankruptcies—to make cost comparisons. For indirect judicare costs, the bureau had to rely on estimates made by judicare officials and another evaluator; it had to rely on officials of the decentralized staff grantees for the average time attorneys and other personnel spent in handling these types of cases. The report showed that Wisconsin Judicare's costs for handling these cases were greater than those of the three decentralized grantees.

OEO officials could not tell us why systematic methods to extract information needed for comparison purposes had not been established. They informed us that the Wisconsin Judicare project was established in 1966 and that officials responsible for establishing the project were no longer with OEO. OEO officials informed us, however, that they had experienced difficulties with the former director of Wisconsin Judicare in obtaining information on the project's operations.

Subsequent to our review, OEO took steps to improve the information available on judicare project results. Also, Wisconsin Judicare has been reorganized as a corporation.

OEO's grant to Wisconsin Judicare for the 12-month period ended July 31, 1973, requires that the (1) audit report for this period contain certain information on amounts paid to private attorneys for completed cases and estimates of the number and cost of open cases, (2) project secure status reports on private attorneys' open cases, and (3) project cooperate and furnish information so that OEO can study and analyze the structure, policies, and operations of the project.

The State bar association desired the project to have a more independent status. Consequently, OEO's grant for the 1972–73 period was awarded to a newly incorporated organization, Wisconsin Judicare, Inc., rather than the State bar association.

Problems in project operations

We noted several problems relating to the operations of Wisconsin Judicare which we believe adversely affected the project's effectiveness.

Private Attorneys' Involvement in Law Reform and Economic Development

Wisconsin Judicare's grant for the 1971 program year provided that the headquarters office staff and private attorneys share the responsibility for involvement in law reform and economic development.

Wisconsin Judicare records showed that the project had been involved in 17 law reform cases during the 1971 program year. However, private attorneys had been involved in only one of these cases, and there had been only three major law reform actions involving private attorneys since the inception of the project in 1966. Of the six economic development projects handled by Wisconsin Judicare in the program year, only one project was handled by a private attorney. An evaluation report prepared by private consultants for OEO reported in May 1971 that there had been virtually no law reform or economic development activity by private attorneys under the judicare project.

Services in education, advocacy, and economic development

Wisconsin Judicare's services in the program goal areas of education, advocacy, and economic development were limited to a narrow spectrum of target-area residents.

The project's records showed that there were 38 contacts to educate target-area residents during the 1971 program year. Twenty-six of the contacts were with Indian groups and 12 were with inmates of correctional institutions. We were informed by a former director of Wisconsin Judicare that group advocacy was predominantly for Indian tribes and groups. With respect to economic development, all six projects in which Wisconsin Judicare was involved in the 1971 program year were for the benefit of Indian groups.

A former director of Wisconsin Judicare informed us that there had not been a conscious effort to limit the project's services in advocacy and economic development to Indian groups but that services were provided to these groups because they were the predominant groups seeking help. With respect to educating the poor, the former director stated that it did not seem logical to him to emphasize education of target-area residents when, because of funding limitations, he had to impose restrictions on the cases handled by the project.

Appellate actions

OEO's Legal Services program guidelines provide that grantees provide a full spectrum of legal work: advice, representation, litigation, and appeal.

Wisconsin Judicare record showed that private attorneys handled no appeal cases during the 1971 program year. A former director of Wisconsin Judicare told us that the lack of appellate action was attributable to a lack of resources. He stated that private attorneys requested permission for waivers of the $300 limit per case to enable them to appeal court decisions but that Wisconsin Judicare's governing board had repeatedly denied such requests.

Project results

Wisconsin Judicare records showed that 2,714 cases, summarized below, were accepted during the 1971 fiscal year.

Social program areas	Number of cases	Percent
Family problems	889	33
Consumer and employment problems	519	19
Housing problems	253	9
Administrative problems	168	6
Miscellaneous problems	885	33
Total	2,714	100

During the 1971 program year, Wisconsin Judicare closed 1,441 cases which are summarized below.

Services	Number of cases	Percent
Litigation	512	36
Advice	462	32
Advice and representation without litigation	437	30
Administrative hearings	29	2
Appeals		
Referrals	1	
Total	1,441	100

About 36 percent of the closed cases involved court appearances. The reported results of 419 litigated cases closed by Wisconsin Judicare during the 1971 program year follow.

Type of case	Number of cases	Won	Lost	Settled out of court
Bankruptcy	133	133		
Family problem	183	166	10	7
Housing	84	77	2	5
Consumer	19	11	2	6
Total	419	387	14	18

We were unable to fully evaluate the quality of legal services provided to clients by Wisconsin Judicare because of the confidentiality of the attorney-client relationship. However, the 18 persons we interviewed who had obtained judicare cards and had consulted attorneys generally expressed satisfaction with the services received.

We interviewed 23 persons who had obtained judicare cards; 21 stated that the card-issuing office was easy to reach from their homes; all stated that they did not have to miss work to visit the card-issuing office and were given adequate privacy during interviews at these offices. Of the 23 persons interviewed, 18 had visited a private attorney for services. Only 1 of the 18 stated that a private attorney was not conveniently located to her home.

We also interviewed 13 private attorneys who had provided legal services to the poor through the judicare project. Six stated that they had evening or weekend office hours and the remaining seven stated that they serviced clients outside of regular office hours by appointment.

For the other program goals, Wisconsin Judicare, during the 1971 program year:

Conducted meetings with Indian groups and inmates of State correctional institutions to explain legal rights.

Was involved in 17 law reform cases.

Was involved in five cases of group advocacy work.

Was involved in six economic development projects.

Included the required number of target-area residents as representatives of the poor on the project's governing board.

Conclusions

To provide a basis for objectively assessing and comparing judicare as an alternative method of providing legal services, data collected on Wisconsin Judicare and standard grantee operations must be expanded and improved. Wisconsin Judicare needs to improve the accuracy, completeness, and type of data it keeps. Also, a data collection system for a model standard grantee should be established.

For the judicare project to achieve its objectives more fully, improvements are needed with respect to (1) private attorneys' involvement in certain program goal areas, (2) extending the population segments to which certain services are provided, and (3) the scope of legal services provided, in order to increase the effectiveness of Wisconsin Judicare.

Recommendations to the Director, OEO

We recommend that the Director of OEO require that:

Wisconsin Judicare accumulate accurate and complete MIS data on its operations, including data on its activities in the program goal areas of law reform, economic development, and education.

A data collection system be established for a standard program grantee for comparison with Wisconsin Judicare.

Private attorneys become more involved in law reform and economic development.

The services provided in education, advocacy, and economic development be extended to include diverse segments of the intended beneficiaries.

