By Mr. ROGERS:

H.R. 14566. A bill to amend the Internal Revenue Code of 1954 to increase the credit against tax for retirement income; to the Committee on Ways and Means.

H.R. 14567. A bill to amend the Internal Revenue Code of 1954 to allow an income tax deduction for State and local utility taxes; to the Committee on Ways and Means.

By Mr. SARASIN (for himself, Mr. SCHNEEBELI, Mr. SEIBERLING, Mr. STEELE, Mr. STUDDS, Mr. THOMPSON of New Jersey, Mr. TIERNAN, Mr. VANDER VEEN, and Mr. YATRON):

H.R. 14568. A bill to amend the Regional Rail Reorganization Act of 1973 to allow adequate time for citizen participation in public hearings, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. SARASIN (for himself, Ms. ABZUG, Mr. BOLAND, Mr. BURKE of Massachusetts, Mr. CLEVELAND, Mr. CONTE, Mr. DONOHUE, Mr. EILBERG, Mr. FISH, Mr. GOODLING, Mr. GREEN of Pennsylvania, Mr. GUYER, Mr. HARRINGTON, Mrs. HECKLER of Massachusetts, Mr. KYROS, Mr. LANDGREBE, Mr. LONG of Maryland, Mr. MADIGAN, Mr. MILLER, Mr. MOAKLEY, Mr. MOSHER, Mr. MURTHA, Mr. O'BRIEN, Mr. ROBISON of New York, and Mr. ST GERMAIN):

H.R. 14569. A bill to amend the Regional Rail Reorganization Act of 1973 to allow adequate time for citizen participation in public hearings, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. STEELMAN (for himself, Mr. DERWINSKI, Mr. KEMP, Mr. STARK, Ms. SCHROEDER, Mr. FAUNTROY, Mr. DUNCAN, Mr. MALLARY, Mr. SEIBERLING, and Ms. HECKLER of Massachusetts):

H.R. 14570. A bill to amend section 552 of title 5, United States Code (known as the Freedom of Information Act) to specify those matters which in the interest of the national defense may be withheld from public disclosure by a Federal agency; to the Committee on Government Operations.

By Mr. STEELMAN (for himself, Mr. KEMP, Mr. STARK, Mrs. SCHROEDER, Mr. DUNCAN, Mr. MALLARY, Mr. SEIBERLING, and Mrs. HECKLER of Massachusetts):

H.R. 14571. A bill to amend section 552 of title 5, United States Code (known as the Freedom of Information Act), to provide for increased public access to certain Federal agency records; to the Committee on Government Operations.

By Mr. STEELMAN (for himself, Mr. KEMP, Mr. STARK, Mr. DERWINSKI, Mr. FAUNTROY, Ms. SCHROEDER, Mr. DUNCAN, Mr. SEIBERLING, Ms. HECKLER of Massachusetts, and Ms. HOLTZMAN):

H.R. 14572. A bill to amend section 552 of title 5, United States Code (known as the Freedom of Information Act), to provide for the award of court costs and reasonable attorneys' fees to successful complainants that seek certain Federal agency information; to the Committee on Government Operations.

By Mr. STEELMAN (for himself, Mr. KEMP, Mr. STARK, Ms. SCHROEDER, Mr. DUNCAN, Mr. MALLARY, Mr. SEIBERLING, and Ms. HECKLER of Massachusetts):

14573. A bill to amend section 552 of title 5, United States Code (known as the Freedom of Information Act), to provide for an in camera inspection by the appropriate court of certain agency records; to the Committee on Government Operations.

By Mr. STEELMAN (for himself, Mr. KEMP, Mr. STARK, Mr. FAUNTROY, Ms. SCHROEDER, Mr. DUNCAN, Mr. MALLARY, Mr. SEIBERLING, Ms. HECKLER of Massachusetts, and Ms. HOLTZMAN):

H.R. 14574. A bill to amend section 552 of title 5, United States Code (known as the Freedom of Information Act), to require Federal agencies to respond to requests for certain information no later than 15 days after the receipt of each such request; to the Committee on Government Operations.

By Mr. STEELMAN (for himself, Mr. KEMP, Mr. STARK, Mr. DERWINSKI, Mr. MALLARY, Mr. SEIBERLING, and Ms. HECKLER of Massachusetts):

14575. A bill to provide standards of fair personal information practices; to the Committee on the Judiciary.

By Mr. STEELMAN (for himself, Mr. KEMP, Mr. STARK, Mr. DERWINSKI, Mr. FAUNTROY, Mr. HORTON, Mr. SEIBERLING, and Ms. HECKLER of Massachusetts):

H.R. 14576. A bill to amend the Social Security Act to prohibit the disclosure of an individual's social security number or related records for any purpose without his consent unless specifically required by law, and to provide that (unless so required) no individual may be compelled to disclose or furnish his social security number for any purpose not directly related to the operation of the old-age, survivors, and disability insurance program; to the Committee on Ways and Means.

By Mr. VIGORITO:

H.R. 14577. A bill to further amend the Agricultural Marketing Act of 1946; to the Committee on Agriculture.

By Mr. WYDLER:

H.R. 14578. A bill to extend and improve the Nation's unemployment programs and for other purposes; to the Committee on Ways and Means.

By Mr. ANDERSON of California (for himself, Mr. SARASIN, Mr. MATSUNAGA, Mr. BELL, Mr. CLAY, Mr. BADILLO, Mr. DENHOLM, Mr. DERWINSKI, Mr. ROYBAL, Mr. TIERNAN, Mr. LEHMAN, Mr. YOUNG of Georgia, Mr. BRASCO, Mr. COTTER, Mr. THOMPSON of New Jersey, Mr. HAWKINS, Mr. MOSS, Ms. SCHROEDER, Mr. HELSTOSKI, Mr. EILBERG, Mr. TRAXLER, Mr. WHITEHURST, Mr. MCCORMACK, Mr. FISH, and Mr. KEMP):

H.J. Res. 998. Joint resolution to prohibit the Bureau of Labor Statistics from instituting any revision in the method of calculating the Consumer Price Index until such revision has been approved by resolution by either the Senate or the House of Representatives of the United States of America; to the Committee on Education and Labor.