Wisconsin Judicare include appellate actions by private attorneys in its legal services.

Wisconsin Judicare's Management and Administration

Wisconsin Judicare needs to improve its management and administration so that available resources can be used more effectively and efficiently. Financial and other weaknesses identified during our audit follow:

Judicare payments to private attorneys were not supported by evidence that clients received legal services.

Data supporting eligibility of judicare cardholders was inadequate for 10 percent of the cardholders tested.

Recorded non-Federal contributions of $37,300 were not allowable under OEO requirements or were inadequately documented.

The director of Wisconsin Judicare informed us that corrective action would be taken with respect to the allowability and documenting of non-Federal contributions.

Payment To Private Attorneys

We were unable to determine the propriety of Wisconsin Judicare's payments to private attorneys because the available records did not show evidence that legal services were furnished. About $135,700, or 54 percent, of the $251,700 spent by Wisconsin Judicare during the 1971 program year represented payments to private attorneys.

Our examination of 100 payments totaling $3,495 made to private attorneys showed that the payments were made on the basis of attorneys' billings to Wisconsin Judicare for services rendered. Supporting evidence for the payments did not show that the clients had received legal services. We were unable to contact the clients and determine from them whether they had received legal services because the confidentiality of the attorney-client relationship would not permit us to identify the names of clients for whom payments were made.

Wisconsin Judcare officials informed us that private attorneys are not required to submit supporting evidence showing that legal services were furnished to clients.

The officials believed that there was no need to establish such a requirement in dealing with attorneys. The officials also stated that procedural changes involved in obtaining such documentation would make private attorneys less receptive to the project since it would question their integrity.

OEO regional office officials agreed that payments made to private attorneys should be based on evidence supporting clients' receipt of services; however, they said that they would not insist on such documentation because of opposition from project officials.

Eligibility

Wisconsin Judicare's eligibility standard for legal assistance provides that, besides income, other factors—equity in real and personal property—be considered when determining eligibility. Wisconsin Judicare has established maximum amounts for these nonincome factors.

We examined the financial information on 130 active cardholders selected at random from the 2,780 active cardholders on file at August 31, 1971. For 13, or 10 percent, of the 130 cardholders, we were unable to determine whether Wisconsin Judicare's eligibility standard had been adhered to because such necessary information as income and equity in real or personal property had not been recorded. For 2 of the remaining 117 cardholders, the records showed that reported financial data exceeded Wisconsin Judicare's eligibility standard.

Non-Federal contributions

The rate of non-Federal contributions for Wisconsin Judicare was 20 percent of its costs for the 1971 program year. OEO instructions permit donated personal services to be recorded as non-Federal contributions; however, they prohibit services from being treated as part paid and part volunteer, and they prohibit services of persons regularly employed by community action agencies from being recorded as non-Federal contributions. OEO instructions also require donated services to be supported by records showing the specific duties performed.

Project records showed that non-Federal contributions in donated personal services totaling $66,600 had been recorded for the 1971 program year. Recorded contributions of 37,300 were questionable because they were not allowable under OEO instructions or were inadequately documented. Included in the $66,600 were

$15,800 which represented that part of the private attorneys' claims for providing legal services which were not paid by Wisconsin Judicare because the claim exceeded the project's fixed fee for the type of service provided,

$15,600 for services rendered by persons regularly employed by community action agencies, and

$5,900 for services which were not supported by records showing the specific duties performed.

We brought this matter to the attention of the director of Wisconsin Judicare who stated that corrective action would be taken.

Conclusions

Our review showed that improvements were needed in the data maintained by Wisconsin Judicare supporting judicare payments to private attorneys and supporting persons' eligibility for legal assistance. Such improvements would help insure that available resources are used more effectively and efficiently and would provide a basis for determining the propriety of judicare payments to private attorneys.

Our review also showed that Wisconsin Judicare had deviated from OEO requirements with respect to the propriety and documentation of some non-Federal contributions. The director of Wisconsin Judicare promised to correct this deviation.

Recommendations to the Director, OEO

We recommend that the Director of OEO require that:

Wisconsin Judicare payments to private attorneys be supported by evidence showing that legal services had been furnished to clients.

Wisconsin Judicare obtain and record complete data supporting client eligibility.

OEO officials follow up on Wisconsin Judicare's efforts to improve the handling of non-Federal contributions.

CHAPTER 5. SCOPE OF REVIEW

We reviewed the operations and selected administrative practices of eight Legal Services program grantees in New York, Puerto Rico, California, Montana, Colorado, Minnesota, and Wisconsin. Seven of the grantees were standard program grantees which employed attorneys to provide legal services, and one was the Wisconsin Judicare project under which legal services are provided by private attorneys and paid for by the project.

In addition, we reviewed 19 randomly selected annual evaluation reports for the 256 standard program grantees operating in February 1971, to ascertain the grantees' achieve-

ment of program objectives. The evaluation reports were prepared during 1970 and 1971 under contracts awarded by OEO.

We analyzed and evaluated the results of Legal Services grantee operations and the manner in which they were administered. Our review covered the eight grantees' activities during 12-month grant periods ended during calendar year 1971.

We reviewed applicable legislation, policies, program documents, reports, correspondence, and other pertinent records and interviewed officials of the grantees, local bar associations, and local community action agencies concerning activities during 1971 and 1972. We also reviewed records and reports and interviewed officials at the headquarters office and pertinent regional offices of OEO.

In addition, we interviewed 138 clients to obtain their views and comments on the grantees and the services received and 18 judges to obtain their views and comments on the competence of grantee attorneys' representation of clients.

APPENDIX I

FUNDS PROVIDED BY OEO TO THE GRANTEES FOR THE PERIODS REVIEWED

Grantee	Period covered From—	To—	Federal funds provided	Required non-Federal funding[1]
A	May 1, 1970	Apr. 30, 1971	$173,992	$78,624
B[2]	Jan. 1, 1971	Dec. 31, 1971	919,206	184,448
C	Oct. 1, 1970	Sept. 30, 1971	4,347,505	
D	Sept. 1, 1970	Aug. 31, 1971	464,017	98,872
E	Mar. 1, 1970	Feb. 28, 1971	1,035,881	264,944
F	Apr. 1, 1970	Mar. 31, 1971	79,940	20,000
G	Sept. 1, 1970	Aug. 31, 1971	449,000	49,614
Wisconsin Judicare	Aug. 1, 1970	July 31, 1971	281,670	74,000
Total			7,751,211	770,502

[1] Represents local contributions required under the Federal funding agreements.
[2] Funds pertain to a grant covering the 12-month period ended May 31, 1971.

APPENDIX II

OFFICE OF ECONOMIC OPPORTUNITY,
Washington, D.C., March 12, 1973.

Reply to Attention of: J. Laurence McCarty, Acting Associate Director, Office of Legal Services

Subject: OEO Comments on GAO Report on the Legal Services Program

To: Franklin A. Curtis, Associate Director, Manpower and Welfare Division, U.S. General Accounting Office.

Your Report was referred by the Acting Director of OEO to me, the Acting Associate Director of Legal Services, for comment.

I am delighted to have at my disposal so early in my assignment such an objective and detailed diagnosis of the Program's deficiencies. I have instructed my staff to give top priority to remedying these deficiencies so that we can bequeath to our proposed successor organization, the National Legal Services Corporation, a mechanism which is functioning smoothly and effectively in meeting the legal needs of the poor.

On the other hand, I was shocked to learn that the main source of legal services statistics and the primary means of documenting the accomplishments of the program—the so-called Management Information System (MIS)—was so unreliable. You point out, for example, that grantees were not adhering to reporting requirements of the MIS (according to one source less than 75% of the grantees submit regular reports), and that much of the data in the reports that were submitted was incomplete and inaccurate. You further note that MIS reports were not extensively used by the Office of Legal Services either for program management or in refunding decisions.

Members of the staff I inherited were aware of these problems and had already initiated corrective action. The Office of Legal Services is now in the process of revising and simplifying the MIS form, and I have approved the completion of a project to computerize the data-gathering system. I can assure you that no effort will be spared to make this vital management tool (MIS) reliable. I am also instituting a plan under which both MIS data and our periodic evaluations of projects will be time-phased so that they are available for all refunding decisions.

I am also deeply concerned over the reported laxity of some of our grantees in adhering to our eligibility guidelines. This Program was established to provide legal services to *poor* individauls—individuals who fit the poverty definition set by the Federal government—and to no one else. I intend to standardize this definition throughout our legal services network—allowing of course for some geographic variations due to differences in the cost of living. In addition I intend to take decisive action in respect to your recommendation that we should require our grantees to comply with our guidelines on such matters as submission of reports, adherence to eligibility criteria, etc.

One of the problems here is the exaggerated autonomy which has been conceded to grantees in the past. We accept the fact that project directors and attorneys are not "employees" of the Office of Legal Services and hence are not subject to the same kind of supervision that employees receive. Nonetheless, a grant is a type of contract and the agency supplying Federal funds to a grantee has the right not only to stipulate the goals and the ways in which these goals are to be reached but to insist on compliance and to refuse to refund those grantees who do not comply.

A second factor which has made it difficult to enforce compliance with policy has been the failure by this Office to date to develop a clear and comprehensive set of formal regulations. You say that in 1969 the Office of Legal Services advised you that "it had consciously refrained from issuing guidelines, monographs and formal policy statements on priorities and methodologies because of the belief that such determinations could not be made at the time on the basis of the program's limited experience". This seems to me to be a curious admission from an office which had three years of experience behind it in 1969, but I find it to be almost beyond belief that by January 1973 the Office had still not taken any substantive action in this area. We therefore accept your recommendation that we "more clearly define the objectives and priorities of the program to legal Services Program directors and instruct them on the methodology of engaging in these activities". I have appointed a task force to work full time on this problem, and we hope to have a set of basic directives completed shortly.

In respect to the charges made by several of the judges you interviewed that some of our attorneys were "militants interested only in battling the establishment" and that a number of them indulged in "courtroom disruptions, disrespectful behavior (and) falsification of documents", I can only react at this point in a very qualified way. Neither this office nor the regional offices concerned have received any official complaints from the judges involved nor are we aware of any action taken by a judge or judges before the ethics committee of the State or local bar association with respect to these allegations. Nevertheless, we are conducting an informal investigation and I can assure you that corrective action will be taken, if indicated.

On the other hand, assuming that the GAO's random sampling was intended to provide to some extent a picture of the Legal Services Program in general, it cannot be denied that a number of our lawyers have been guilty in the past of an anti-establishment militancy which has caused them to breach the line between professional and unprofessional behavior. A provision in the bill for a Corporation which was debated in the Senate last year called for legal services attorneys to assist "in the peaceful settlement of disputes *within the system of justice*". The "system of justice", I take it, includes not only the body of constitutional and statutory law and the usual rules and procedures through which such law is applied to wrongdoing, but also decorum in the courtroom, and respect on the part of the lawyer not only for the judiciary and the bar but for the other institutions of our society. I can promise you that as long as I am in charge of this office, I will insist on adherence to the traditions of ordinary civility and on abstention by our lawyers from participation in hostile demonstrations and confrontations outside the courtroom. Incidentally, I am convinced that the great majority of our field attorneys do not confuse dedication to the cause of the poor with contempt for the society which is trying to make equal access to justice a reality. Most of our lawyers have in the past abided by the accepted standards of the legal profession and I am confident they will continue to do so in the future despite the example being set by a few of their more extremist brethren.

On the question of Judicare, you note that the Office of Legal Services, in setting up the Wisconsin experiment, did not build in a system of data collection for a standard Legal Services Program grantee for comparison purposes. You add:

"Consequently, past evaluations of Wisconsin Judicare, with one exception, were restricted to the identification of project weaknesses without comparisons to standard program grantees." Your judgment is borne out by an article written by Samuel Brakel in the *American Bar Association Journal* in July of last year. Wrote Mr. Brakel: "Judicare has not been given a fair shake in the evaluation literature that has appeared in recent years. Inadequate evaluations have contributed to the distortion of legal services realities. There are now no grounds for conclusions that judicare is either better or worse, cheaper or more costly than staff attorney programs". At the very time OEO's judicare experiment was being set up, the Director of the Legal Services Program was disparaging the idea, mainly on the grounds that judicare did not lend itself nearly as well to law reform as did the staff attorney system. Pursuant to the recommendations in your Report and to the desires of the Senate as expressed in the Gurney amendment to S. 3010 (in which the Senate by a vote of 87 to 1 directed OEO to conduct a study of alternative methods of delivering legal services) I am conferring with my R&D people on how to build a data base for making fair comparisons between judicare and the staff attorney system.

Another major "deficiency" discussed in your report, is the failure of some grantees to meet the law reform goals of the program. This criticism points up the occupational schizophrenia from which many of our programs have suffered. This has resulted from intense pressure on the attorneys to engage in more law reform (test case litigation, legislative advocacy, group organizing etc.) even if it meant keeping individual clients waiting. As you note: "Grantee officials informed us that their attorneys were fully occupied with meeting the day-to-day needs of such matters as individual casework and that they were therefore unable to devote more time to law reform."