By Mr. ANDERSON of California (for himself, Mr. SARASIN, Mr. MATSUNAGA, Mr. BELL, Mr. CLEVELAND, Mr. HECHLER of West Virginia, Mr. HOLIFIELD, Mr. CONYERS, Mr. HARRINGTON, Mr. EDWARDS of California, Mr. STUDDS, Ms. COLLINS of Illinois, Mr. SARBANES, Mr. DELLUMS, Mr. CORMAN, Mr. DOMINICK V. DANIELS, Mr. FASCELL, Mr. SEIBERLING, Ms. ABZUG, Mr. REES, and Ms. HOLTZMAN):

H.J. Res. 999. Joint resolution to prohibit the Bureau of Labor Statistics from instituting any revision in the method of calculating the Consumer Price Index until such revision has been approved by resolution by either the Senate or the House of Representatives of the United States of America; to the Committee on Education and Labor.

By Mr. HANLEY:

H. Res. 1088. Resolution creating a select committee to study the impact and ramifications of the Supreme Court decisions on abortion; to the Committee on Rules.

By Mr. MOORHEAD of California:

H. Res. 1089. Resolution in support of continued undiluted U.S. sovereignty and jurisdiction over the U.S.-owned Canal Zone on the Isthmus of Panama; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. WHITTEN introduced a bill (H.R. 14579) for the relief of Josephine J. Johnson, which was referred to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

448. By the SPEAKER: Memorial of the Legislature of the Commonwealth of Massachusetts, relative to allowing greater immigration to the people of Ireland; to the Committee on the Judiciary.

449. Also, memorial of the Senate of the Commonwealth of Massachusetts, relative to Federal participation in the costs of the social security system; to the Committee on Ways and Means.

SENATE—*Thursday, May 2, 1974*

The Senate met at 10 a.m. and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

PRAYER

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

O God, grant to us clean hands and pure hearts as we undertake our service to the Nation this day. As Thou hast given us this good land, rich in resources and in beauty, help us to conserve its bounty and its beauty. Preserve the people from marring the beauty of this world or contaminating its atmosphere. Give us clean air, clean water, clean people, clean government. Help us to make our cities, towns, and countryside a creation of enduring beauty and a joy forever. And, finally, may the spirit of the Great Galilean be upon us and motivate us in our work, to the glory of Thy holy name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., May 2, 1974.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JAMES B.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, May 1, 1974, 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 may 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 Executive Calendar.

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

The ACTING PRESIDENT pro tempore. The nomination on the Executive Calendar will be stated.

COMMODITY CREDIT CORPORATION

The second assistant legislative clerk read the nomination of Richard L. Feltner, of Illinois, to be a member of the Board of Directors of the Commodity Credit Corporation.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of this nomination.

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

LEGISLATIVE SESSION

Mr. MANSFIELD. I ask unanimous consent that the Senate resume the consideration of legislative business.

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

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the Calendar beginning with Calendar No. 762 through 769, with the exceptions of Nos. 765 and 766.

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

NOTIFICATION OF GOVERNMENT OFFICIALS OF THE FILING OF CERTAIN COMMON CARRIER APPLICATIONS WITH THE FEDERAL COMMUNICATIONS COMMISSION

The bill (S. 1479) to amend subsection (b) of section 214 and subsection (c)(1) of section 222 of the Communications Act of 1934, as amended, in order to designate the Secretary of Defense—rather than the Secretaries of the Army and the Navy—as the person entitled to receive official notice of the filing of certain applications in the common carrier service and to provide notice to the Secretary of State where under section 214 applications involve service to foreign points, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1479

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (b) of section 214 of the Communications Act of 1934, as amended (47 U.S.C. 214(b)), is amended by deleting from the first sentence thereof "the Secretary of the Army, the Secretary of the Navy," and inserting in lieu thereof "the Secretary of Defense, the Secretary of State (with respect to such applications involving service to foreign points),".

SEC. 2. That subsection (c)(1) of section 222 of the Communications Act of 1934, as amended, is amended by deleting from the first sentence thereof "the Secretary of the Army," and "the Secretary of the Navy," and inserting in lieu thereof "the Secretary of Defense," immediately after "Secretary of State," in such sentence.

DIRECT LICENSING IN THE SAFETY AND SPECIAL AND EXPERIMENTAL RADIO SERVICES OF ALIENS, OR ENTERPRISES WITH ALIEN OFFICERS, DIRECTORS, OR STOCKHOLDERS

The Senate proceeded to consider the bill (S. 2457) to amend the Communications Act of 1934, as amended, to permit the Federal Communications Commission to grant radio station licenses in the safety and special and experimental radio services directly to aliens, representatives of aliens, foreign corporations, or domestic corporations with alien officers, directors, or stockholders; and to permit aliens holding such radio station licenses to be licensed as operators, which had been reported from the Committee on Commerce with an amendment, on page 3, line 6, after the word "carrier", insert "or aeronautical en route or aeronautical fixed"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (1) of section 303 of the Communications Act of 1934, as amended (47 U.S.C. 303(1)), is amended by deleting paragraphs (2) and (3) and inserting the following:

"(2) Notwithstanding paragraph (1) of this subsection, an individual to whom a radio station is licensed under the provisions of this Act may be issued an operator's license to operate that station.

"(3) In addition to amateur operator licenses which the Commission may issue to aliens pursuant to paragraph (2) of this subsection, and notwithstanding section 301 of this Act and paragraph (1) of this subsection, the Commission may issue authorizations, under such conditions and terms as it may prescribe, to permit an alien licensed by his government as an amateur radio operator to operate his amateur radio station licensed by his government in the United States, its possessions, and the Commonwealth of Puerto Rico provided there is in effect a bilateral agreement between the United States and the alien's government for such operation on a reciprocal basis by United States amateur radio operators. Other provisions of this Act and of the Administrative Procedure Act shall not be applicable to any request or application for or modification, suspension, or cancellation of any such authorization."

SEC. 2. Section 310 of the Communications Act of 1934, as amended (47 U.S.C. 310), is amended by deleting subsection (a), redesignating subsection (b) as subsection (d) and inserting the following new subsections (a), (b), and (c):

"(a) The station license required under this Act shall not be granted to or held by any foreign government or the representative thereof.

"(b) No broadcast or common carrier or aeronautical en route or aeronautical fixed radio station license shall be granted to or held by—

"(1) any alien or the representative of any alien;

"(2) any corporation organized under the laws of any foreign government;

"(3) any corporation of which any officer or director is an alien or of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof or by any corporation organized under the laws of foreign country;

"(4) any corporation directly or indirectly controlled by any other corporation of which any officer or more than one-fourth of the directors are aliens, or of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country, if the Commission finds that the public interest will be served by the refusal or revocation of such license.

"(c) In addition to amateur station licenses which the Commission may issue to aliens pursuant to this Act, the Commission may issue authorizations, under such conditions and terms as it may prescribe, to permit an alien licensed by his government as an amateur radio operator to operate his amateur radio station licensed by his government in the United States, its possessions, and the Commonwealth of Puerto Rico provided there is in effect a bilateral agreement between the United States and the alien's government for such operation on a reciprocal basis by United States amateur radio operators. Other provisions of this Act and of the Administrative Procedure Act shall not be applicable to any request or application for or modification, suspension, or cancellation of any such authorization."

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

EXTENSION OF PERIOD OF LIMITATIONS IN PROCEEDINGS BY OR AGAINST COMMUNICATIONS CARRIERS FOR RECOVERY OF CHARGES, OVERCHARGES, OR DAMAGES NOT BASED ON OVERCHARGES

The Senate proceeded to consider the bill (S. 1227) to amend section 415 of the

Communications Act of 1934, as amended, to provide for a 2-year period of limitations in proceedings against carriers for the recovery of overcharges or damages not based on overcharges, which had been reported from the Committee on Commerce with amendments, on page 1, line 3, after the word "subsections", insert "(a)"; and, after line 5, insert:

"(a) All actions at law by carriers for recovery of their lawful charges, or any part thereof, shall be begun, within two years from the time the cause of action accrues, and not after."

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsections (a), (b), and (c) of section 415 of the Communications Act of 1934, as amended (47 U.S.C. 415), are amended to read as follows:

"(a) All actions at law by carriers for recovery of their lawful charges, or any part thereof, shall be begun, within two years from the time the cause of action accrues, and not after."

"(b) All complaints against carriers for the recovery of damages not based on overcharges shall be filed with the Commission within two years from the time the cause of action accrues, and not after, subject to subsection (d) of this section.

"(c) For recovery of overcharges action at law shall be begun or complaint filed with the Commission against carriers within two years from the time the cause of action accrues, and not after, subject to subsection (d) of this section, except that if claim for the overcharge has been presented in writing to the carrier within the two-year period of limitation said period shall be extended to include two years from the time notice in writing is given by the carrier to the claimant of disallowance of the claim, or any part or parts thereof, specified in the notice."

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

NATIONAL HISTORIC PRESERVATION WEEK

The joint resolution (S.J. Res. 175) to authorize and request the President to issue a proclamation designating the calendar week beginning May 6, 1974, as "National Historic Preservation Week" was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

Whereas the two hundredth anniversary of the founding of this Republic approaches; and

Whereas an indispensable element of the strength, the freedom, and the constructive world leadership of this Nation is the knowledge and appreciation of our origins and history, of who we are, where we are, and how we arrived there; and

Whereas the houses where we have lived, the buildings where we have worked, the streets we have walked for more than three hundred years are as much a part of our heritage as the wisdom of the Founding Fathers and the works of art which succeeding generations of Americans have bequeathed to us; and

Whereas these buildings and places, great and humble, not only are our roots, but are also sources of pride in our past achievements and enrich our lives today; and

Whereas historic preservation today involves much more than period rooms in house museums, but means, rather, that old homes, public buildings, hotels, taverns, theaters, industrial buildings, churches, and commercial structures can be saved and put to contemporary use as living history to be treated with respect and incorporated within our planning as our towns and cities grow to provide the citizens of this Nation with an environment of quality and enduring interest: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation—

(1) designating the calendar week beginning May 6, 1974, as "National Historic Preservation Week"; and

(2) urging Federal, State, and local government agencies, as well as citizens and private organizations, especially the preservation organizations, historical societies, and related groups, to observe that week with educational efforts, ceremonies, and other appropriate activities which—

(a) are designated to call public attention to the urgent need to have our historic landmarks for the enjoyment and edification of the citizens of this Nation, present and future; and

(b) will demonstrate lasting respect for this unique heritage.

NATIONAL AMATEUR RADIO WEEK

The joint resolution (S.J. Res. 197) to authorize the designation of the 7-day period beginning June 17, 1974, and ending June 23, 1974, as 'National Amateur Radio Week," was considered, ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

Whereas over two hundred and fifty thousand Americans are licensed by the Federal Communications Commission as amateur radio operators, and

Whereas these amateur radio operators have served their fellow Americans on countless occasions in times of crisis, such as floods, tornadoes, hurricanes, earthquakes, and power failures, by relaying information and summoning medical and other assistance, and

Whereas our amateur radio operators are a vital element in our civil defense network, rendering valuable assistance to civil defense personnel in times of emergency or natural disaster, and

Whereas our amateur radio operators are an important force for international understanding and good will among all people, opening up channels of communication and information across the oceans and the continents, and

Whereas the National Amateur Radio Field Day of the American Radio Relay League has been held during the fourth weekend in June for many years, and will be held during the weekend of June 22 and 23, 1974: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue a proclamation designating the seven-day period beginning June 17, 1974, and ending June 23, 1974, as National Amateur Radio Week in recognition of the many contributions of amateur radio operators, and calling upon the people of the United States and interested organizations to observe such week with appropriate ceremonies and activities.