Lest my position be misconstrued, let me say immediately that I am not in principle opposed to class actions, suits against the government, test case litigation, legislative advocacy or any other kind of law reform. Properly considered, they are simply some of the tools which the conscientious attorney must employ on occasion in serving a par-

ticular client. What I do strongly object to, however, is the elevation of these tools to the status of ends, separated from the goal of service to individual clients and subordinated in turn to some transcendent goal such as "social change."

Equally as objectionable as the separation made in the past between the goal of "service to individual clients" and the goal of "law reform" is the pressure which has been brought to bear on attorneys to divide their time between these two goals and indeed to treat law reform as the primary goal. I happen to believe, as do many others in and outside the legal profession, that it is bad public policy to pressure legal services attorneys to engage in non-client-initiated advocacy on behalf of legislative proposals which may run counter to the preferences of large numbers (and in many cases the majority) of those whose taxes are being used to pay the attorney salaries. I also believe that it is not only bad public policy but a violation of the Canons of Ethics to *push an attorney who is representing a client* to do something in the way of law reform which he might not otherwise have done. This is just as bad, it seems to me, as an attempt to *inhibit* the attorney from doing what his professional judgment tells him ought to be done once he is engaged with his client. In both cases, there is an unwarranted interference with the attorney-client relationship. Yet some of the material (grant conditions, evaluation handbooks etc.) which I have read since assuming my new duties has convinced me that the application of such pressure on attorneys has been a studied policy of the Office of Legal Services for a number of years.

I should add that in expressing my unhappiness with certain aspects of the Program, I in no way mean to reflect on the integrity and competence of the staff who were on board when I arrived. I appreciate the fact that they were aware of the need for some change in the Program and were conscientiously trying to effect such change. In policy matters, there surely is room for honest disagreement.

Because of the short time we had to comment on the draft Report, we were not able to fully investigate all the matters the Report touched on. Nonetheless, I want to thank you again for your valuable contribution to the improvement of the Legal Services Program. Your report will be circulated among my staff for use as an important tool in the effort to fulfill the goal of both the Administration and the Congress: equal access to justice for all citizens through provision of Federal assistance to those citizens whose poverty would otherwise deprive them of such access.

PRINCIPAL OFFICIALS OF THE OFFICE OF ECONOMIC OPPORTUNITY RESPONSIBLE FOR ADMINISTERING THE LEGAL SERVICES PROGRAM DISCUSSED IN THIS REPORT

	Tenure of office			
	From—		To—	
Director:				
Howard Phillips (acting)	Jan.	1973	Present	
Phillip V. Sanchez	Sept.	1971	Jan.	1973
Frank C. Carlucci	Dec.	1970	Sept.	1971
Donald Rumsfeld	May	1969	Dec.	1970
Director, legal services:				
J. Laurence McCarty (acting)	Feb.	1973	Present	
Theodore Tetzlaf (acting)	June	1972	Feb.	1973
Wesley Hjornevik (acting)	Mar.	1972	May	1972
Fred Speaker	Apr.	1971	Feb.	1972
Art Reid (acting)	Nov.	1970	Mar.	1971
Terry F. Lenzner	July	1969	Nov.	1970

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 81–207, appoints the Senator from Connecticut (Mr. RIBICOFF) to the Board of Visitors to the Coast Guard Academy, and the Chair announces, on behalf of the chairman of the Committee on Commerce, Mr. MAGNUSON, his appointments of the Senator from Rhode Island (Mr. PASTORE) and the Senator from Kentucky (Mr. COOK) as members of the same Board of Visitors.

Further the Chair, on behalf of the Vice President, pursuant to Public Law 78–301, appoints the Senator from Utah (Mr. Moss) to the Board of Visitors to the U.S. Merchant Marine Academy, and the Chair announces, on behalf of the chairman of the Committee on Commerce, Mr. MAGNUSON, his appointments of the Senator from Louisiana (Mr. LONG) and the Senator from Maryland (Mr. BEALL) as members of the same Board of Visitors.

AUTHORIZATION FOR SENATOR ERVIN TO FILE AN AMENDMENT TO THE PAR VALUE MODIFICATION ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished senior Senator from North Carolina (Mr. ERVIN) may have permission to file an amendment to the Par Value Modification Act following adjournment of the Senate today.

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

The Senator from South Carolina is recognized.

(The remarks Senator THURMOND made on the submission of a concurrent resolution commending the President for terminating the involvement of the United States in hostilities in Vietnam, are printed in the RECORD under Submission of a Concurrent Resolution.)

APPROPRIATION OF FUNDS FOR NORTH VIETNAM

Mr. HARRY F. BYRD, JR. Mr. President, earlier in the day I sent to the desk an amendment to the military authorization bill. The military authorization bill is now in the Committee on Armed Services. That amendment would prohibit the use of any funds authorized by that act for the purpose of providing assistance of any kind, directly or indirectly, to or on behalf of North Vietnam.

Earlier today, also, I sent to the desk a bill—and asked that it be printed and appropriately referred—which would prevent any funds appropriated to the Department of Defense to be used, directly or indirectly, for the benefit of or on behalf of North Vietnam.

These pieces of legislation already have been submitted. Now I am going to submit a third piece of legislation on the same subject.

In a few minutes, I will send to the desk an amendment to S. 929, the gold revaluation legislation, which will be before the Senate tomorrow. The amendment I propose is this:

At the end of the bill insert the following: "That no funds made available by the Congress to any agency of government may be obligated or expended for the purpose of providing assistance of any kind, directly or indirectly, to or on behalf of North Vietnam."

Mr. GRIFFIN. Mr. President, will the Senator yield for an inquiry?

Mr. HARRY F. BYRD, JR. I am glad to yield to the distinguished Senator from Michigan.

Mr. GRIFFIN. I understand the earlier request of the Senator from Virginia that no limitation on germane amendments should be entered into without his consent. In fact, I was on the floor, and I recall when he made that request, and it was an oversight that he was not consulted.

So, although I dislike to see an amendment of this kind offered to the gold bill, because I think the gold bill should become law, this obviously raises an entirely different subject and one which will likely become controversial, to say the least, is there any time limit associated with the amendment now, as the Senator from Virginia understands it, under the unanimous-consent agreement?

Mr. HARRY F. BYRD, JR. I believe I had best inquire of the Chair.

The PRESIDING OFFICER. The Senator's amendment will be subject to a 1-hour time limitation, as will all amendments on this bill.

Mr. GRIFFIN. I wonder whether the Senator from Virginia thinks that is an appropriate situation, to have a 1-hour time limit on an amendment of that kind.

Mr. HARRY F. BYRD, JR. I would be very glad to make a unanimous-consent request that the 1-hour time limitation on this amendment be extended to whatever length of time the distinguished Senator from Michigan would suggest.

The PRESIDING OFFICER. There is time on the bill which could be yielded.

Mr. GRIFFIN. I thank the Chair for that voluntary observation, but that does not quite answer the concern of the Senator from Michigan.

I do not necessarily intend to be critical of the Senator from Virginia, because the junior Senator from Michigan recalls the subject of busing, when I offered an amendment that was not exactly germane; but, as I recall, I do not believe there was a 1-hour time limit on it.

I think this demonstrates very emphatically how inappropriate it is for the Senate to be entering into unanimous-consent agreements limiting debate on unknown amendments, with no requirement of germaneness, to 1 hour.

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

Mr. GRIFFIN. I yield.

Mr. HARRY F. BYRD, JR. I concur in that, and I should like to read from the RECORD of March 20, page 8867. This is what I said at that time:

I would like to state for the Record that I would hope no unanimous-consent agreement will be entered into without the Senator from Virginia having an opportunity to discuss such a unanimous-consent agreement.

Then I added:

Particularly as it relates to germane amendments.

But I also note that the first part of that applied to a time limitation. Had I been consulted, I do not know that I would have agreed to a time limitation.

By an oversight—it was not the fault of anyone—I was not consulted. But because it was an oversight, the distinguished and able Senator from West Virginia, the majority whip; the distinguished and able Senator from Michigan, the minority whip; the Senator from Texas (Mr. TOWER); and the Senator from Alabama (Mr. SPARKMAN) all agreed that, because of that oversight, the question of germaneness would not be raised.

I did not bring up the question of the time limitation; but if the Senator from Michigan would like to suggest a unanimous-consent agreement in changing the 1 hour on this amendment, it would be very satisfactory to the Senator from Virginia.

Mr. GRIFFIN. I recall that when this unanimous-consent agreement was entered into, there was an understanding that amendments had to be filed by the end of the day and that other amendments could be received if they were related to impoundment of funds or something of that sort, so that we would know by the end of the day what amendments were going to be subject to this unanimous-consent agreement. On reflection, I would say that even that was rather a loose kind of arrangement and I do not think it becomes the Senate, in terms of orderly procedure, for the Senate to get into a situation where we are limiting ourselves to time when we do not know the subject or what the amendment is.

Mr. HARRY F. BYRD, JR. Mr. President, if the Senator will yield, the Senator from Virginia does not like unanimous-consent agreements. I hesitate to object to them. I do not like to object, but personally I do not like a time limitation. I do not speak very long, as the Senator from Michigan knows. Very seldom have I spoken more than 15 or 20 minutes at a time in the Senate. I do not speak at length. But I do not like a time limitation. It bothers me a little bit.

Mr. GRIFFIN. I thank the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, if the Senator from Michigan would want to change the 1 hour, I would be pleased to have that change. I think it is an issue that needs to be raised on the floor of the Senate and I maintain that even though the Parliamentarian technically may not agree with me, I maintain that the gold revaluation bill is a logical vehicle on which to put any amendments or any legislation dealing with the restriction of spending of tax funds.

Why is S. 29 to be before the Senate tomorrow? Why was it before the Senate last week? It was presented to the Senate, because of the very serious financial situation in which the Nation finds itself. That was dramatized in the Senate Chamber today when 36 Senators voted to sustain the President's veto of a bill; practically all those 36 Senators had a keen interest in the bill and many parts of the bill were meritorious. But 36 Senators sustained the President's veto today, because of the very dangerous and very serious situation facing the Federal Government financially.

It is certainly very difficult for me to see how we are going to get the Government's financial house in order, which we must do if we are going to now embark on a new foreign aid program in Indochina. I want to see this new proposed program knocked in the head right at the beginning so that the American people will know where the Senate stands and so that we will not mislead the people in Indochina and particularly in North Vietnam to think that they are going to get large chunks of American tax dollars.

To me it is utterly inconceivable to talk about plowing American tax dollars into North Vietnam at a time when more and more persons are beginning to realize just how precarious and dangerous the Government's financial situation really is.

The Senator from Virginia feels strongly about this matter. Today I presented three different pieces of legislation. I have no doubt I will present more legislation as the session goes on. But tomorrow, it seems to me, is an ideal time for the Senate to meet this issue to let the people know where the Senate stands, as to whether we are going to take dollars out of the pockets of the working people of this country and send them over to North Vietnam, at whose hands the American people have suffered 50,000 dead, 300,000 wounded, and the Vietnamese war already has cost the taxpayers $200 billion.

There is no similarity between what is being proposed for North Vietnam as compared to what was done with regard to Germany, Japan, and Italy. There is no similarity at all. At the end of World War II, the governments of Germany, Japan, and Italy were destroyed. There were no governments. Those aggressive leaders in those countries who had brought about the war were either killed or eliminated from all offices of government. Such is not the case with North Vietnam. The same aggressive leadership exists today in North Vietnam that existed there during the many years of the struggle participated in by the American people.

So I think this is a matter of great consequence to the American people. What I am doing ties in precisely with the vote today, and it ties in with the President's threatened vetoes on many other pieces of legislation; it is an endeavor to make clear that so far as the Senate is concerned—the House can do what it wants to do—the Senate is going on record tomorrow, I hope, to see if we are going to plow tax dollars into North Vietnam.

This gold devaluation bill, or revaluation bill—which is another way of expressing it—is the formal devaluation of the American dollar, the second in 14 months. It was brought about, as I mentioned earlier, because of the Government's very severe financial situation and because of that I submit that while it might not be technically germane, it is appropriate and right to put such an amendment on the bill, because it seeks to protect the integrity, what integrity there is left, of the American dollar.

At this point I wish to read into the RECORD what Under Secretary of the Treasury Volcker had to say about devaluation:

I was querying Under Secretary Volcker:

Senator BYRD. Now you said in your dialog with Senator Hansen, that you found it necessary to take radical action. Would you indicate the radical action to which you referred?

Mr. VOLCKER. Well, we devalued the dollar twice and had a major exchange rate realignment in the last 14 months twice. I consider that radical action.

And further on in the testimony:

Senator BYRD. And it is, in your judgment, radical action to devalue the dollar twice in 14 months?

Mr. VOLCKER. It is indeed and this is nothing I look forward to repeating at all. It is radical action.

So it is. That is what the Senate will be called on to do tomorrow—take radical action in regard to the American dollar.

In doing that, I think it is most appropriate that the Senate have an opportunity to go on record as saying we are opposed to the use of tax funds now for another foreign aid program, and that no American tax dollars shall be obligated or expended for the purpose of providing assistance of any kind, directly or indirectly, on behalf of North Vietnam.