AMERICAN BUSINESS DAY

The Senate proceeded to consider the joint resolution (S.J. Res. 195) to authorize and request the President to issue a proclamation designating May 13 of each year as "American Business Day" which had been reported from the Committee on the Judiciary with amendments, on page 1, line 3, after the word "issue" strike out "annually"; and in line 4, after the figure "13", strike out "of each year"; so as to make the joint resolution read:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating May 13 1974, as "American Business Day", and calling upon the people of the United States and interested groups and organizations to observe such day with appropriate ceremonies and activities.

The amendments were agreed to.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "Joint resolution to authorize and request the President to issue a proclamation designating May 13, 1974, as American Business Day."

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the distinguished acting Republican leader desire recognition?

If not, at this time, the Chair recognizes the distinguished Senator from Wisconsin (Mr. PROXMIRE) for not to exceed 15 minutes.

WHAT'S RIGHT WITH THE FEDERAL GOVERNMENT: PROGRESS IN ENVIRONMENTAL LEGISLATION

Mr. PROXMIRE. Mr. President, in Washington and across the Nation we hear more every day about the terrible problems our country is facing. I get hundreds of letters every week from citizens criticizing the Federal Government. They write about the energy crisis and ask what is being done to solve it. They complain about the rising cost of living and rampant inflation. They share their concerns about Watergate and the decline of strong moral leadership in government.

Public confidence in the President and Congress is lower today than it has been for many years. The American people no longer express much faith in their leaders. This is one of the gravest problems facing the 93d Congress.

One of our most important duties is to restore the people's faith in our democratic system of government. As a step in the direction of rebuilding confidence in our Government, I am reviewing some of the great accomplishments that have been made during the nearly 17 years I have served in the Senate. Great strides have been made in civil rights legislation, education, communication, women's rights, and military efficiency. Today I want to review briefly the remarkable progress we have made in passing legislation to clean up our environment.

MAN THE POLLUTER

Man has always been a polluter. Long before fire was discovered, we were dumping our wastes into the surrounding environment. Although the Earth's ecological system could handle early forms of pollution, man's capacity for growth and polluting byproducts has outstripped nature's ability to cope with the buildup. The industrial revolution was the turning point, and we have been suffering the burdens of pollution as well as sharing the benefits of industrial growth ever since.

Environmental pollution is a subtle process. It takes a long time to contaminate our air, land, and water so thoroughly that they become a curse instead of a natural blessing. Only in this century has it become clear that unless the process is checked, we will eventually poison ourselves in a disaster of our own making.

The hazardous effects of pollution, while most notable in the last decade, have been around for a long time. As early as 1930, 60 people died in Belgium's Meuse Valley after a heavy smog settled over the area. In 1948, 17 residents of Demora, Pa., died because of air pollution. England still has not forgotten the disastrous London fog of 1952 that killed an estimated 4,000 people.

THE ENVIRONMENTAL DECADE

Since the mid-sixties, it has been clear that decisive action had to be taken to preserve our environment and restore what had already been damaged. In the 1950's our city dumps were overflowing with old car bodies, shattered concrete from demolished buildings, tin cans, bottles, and other solid waste. Food and other organic wastes were being casually dumped into our waters or burned. Widespread health problems and more air pollution were the result. Today, with Federal money, we have made a real beginning to improve our incendiary techniques and solid waste disposal methods so that some of these same organic wastes can be recycled and used again or burned more efficiently with less pollution.

The Willamette River in Oregon used to be one of the most polluted waterways in America. Fifty years ago, men used to refuse to work on riverside construction because of the stench. Since then, Government funded programs have been directed to the area and today thousands of people swim, fish, and water ski on that same river. Just last fall, Chinook salmon ascended the Willamette to spawn.

We can be thankful to those who led and followed the public indignation over air and water pollution that resulted in the environmental movement of the sixties. Congress has taken far more action in the last 10 years to clean up our Nation's air, land, and water than in all of the previous 200 years combined.

ENVIRONMENTAL POLICY ACT

The concerted public effort to defend our environment culminated in the signing of the National Environmental Policy Act on January 1, 1970. This legislation, passed by Congress, stands as a landmark commitment to preserving the environment. It established a national policy to "maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans."

Under this law, the President appointed a Council on Environmental Quality to coordinate environmental work on the Federal level and advise him on major decisions which would affect the environment. The law also provided that all Federal agencies must file an environmental impact statement on Government activities which would have a major impact on the environment.

In that same year, Congress consented to an order of the President which established the Environmental Protection Agency. For the first time a single independent agency was charged with the responsibility to protect and enhance the environment and to establish and enforce pollution control standards.

The groundwork for environmental progress was accomplished by major legislation introduced and passed by Congress, particularly in the last decade. Twenty years ago scant attention was paid to the need for preserving the environment. A brief look at some of the main legislative efforts of the last 10 years gives a good idea of what has been done to change this situation.

The Environmental Protection Agency has estimated that air pollution costs $16 billion a year in health and property damage. At a cost of only $15 billion spread over 5 years, we can control air pollution. The economic and social advantages of stopping air pollution are clear. Thanks to progressive laws, we are now in a position to begin reversing such pollution.

AIR POLLUTION ACT

In 1955, Congress passed the Air Pollution Act, the first law to authorize the expenditure of Federal funds for air pollution research. This research led to the Clean Air Act of 1963, a landmark decision to provide financial assistance to State and local governments for initiating and improving pollution control programs. Just 2 years later, the Motor Vehicle Pollution Control Act expanded Federal activity to include setting standards for automobile emissions, a major source of urban air pollution.

Most current Federal involvement in combatting air pollution is based on the Air Quality Act of 1967 and the Clean Air Amendments of 1970. These measures paved the way for ongoing efforts which offer the hope of making our air fit to breathe once again. The Air Quality Act required the individual States to establish air quality standards and plans to implement the standards in designated regions of the country. Within 3 years, the foundation had been laid for the clean air amendments which called for national uniform air quality standards based on geographic regions. EPA was given wide-ranging authority to deal with pollution hazards. On the basis of this authority, in 1971, EPA established national ambient air quality standards for six principal classes of air pollution. Performance standards were imposed to limit pollution from such sources as steam-electric generating plants, municipal incinerators and sulfuric and nitric acid plants. Furthermore, ordinary citizens were specifically authorized to bring civil suits against private or government officials who failed to abide by the new law's provisions. The public was given a direct opportunity to aid in the enforcement of laws vital to its health and safety.

Congress has not failed to take up the fight against other forms of pollution. Although a law was passed in 1956 to establish a permanent program to deal with water pollution, major legislation in this area has been passed only in the last 9 years.

WATER QUALITY ACT

The Water Quality Act of 1965 established State standards based on Federal criteria. This became the basis for improving our interstate waterways. Since 1965, over 90 percent of all interstate waters have been classified for recreation, fishing, or wildlife uses, requiring a high degree of water quality.

Following the disastrous Santa Barbara oil spill in 1969, Congress passed the Water Quality Improvement Act. This law provided for controlling and cleaning up oil spills and other hazardous substances. It also established a liability of $14 million for every such incident.

In 1972, the existing legislation was consolidated under the authority of the Administrator of the Environmental Protection Agency. The 1972 Clean Water Amendments had one main objective: to restore and maintain the environmental integrity of the Nation's waters. Two goals were set. The discharge of all pollutants of navigable waters was to be eliminated by 1985. Further, interim levels of water quality were to be established by 1983. EPA was authorized to enforce the water pollution laws through both administrative and judicial channels. And, as is the case for the Clean Air Act, citizens were authorized to participate in the enforcement of Federal standards.

Congress has also played a large role in formulating a new concept of managing solid wastes. Although we Americans account for only 6 percent of the world's population, we use up nearly 50 percent of the Earth's industrial raw materials. Needless to say, this has led to a terrific amount of solid waste. No one who has ever lived near a junkyard or within smelling distance of open trash dumps has to be told how casually we have disposed of these wastes in the past. Not only is solid waste an eyesore, it represents a serious economic drain on natural resources. Many of the things we throw away can be recycled and used again for productive purposes.

Passage of the Solid Waste Disposal Act of 1965 was the first significant interest shown by the Federal Government in providing for better management of solid waste. Grants were made under this act to demonstrate new technology for solid waste disposal. The Resource Recovery Act of 1970 went a step further. This time the thrust of the Federal Government's effort was directed to recycling and recovering valuable waste materials.

NOISE ABATEMENT

Strides have been made in other areas of environmental concern as well. The

Noise Pollution and Abatement Act of 1970 was passed to direct the EPA to study the effect of noise on public health and safety. This was followed by the Noise Control Act of 1972 to coordinate research in this area and to provide for the setting of Federal noise emission standards. In 1970, EPA was also charged with the responsibility for regulating pesticides in the public interest. The Environmental Pesticide Control Act of 1972 expanded the necessary authority to deal with this problem.

In short, Mr. President, Congress has acted to make positive changes. The American people can be proud of these efforts to stop the tide of environmental destruction and begin to rebuild.

I do not mean to paint an unrealistically rosy picture. To do so would perhaps encourage us to let down our guard. We may forget that the struggle to reclaim and enhance our environment is going to take years of concerted effort and constant vigilance.

It is not enough to pass good laws and express a national commitment to clean up the environment. The laws must be enforced. Every effort must be made to translate public commitment into positive action. Legitimate criticisms have been directed against failures to force full compliance with the environmental legislation Congress has passed. For example, money is needed to implement the provisions of these laws. Unfortunately, the administration has impounded some of the funds which Congress appropriated to carry out the environmental programs.

WHAT'S STILL WRONG?

The Environmental Protection Agency has at times dragged its feet in getting tough on pollution. Compliance deadlines have been extended or delayed in some vital programs. The solid waste management program has been particularly hard hit. Its budget was cut by 82 percent and its manpower reduced from 310 to 118. EPA has also waffled on efforts to prohibit some toxic substances from being discharged into the Nation's waters. This issue is now under litigation.

EPA has not always pushed as hard as possible to enforce the Clean Air Act's provisions. Court action was needed to require the Agency to take steps to prevent the significant deterioration of air quality in places where it is now relatively clean.

Another area where improvement is needed is mass transportation. If current trends continue, the improvement in air quality from automobile emission control devices may well be outweighed by ever-growing private transportation.

Ironically, the energy crisis, which should make clear as never before the need for wise use of all our natural resources, is being taken as an excuse by some interests to call for a retreat from the hard-won progress we have already made. It is fair to say that the body of environmental legislation which has been developed over the past decade is under wholesale assault from some quarters. Project "Independence" relies heavily on greatly expanding the number of nuclear powerplants now under operation. Yet we dare not risk the possible consequences of such action unless the many questions of safety and technical performance are fully answered to the public's satisfaction.

ENERGY NEED NO ALIBI FOR POLLUTION

There are particularly disturbing reports of a proposal being debated within the administration which would permit the Federal Government to waive environmental impact statements on a wide range of energy projects. Presumably this would include strip mining on Government lands, nuclear powerplant development, refinery construction and certain dumping practices which now require a Federal permit. To its credit, the Environmental Protection Agency is resisting any such efforts to weaken the National Environmental Policy Act. However, a strong determination on the part of Congress and the American people may be needed to rebuff any legislative efforts to implement such a proposal.

In looking at the total costs involved in developing our energy resources, we must not ignore the external costs of environmental pollution. We will not profit by having more energy if the environment which sustains its use is destroyed in the process.

GREAT STRIDES

There are problems remaining and we must not minimize them. But we have indeed made great strides in dealing with a situation which just 10 years ago seemed beyond our control. Although our goals have not yet been realized—far from it—a solid foundation for improvement has been laid. At a time when Americans are doubting that Government can function responsibly, it is imperative that we remember what we have done right—and that our present uncertainty not weaken our resolve to follow through on the positive goals which have been established.