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

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

Mr. GRIFFIN. I feel that I ought to try, at least, to provide some measure of protection for Senators who, I think, are going to be rather uncomfortable with this unanimous-consent agreement, particularly since I am somewhat responsible, at least from this side, for the fix that we are in.

I am aware of the fact that 4 hours of time are provided for the bill and that time on the bill can be allotted to the debate on a particular amendment, but I am also very much aware of the fact that we are going to have some very controversial amendments on impoundments and spending ceilings that are going to be considered, and it was thought that those 4 hours, or parts thereof, would be necessary for the discussion of those amendmnts.

If I had my "druthers," I would like to have no time limitation on the amendment of the Senator from Virginia, but

I realize that that would not be acceptable.

I wonder if a time limitation of 3 hours on the amendment of the Senator from Virginia might not afford some measure of protection for those who want to discuss this subject, which, while it might be somewhat relevant, is somewhat far afield from the principal purpose of the bill.

Mr. HARRY F. BYRD, JR. I think that would be an appropriate suggestion by the Senator from Michigan. So far as the Senator from Virginia is concerned, it would be most acceptable.

UNANIMOUS-CONSENT AGREEMENT

Mr. GRIFFIN. Since the agreement in the first place could not have been entered into without the consent of the Senator from Virginia and without agreement on his part as to the time limit on his amendment, and he is inclined to go along with this suggestion, I think it would be all right to go ahead at this point, and I shall do so.

I ask unanimous consent that the agreement previously entered into be modified so that the time limitation on the amendment of the distinguished Senator from Virginia, which he has described, be 3 hours instead of 1 hour.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GRIFFIN. I thank the Senator.

Mr. HARRY F. BYRD, JR. I am glad the Senator from Michigan did propound that unanimous-consent request to increase the time for discussion of this matter. I think it is an important question. I realize that there will be differences of viewpoint on it. I have not canvassed anyone. I do not know how Senators stand on it. I know how I stand on it. I feel very strongly that to go into a rebuilding on Indochina is a tremendous and a fantastic undertaking.

Mr. GRIFFIN. Mr. President, would the Senator yield for an observation at that point?

Mr. HARRY F. BYRD, JR. Yes.

Mr. GRIFFIN. I just feel I almost have to say that, of course, the President has made no request of the Congress. There are indications that some requests will be forthcoming. The case has not been made. There have been no hearings. We have no idea what the presentation would be or what the arguments pro and con would be.

Even though at a later date the junior Senator from Michigan might be persuaded to vote with the Senator from Virginia, it seems premature, to say the least, to have such an amendment presented at this time and presented on a gold bill which is essential to our monetary agreements already entered into and which relates directly to the dollar in the world markets.

I must say that while I can understand the frustration and the strong feelings of the Senator from Virginia, I am disappointed and I think it is too bad that this kind of amendment would be offered on this legislation. I wish he would not offer it.

Mr. HARRY F. BYRD, JR. I may say to the Senator from Michigan that this amendment does not in any way change the gold bill. This is merely an amendment to the gold bill, and the gold devaluation or reevaluation stays precisely as it is in the bill. It does not change it in any way, shape, or form. It merely adds an additional section to the bill dealing with the matter of Government spending. That is what all of us have expressed such great concern about today.

The Senator from Michigan brought up the question that the legislation has not yet been presented. Technically that is correct, but the newspaper headlines just yesterday or Sunday—sometimes we lose track of the time—presented arguments in behalf of the legislation, such arguments being made by the presidential assistant from the White House either at San Clemente or Washington. I do not remember exactly which one, but the presentation was made in the press for the legislation. I think I want to make a case on the other side. I think the time to make the case is here, at the beginning.

I just cannot conceive of going into a new foreign aid program of billions and billions of dollars in Indochina. I think it is a matter that the Senate should address itself to at the earliest opportunity. We know from 10 long years' experience that Indochina has been a quicksand for men and material, and I submit that it is going to be a bottomless pit also for American tax dollars. I think it is a major spending program that will be presented to this Congress unless the Congress makes known its views it will not go into another such bottomless pit affecting the dollars of the American working people.

Mr. President, I send the amendment to the desk and ask that it be printed.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table.

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. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. HARRY F. BYRD, JR. Mr. President, in regard to the matter of U.S. foreign assistance to North Vietnam, as I said earlier in my remarks, I feel strongly that we should not go into a new foreign aid program in Indochina. I think it is the responsibility of Congress to make its views known on this important matter.

I have proposed an amendment to the pending legislation. Of course, I do not know what the outcome will be. Maybe mine will be the only vote for it. I do not know. But I want the record to show that so far as I am concerned, I plan to propose a similar amendment to a half a dozen or a dozen bills, if necessary, that will come before the Senate in the next few weeks and months. If the Senate does not go on record affirmatively tomorrow in favor of it, then I will give the Senate an opportunity at a later date to go on record, because I think it is important that legislation prohibiting the use of tax funds for North Vietnam should be enacted.

MODIFICATION OF UNANIMOUS-CONSENT AGREEMENT WITH RESPECT TO GERMANENESS OF AMENDMENTS TO S. 929, TO AMEND THE PAR VALUE MODIFICATION ACT

Mr. ROBERT C. BYRD. Mr. President, March 29, at the time an agreement was entered into with respect to germaneness of amendments in connection with the Par Value Modification Act—which is the unfinished business of the Senate—I thought that I had cleared with all Senators, whom I had promised to do so, the proposed agreement with respect to germaneness.

However, I had inadvertently failed to clear that agreement with the distinguished senior Senator from Virginia (Mr. HARRY F. BYRD, JR.).

Prior thereto, on March 20, 1973, Mr. HARRY F. BYRD, JR., speaking on the Senate floor on the subject of gold reevaluation, stated, in part as follows:

> I would like to state for the RECORD that I would hope no unanimous-consent agreements will be entered into without the Senator from Virginia having an opportunity to discuss such a unanimous-consent agreement, particularly as it relates to germane amendments.

As the representative of the majority leadership on the floor at that time, I responded in this fashion:

> The distinguished Senator may be assured that if there is any attempt to promulgate a unanimous-consent agreement, it will first have been cleared with him, now that he has put the leadership on notice.

So the record is clear; the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) requested that such an agreement be cleared with him before it was put before the Senate. I responded and assured him that the leadership would act accordingly. Inadvertently, I failed to do so.

I, therefore, today have discussed the matter with the distinguished majority leader, the distinguished assistant Republican leader, who is in the Chamber at this time, and the two managers of the bill (Mr. SPARKMAN and Mr. TOWER); and in view of the situation as I have described it, they have all indicated that they will not object, in this instance, because of the extenuating circumstances I have explained, to the offering of a nongermane amendment by Mr. HARRY F. BYRD, JR.