We would all do well to keep in mind President Nixon's words in signing the National Environmental Policy Act:

> The nineteen-seventies absolutely must be the years when America pays its debt to the past by reclaiming the purity of its air, its waters and our living environment. It is literally now or never.

Mr. President, I might say in conclusion that one of the most encouraging aspects we have had, a very recent development which has not come to fruition yet, has been the development in an Army laboratory in Massachusetts of a process of developing ethyl alcohol or ethanol out of waste. We have 100 billion pounds of waste a year in this country and it would be a marvelous resource if we could recycle it and use it.

The Army laboratory has determined that it could be produced at a cost of 20 cents a gallon and blended with gasoline it could cut the cost of gas by about 20 cents or to 35 cents per gallon. Furthermore, by a minor modernization of engines it might be used as the principal fuel to drive our engines 100 percent. We are not home free on this. It would take 5 or 6 years to fully develop but it offers a great promise and a remarkable opportunity for us to convert much of our waste into useful material by this recycling process.

Mr. President, I yield the floor.

ORDER OF BUSINESS

Mr. GRIFFIN. Mr. President, will the Senator yield to me if he has a little time?

Mr. PROXMIRE. I yield whatever time I have left to the Senator from Michigan.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. GRIFFIN. Mr. President, under the special order who is to be recognized?

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Michigan under the original time allotted to the Republican leader.

Mr. GRIFFIN. I merely wish to take a moment.

Mr. ROBERT C. BYRD. The Senator from Michigan has an order.

The ACTING PRESIDENT pro tempore. Yes, but the Senator has not asked recognition under that order.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator be recognized under his order.

The ACTING PRESIDENT pro tempore. Does the Senator desire recognition under the order?

Mr. GRIFFIN. Yes, if there is no time available under the order of the Senator from Wisconsin.

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

WHAT'S RIGHT WITH AMERICA

Mr. GRIFFIN. Mr. President, I wish to take a moment to commend the Senator from Wisconsin for the series of speeches he has been making here on the Senate floor, which he has entitled, "What's Right With America."

It is very easy and perhaps too much a part of human nature for all of us, as individuals, as families, as members of local governmental units and as Members of the Congress—to focus our attention almost exclusively on our problems. Of course, these are serious problems, and it is our duty as Members of Congress to seek solutions and remedies for those problems that fall under the jurisdiction of Congress.

But it seems to me, that we seldom take time out to recognize the progress that has been made or to count the many blessings that are ours. The other night, in his appearance before the U.S. Chamber of Commerce, President Nixon made the statement that although the United States has problems—some of them very serious—he would not trade the problems of our country for those of any other country in the world.

Surely, it is good for the institution of Congress, and I believe it is good for the soul of the Nation to hear speeches once in a while like those in the series being delivered by the Senator from Wisconsin. So, I want him to know that I believe he is making a very valuable contribution as one Senator, I appreciate the research which has been done to develop this series of addresses, even though I might not agree with everything the Senator from Wisconsin has said.

I feel certain that his effort is appreciated by others in the Congress and in the Nation.

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

Mr. GRIFFIN. I yield.

Mr. PROXMIRE. I do want to thank my distinguished friend from Michigan, the Republican whip. I want to stress the fact that what the Senator said this morning is most useful because these are bipartisan achievements I have been discussing; not only of Republicans and Democrats in the Senate and in the House, but also of the administration as well as the Congress.

In looking over all the achievements I have talked about that occurred in the last 17 or 18 years, they are very substantial and there have been few if any periods in the 200-year history of our country when we have been as successful in solving our problems as in the past decade. We do have many problems and we have made many mistakes, but putting it all together, the Federal Government has done and is doing extremely well. I think that we have lost the perspective we should have because there has been so much criticism and cynicism but as a result we have lost some of the confidence we need to continue progress.

I thank the Senator for his statements.

ORDER OF BUSINESS

Mr. GRIFFIN. Mr. President, I ask unanimous consent that I may reserve the remainder of my time.

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

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum with the time to be charged against my order.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the recognition of Mr. MATHIAS be vitiated.

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

Mr. GRIFFIN. Mr. President, I yield back any remaining time under my order.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, there will be a period of not to exceed 15 minutes for the transaction of routine morning business, with speeches of Senators limited to 5 minutes.

Is there routine morning business to be transacted?

TRANSCRIPTS OF TAPES SUBMITTED BY THE PRESIDENT: PUBLIC TRANSCRIPTS—I

Mr. ROBERT C. BYRD. Mr. President, on April 30 the President of the United States caused to be submitted to the House Committee on the Judiciary the transcripts of certain tapes, which tapes had been subpenaed, among other materials, by the House Judiciary Committee in connection with its impeachment inquiry. The transcripts, together with introductory matter have been printed in a single volume by the Public Printer.

The transcripts themselves run from page 55 of the voluminous volume through page 1293. The first meeting to which the transcripts refer, occurred on September 15, 1972.

Last evening, I read the transcripts of the tape recording of that meeting, which occurred between the President, Mr. Haldeman, and Mr. Dean. I also read the transcript of the record of the meeting that occurred on February 28, 1973, between the President and Mr. Dean, in the oval office.

I ask unanimous consent that the transcripts of those meetings, they having become public property already, be printed in the RECORD.

Mr. GRIFFIN. Mr. President, reserving the right to object—and, of course, I shall not object—I believe the Senator from West Virginia (Mr. BYRD) is performing a valuable service, indeed. I have given thought to making a request similar to the request made by the majority whip. Of course, now I shall not do so.

Considering the work that will be involved for the Government Printing Office, and the cost to the taxpayers for this project, I believe it is important that this material be printed in the RECORD only once. I hope notice of this action will be taken by other Senators and by House Members, and of the fact that the Senator from West Virginia making the insertions is one of the leaders of the Senate. Once all of the material has been printed in the CONGRESSIONAL RECORD, of course, it will be available equally to all Members of the Congress.

Would the Senator from West Virginia agree with that observation?