I, therefore, at this time ask unanimous consent to amend the previous agreement to permit the Senator from Virginia (Mr. HARRY F. BYRD, JR.) to offer one nongermane amendment to the Par Value Modification Act.

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

Mr. ROBERT C. BYRD. I thank the distinguished assistant Republican leader, the distinguished Senator from

Virginia, and all other Senators for their understanding in this matter.

Mr. President, the amendment which will be offered by the distinguished senior Senator from Virginia (Mr. HARRY F. BYRD, JR.) is, as I have indicated, a nongermane amendment. The amendment, however, is a very controversial one, dealing with aid to North Vietnam. As I understand the Senator's amendment, it would preclude the giving of aid to North Vietnam.

Mr. HARRY F. BYRD, JR. The giving of U.S. tax dollars.

Mr. ROBERT C. BYRD. Therefore, Mr. President, the amendment is quite controversial, it is nongermane to the bill, and the Senator from Virginia is entitled to offer his amendment by virtue of my assurance to him several days ago that he would be contacted with respect to any agreement in connection with germaneness in regard to amendments on the Par Value Modification Act. The leadership on the other side of the aisle has shown its usual courtesy, understanding, good faith, and cooperation in allowing the amendment by the Senator from Virginia to be offered.

However, in view of the controversial aspect and in view of the fact that the agreement allows only 1 hour on any amendment—with the further understanding, of course, that Senators in control of the time on the bill can yield to Senators therefrom—it is now desired that there be no time limitation on this particular amendment.

I have discussed the matter with the distinguished majority leader; with the manager of the bill, the Senator from Alabama (Mr. SPARKMAN); and the matter has also been discussed with the ranking minority member of the committee, the Senator from Texas (Mr. TOWER); and with the leadership on the other side of the aisle. The request which I shall now make has been cleared on all sides.

I, therefore, propound the following request, that there be no time limitation on the amendment to be proposed by the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) with respect to aid to North Vietnam, with the understanding, Mr. President, that on tomorrow the principals can get together in an effort to try to work out some kind of reasonable time agreement on this amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object, the Senator from Virginia agrees as to the 3-hour time limitation.

I understand that the distinguished deputy minority leader would prefer that a time limitation be removed entirely. I am in agreement with that suggestion. I think that it is important that this matter be fully debated. It is a very important matter. I feel that it is well to remove the 1-hour limitation, following the suggestion of the distinguished Senator from West Virginia.

So, for the moment I shall not object to that unanimous-consent request. However, I do want the RECORD to show for the future that I am asking the joint leadership to notify the Senator from Virginia of any future request for unanimous-consent eliminating nongermane items from any of the bills coming before the Senate in the near future.

I have in mind only objecting to that unanimous-consent request so far as it concerns this one amendment that I have, and I want to read the amendment into the RECORD so that we will be clear on it. The amendment that I have proposed is as follows:

> No funds made available by the Congress to any department or agency of the Government may be obligated or expended for the purpose of providing assistance of any kind, directly or indirectly, to or on behalf of North Vietnam.

I want to be frank and say to the Senate and to the joint leadership that until this amendment is enacted into law, I propose to offer it on any number of bills coming before the Senate. For that reason, I request the cooperation of the joint leadership, as they have always been so cooperative with all Senators in this regard, to make a note of the request now officially being made by the Senator from Virginia that no unanimous-consent agreement regarding nongermane amendments be entered into without the Senator from Virginia having an opportunity to discuss the matter.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

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

Mr. ROBERT C. BYRD. Mr. President, I think this is a very reasonable request by the able Senator. I assure him of my effort to cooperate, with the further understanding that the Senator will not hold the leadership responsible in this regard beyond such time as he has been able to successfully attach such an amendment to a bill, or until such time as he decides to desist from offering it, if that time should occur.

Mr. HARRY F. BYRD, JR. I think that is a very reasonable statement by my distinguished and able friend from West Virginia, and I assure him that my request would apply only up until the point that Congress enacts such an amendment or such legislation as I have just read into the RECORD.

Mr. ROBERT C. BYRD. Very well. The Senator has my assurance. The leadership of the majority always enjoys his cooperation, and I assure him that the leadership intends for him to have our cooperation.

The Senator has just reminded me in his statement that the time agreement was changed with respect to his amendment a little earlier so as to allow 3 hours thereon.

Mr. HARRY F. BYRD, JR. Yes.

Mr. ROBERT C. BYRD. Therefore, Mr. President, I negate my earlier request and ask that this statement not be associated in the RECORD with my previous request. I negate that, so that the RECORD will show developments in their proper sequence.

The PRESIDING OFFICER. Is there objection?

Mr. HARRY F. BYRD, JR. Reserving the right to object, and I shall not object, as I understand it, if the unanimous-consent request is agreed to, there would be no time limitation on the aid to North Vietnam amendment.

Mr. ROBERT C. BYRD. That portion of my request is still before the Senate, and the Senator from Virginia is still reserving the right to object.

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

Mr. ROBERT C. BYRD. Mr. President, I thank all Senators for their cooperation, their understanding, and their patience.

Mr. GRIFFIN. Mr. President, if I may have a moment, I appreciate the indulgence and cooperation in this regard.

I think the Senator from West Virginia, the distinguished majority whip, does a commendable job in the Senate, moving the business of the Senate along, in large measure due to the fact that we are able to obtain unanimous-consent agreements. But the only way we will ever get unanimous-consent agreements on a continuing basis is if Senators understand and realize what they are agreeing to. This kind of good faith accommodation is absolutely essential, I am convinced, if we are to have a continuing series of unanimous-consent agreements. If we do not have that kind of cooperation, understanding, and mutual good will and good faith, then obviously there will always be an objection, and we will never have any unanimous-consent agreements, or at least they will be very difficult to obtain.

I am somewhat sorry to hear the Senator from Virginia say that we will not be able to have any agreement concerning nongermane amendments—or maybe we will, if we get his agreement.

Mr. HARRY F. BYRD, JR. If the Senator will yield——

Mr. GRIFFIN. But what this means, of course, is that we have to be very sure in advance what nongermane amendments are going to be offered, and then we will be able to agree to a time limitation agreement, if we know what they are.

Mr. HARRY F. BYRD, JR. If the Senator will yield——

Mr. GRIFFIN. Yes.

Mr. HARRY F. BYRD, JR. The request of the Senator from Virginia deals only with this one amendment which has already been read into the RECORD.

Mr. GRIFFIN. Now we know what it is. I thank the Senator.