Mr. ROBERT C. BYRD. Yes, I do agree, Mr. President. It is my intention—and I have already spoken to the distinguished assistant Republican leader about this matter, and indicated my intention to proceed in this fashion, and I have discussed it with the distinguished majority leader—to insert in the RECORD each day, without comment on my part one way or the other, the transcripts as I personally read them on the preceding evenings——

Mr. GRIFFIN. I assume that each installment printed will consist of at least one or more complete meetings as transcribed in full.

Mr. ROBERT C. BYRD. Indeed, yes.

Mr. GRIFFIN. Mr. President, there is one other suggestion I would make. I understand that a summary statement precedes the transcript of the first meeting. There is also an index. Even though the page numbers might not be applicable, I believe inclusion of the index or an index could be useful.

I suggest that the majority whip might wish to consider including that material as well.

Mr. ROBERT C. BYRD. Mr. President, the Senator from Michigan has made a worthwhile suggestion with reference to the index. I would not myself include the explanatory material preceding, for this reason: I think the material could be judged by some persons to be self-serving. I do not intend to comment, one way or the other, on the transcripts as I place them in the RECORD. I feel that among the public, which is entitled to read the transcripts, many persons would be unable to pay $12.50 for the printed compilation; and even though many persons are able to pay $12.50, they may be unable to get the volumes because of the difficulties entailed in printing and distributing them.

I would not personally add the explanatory material; I would want each reader to conclude for himself, without any comment thereon, by me or anyone else, his own conclusions as to the content of the transcripts. However, I cannot bar another Senator from placing the introductory material into the RECORD.

Mr. GRIFFIN. Perhaps the majority whip would accept a suggestion. My thinking is that, regardless of whether portions may be self-serving, it is important to make all the materials available, without omission, by printing it in the RECORD.

If the majority whip prefers not to include that summary within the scope of his request, I am sure he would not object if I request that this matter also be printed in the RECORD. I hope also that it will be appropriately positioned in connection with the materials inserted by the majority whip.

Mr. ROBERT C. BYRD. Mr. President, I would not object because, again, the introductory material is also public matter. I would certainly have no objection if the distinguished Republican whip wishes to make that request.

Mr. GRIFFIN. Mr. President, I so request.

The ACTING PRESIDENT pro tempore. Is there objection to the requests of the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) and the distinguishd minority whip (Mr. GRIFFIN)?

Mr. ROBERT C. BYRD. And that the appendices be included in their proper order.

The ACTING PRESIDENT pro tempore. Is there objection to either of the requests of the Senators?

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

SUBMISSION OF RECORDED PRESIDENTIAL CONVERSATIONS TO THE COMMITTEE ON THE JUDICIARY OF THE HOUSE OF REPRESENTATIVES

(By President Richard Nixon)

On April 11, 1974, the Committee on the Judiciary of the House of Representatives of the Congress caused a subpoena to be issued to the President of the United States, returnable on April 25, 1974. The subpoena called for the production of tapes and other materials relating to forty-two Presidential

conversations. With respect to all but three of these conversations, the subpoena called for the production of the tapes and related materials without regard to the subject matter, or matters, dealt with in these conversations. In the President's view, such a broad scale subpoena is unwarranted. As the U.S. Court of Appeals in *Nixon* vs. *Sirica* has stated, "wholesale public access to Executive deliberations and documents would cripple the Executive as a co-equal branch," and as the President has repeatedly stated, he will not participate in the destruction of the office of the Presidency of the United States by permitting unlimited access to Presidential conversations and documents.

The President, on the other hand, does recognize that the House Committee on the Judiciary has constitutional responsibilities to examine fully into his conduct and therefore the President has provided the annexed transcripts of all or portions of the subpoenaed conversations that were recorded and of a number of additional nonsubpoenaed conversations that clearly show what knowledge the President had of an alleged cover-up of the Watergate break-in and what actions he took when he was informed of the cover-up. The President believes that these are the matters that primarily concern the Congress and the American people.

In order that the Committee may be satisfied that he has in fact disclosed this pertinent material to the Committee, the President has invited the Chairman and ranking minority member to review the subpoenaed tapes to satisfy themselves that a full and complete disclosure of the pertinent contents of these tapes has, indeed, been made. If, after such review they have any questions regarding his conduct, the President has stated that he stands ready to respond under oath to written interrogatories and to meet with the Chairman and ranking minority member of the Committee at the White House to discuss these matters if they so desire.

The President is making this response, which exceeds the material called for in the subpoena, in order that the Committee will be able to carry out its responsibilities and bring this matter to an expeditious conclusion.

The attached transcripts represent the best efforts accurately to transcribe the material contained on the recording tapes. Expletives have been omitted in the interest of good taste, except where necessary to depict accurately the context of the conversation. Characterization of third persons, in fairness to them, and other material not relating to the President's conduct has been omitted, except where inclusion is relevant and material as bearing on the President's conduct.

In order that the material submitted in this response to the Committee's subpoena can be viewed in the context of the events surrounding the Watergate incident and thereafter, the following summary is provided.

THE BREAK-IN AT THE WATERGATE—JUNE 17, 1972

When the break-in at Watergate occurred and the participants were arrested, the President was in Florida. As he has stated many times, he had no prior knowledge of this activity and had nothing whatsoever to do with it. No one has stated otherwise, not even Mr. Dean, former Counsel to the President, who is the only one who has made any charges against the President. During the course of Dean's conversation with the President on February 28, 1973, the President stated to Dean:

P. Of course I am not dumb and I will never forget when I heard about this—forced entry and bugging. I thought "What is this? What is the matter with these people, are they crazy?" I thought they were nuts.

During the conversation between the President and Dean on the morning of March 21, 1973, the tape of which has also previously been provided the Committee, Dean strongly disclaimed to the President that anyone at the White House knew of the break-in in advance.

D. I honestly believe that no one over here knew that. I know that as God is my maker I had no knowledge that they were going to do this.