Mr. HARRY F. BYRD, JR. But if the Senator will yield further, I want to say that I appreciate the attitude of the distinguished Senator from West Virginia and the distinguished Senator from Michigan. As the Senator from Michigan has just pointed out, we operate in the Senate on a basis of understanding between the Members of the Senate, and I have always found the distinguished majority whip and the distinguished minority whip not only fully cooperative, but undertaking their responsibilities in the finest tradition of the Senate. I am very proud of my association with both the Senator from West Virginia (Mr. ROBERT C. BYRD) and the Senator from Michigan (Mr. GRIFFIN).

Mr. ROBERT C. BYRD. Mr. Presi-

dent, I thank the Senator. I also thank the distinguished assistant Republican leader.

I think the record should show that had the Senator from West Virginia not, by inadvertence, failed to contact the Senator from Virginia in conformity with my previous assurance that I would do just that, the Senator from Virginia would have been consulted. Senators would have known the nature of his amendment, and it is quite possible that there would have been no unanimous-consent agreements at all worked out with respect to this bill and other amendments thereto until and unless there could have been a meeting of the minds with respect to the Senator's amendment. So, no harm has been done.

With the cooperation and understanding of all Senators involved here, including the two managers of the bill (Mr. TOWER and Mr. SPARKMAN), the Senator from Virginia will now be able to offer his nongermane amendment. As of this time, there is no time limitation on that amendment. The managers of the bill will get together tomorrow with the Senator from Virginia, the assistant Republican leader, the majority leader, and myself to see if perchance we can still possibly arrive at a time limitation on the Senator's amendment.

So I am very happy and pleased that we have been able to resolve this difficult matter. I appreciate the cooperation of Senators, and I apologize to the Senator from Virginia for the oversight on my part.

Mr. President, so that we may have a clear understanding, what about amendments to the Byrd amendment? I would assume, and I ask unanimous consent, that the vacating of any time agreement with respect to the amendment by the Senator from Virginia (Mr. HARRY F. BYRD, JR.) also apply to any amendments to that amendment as of now, because otherwise there would be a time limitation on an amendment to his amendment of 30 minutes.

So I think that if the distinguished minority whip is agreeable, I will ask unanimous consent at this time that there be no time limitation on amendment by the Senator from Virginia (Mr. HARRY F. BYRD, JR.).

Here again, on tomorrow, we will meet and see if we can work out something whereby a time agreement can be reached which would be all-encompassing with regard to the Senator's amendment.

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object, and I shall not object, the proposal made by the distinguished Senator from West Virginia is a most appropriate one. It would not seem logical to remove the time limitation on the amendment and then have a time limitation on the amendment to the amendment. So that I think the request of the Senator from West Virginia is most appropriate.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is sc ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 11:30 a.m.

After the two leaders or their designees have been recognized under the standing order, the following Senators will be recognized: Mr. GRIFFIN, for 15 minutes; Mr. ROBERT C. BYRD, for 10 minutes.

At 12 o'clock noon, the Senate will resume consideration of the unfinished business, the Par Value Modification Act, S. 929, Calendar No. 82. There is a time limitation on the bill and on amendments thereto. There will be yea-and-nay votes during the afternoon of tomorrow.

ADJOURNMENT UNTIL 11:30 A.M.

Mr. HARRY F. BYRD, JR. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 11:30 a.m. tomorrow.

The motion was agreed to; and at 8:01 p.m. the Senate adjourned until tomorrow, Wednesday, April 4, 1973, at 11:30 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate April 3, 1973:

DEPARTMENT OF LABOR

John H. Stender, of Washington, to be an Assistant Secretary of Labor.

(The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

EXTENSIONS OF REMARKS

KENT FRIZZELL, OF KANSAS, NAMED INTERIOR SOLICITOR

HON. GARNER E. SHRIVER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1973

Mr. SHRIVER. Mr. Speaker, it is with considerable pride that those of us from Kansas learned of the President's nomination of Kent Frizzell, of Wichita, to be Solicitor of the Department of Interior. Mr. Frizzell has served with distinction as Assistant Attorney General, Land and Natural Resources Division, Department of Justice for more than a year.

Kent Frizzell is a good friend; he enjoys the support and admiration of many Kansans who have followed his career of public service. We are confident that he will continue to render distinguished service to our Nation in his new capacity as Solicitor at the Interior Department. We congratulate him and wish him well.

Under leave to extend my remarks in the RECORD, I include a news release issued by Secretary of Interior Rogers C. B. Morton following the President's nomination of Mr. Frizzell:

SECRETARY MORTON COMMENDS NOMINATION OF KENT FRIZZELL AS INTERIOR SOLICITOR

President Nixon's nomination of Kent Frizzell to be Solicitor of the Department of the Interior won praise today from Interior Secretary Rogers C. B. Morton.

"Mr. Frizzell's experience in handling land and natural resource problems as well as his broad knowledge of Federal-State relationships especially in the West are excellent qualifications for this important post at Interior," Secretary Morton said. "I look forward to working closely with Mr. Frizzell in solving the many complex legal issues which Interior now faces."

Frizzell, 44, has been Assistant Attorney General, Land and Natural Resources Division, at the Department of Justice in Washington since January 1972. His nomination to the Interior post is subject to Senate confirmation.

The Solicitor is Interior's chief legal officer and is the third ranking official of the Department behind the Secretary and Under Secretary. Frizzell would succeed Mitchell Melich, who has been Solicitor since 1969.

Frizzell has served since March 1972 as Chairman of the Federal Bar Association's Council on Natural Resources, a public service position requiring extensive knowledge of the natural resource field and filled by appointment of the President of the Federal Bar Association.

Frizzell was the Republican nominee for Governor of Kansas in 1970. He was Attorney General of the State of Kansas from 1965 to 1969. Among other public offices he has been Chairman of the Kansas State Accounting Board and President of the Wichita Board of Education.

Born February 11, 1929, in Wichita, Frizzell attended Wichita public schools. He did undergraduate work at Northwestern University, holds a B.A. degree from Friends University, Wichita, and a J. D. degree from Washburn University Law School, Topeka. He was a lecturer in business law at Wichita State University, and practiced law in Kansas from 1955 to 1968.

Frizzell has held a number of civic posts including State Legal Counsel, Kansas Jaycees; Judge Advocate, American Legion Department of Kansas, and Trustee, Mid-Continent Regional Educational Laboratory. He has been an active member of the Kansas Wildlife Federation.

Frizzell and his wife Shirley have five children. Their home is in Falls Church, Virginia.

BIG BROTHERS PROGRAM

HON. JOHN E. MOSS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1973

Mr. MOSS. Mr. Speaker, throughout the Nation, Mr. President, the Big Broth-