In the conversation of the President with Mr. Haldeman and Mr. Ehrlichman on the 27th of March 1973, the following exchange, which conclusively demonstrates the President's lack of foreknowledge, took place:

H. O'Brien raised the question whether Dean actually had no knowledge of what was going on in the intelligence area between the time of the meetings in Mitchell's office, when he said don't do anything, and the time of the Watergate discovery. And I put that very question to Dean, and he said, "Absolutely nothing."

P. I would—the reason I would totally agree—that I would believe Dean there (unintelligible) he would be lying to us about that. But I would believe for another reason—that he thought it was a stupid damn idea.

E. There just isn't a scintilla of hint that Dean knew about this. Dean was pretty good all through that period of time in sharing things, and he was tracking with a number of us on—

P. Well, you know the thing the reason that (unintelligible) thought—and this incidentally covers Colson—and I don't know whether —. I know that most everybody except Bob, and perhaps you, think Colson knew all about it. But I was talking to Colson, remember exclusively about—and maybe that was the point—exclusively about issues. . . .

* * *

P. Right. That was what it is. But in all those talks he had plenty of opportunity. He was always coming to me with ideas, but Colson in that entire period, John, didn't mention it. I think he would have said, "Look we've gotten some information," but he never said they were. Haldeman, in this whole period, Haldeman I am sure—Bob and you, he talked to both of you about the campaign. Never a word. I mean maybe all of you knew but didn't tell me, but I can't believe that Colson—well—

ALLEGATIONS OF A COVER-UP PRIOR TO MARCH 21, 1973

Of all the witnesses who have testified publicly with respect to allegations of an illegal cover-up of the Watergate break-in prior to March 21, 1973, only Mr. Dean has accused the President of participation in such a cover-up. In his testimony before the Senate Select Committee Dean stated (Bk. 4, p. 1435)[1] that he was "certain after the September 15 meeting that the President was fully aware of the cover-up". However, in answering questions of Senator Baker, he modified this by stating it "is an inference of mine." (Bk. 4, p. 1475) Later he admitted he had no personal knowledge that the President knew on September 15th about a cover-up of Watergate. (Bk. 4, p. 1482)

The tape of the conversation between the President and Dean on September 15, 1972, does not in any way support Dean's testimony that the President was "fully aware of the cover-up." The tape of September 15, 1972, does indeed contain a passage in which the President does congratulate Dean for doing a good job:

P. Oh well, this is a can of worms as you know a lot of this stuff that went on. And the people who worked this way are awfully embarrassed.

P. But the way you have handled all this seems to me has been very skillful putting your fingers in the leaks that have sprung here and sprung there.

This was said in the context not of a criminal plot to obstruct justice as Dean alleges, but rather in the context of the politics of the matter, such as civil suits, counter-suits, Democratic efforts to exploit Watergate as a political issue and the like. The reference to "putting your finger in the leaks" was clearly related to the handling of the political and public relations aspect of the matter. At no point was the word "contained" used as Dean insisted had been the case in his testimony. (Bk. 4, pp. 1476, 1477)

This is an example of the possible ambiguities that the President says exists in these tapes that someone with a motive to discredit the President could take out of context and distort to suit his own purposes.

If Dean did in fact believe that the President was aware of efforts illegally to conceal the break-in prior to March 21, 1973, it is strange that Dean on that date felt compelled to disclose to the President for the first time what he later testified the President already knew.

Further questions of Dean's credibility concerning the President's conduct are raised by his testimony before the Senate Select Committee that it was on March 13, 1973, that he told the President about money demands and threats of blackmail (Bk. 3, pp. 995, 996). He said he was "very clear" about this date. (Bk. 4, p. 1567) It now develops that the conversation with the President, on the date of which Dean was so clear, did not in fact take place until the morning of March 21, 1973, as the President has always contended. At no point in the tape of the March 13, 1973, conference between the President and Dean is there any reference to threats of blackmail or raising a million dollars. These references are contained in the tape of the March 21, 1973, A.M. meeting between the President and Dean.

This discrepancy in Dean's testimony from the tapes of these two meetings is surprising in the light of Dean't self-professed excellent memory (Bk. 4, p. 1433) and the certainty with which he fixed the date of the blackmail disclosure as March 13, 1973, rather than March 21, 1973. Curiously, on April 16, 1973, as evidenced by the recording of his meeting on that morning with the President, Dean recalled very specifically that his revelation to the President was on the Wednesday preceding the Friday (March 23) that the Watergate defendants were sentenced.

Dean's testimony to the Senate may have been simply an error, of course, or it may have been an effort to have his disclosures to the President predate what was then at least thought to be the date of the last payment to Hunt's attorney for his fees, namely March 20, 1973, (Bk. 9, p. 3799). As far as the President is concerned, however, it makes no difference when this payment was made; he not only opposed the payment, but never even knew that it had been made until mid-April when the facts were finally disclosed to him.

In this connection it is interesting to note that Dean testified that on March 30, 1973, he told his attorneys "everything that I could remember." (Bk. 3, p. 1009) Yet Dean's list of April 14 of persons whom he believed were indictable did not include the President. (Ex. 34–37) Attorney General Kleindienst testified that Mr. Silbert, who had been interviewing Mr. Dean and conferring at length with his counsel, reported on the night of April 14, 1973, that "Nothing was said to me that night that would implicate the President of the United States." (Bk. 9, p. 3586) This same thing was confirmed by Mr. Petersen who testified that as of April 27 they had no information implicating the President. (Bk. 9, pp. 3635. 3636) In fact it was not until after April 30, 1973, when Dean was

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[1] References to testimony before the Senate Select Committee are indicated "(Bk. —, p. —)."

discharged that he for the first time charged the President with knowledge of a cover-up as early as September 15, 1972.

THE MEETING OF MARCH 21, 1973, A.M. BETWEEN THE PRESIDENT AND DEAN AND LATER HALDEMAN

On or about February 27, 1973, Dean had been instructed to report directly to the President regarding the Executive Privilege issues raised in the context of the Gray nomination hearings and the prospective Ervin Committee hearings, rather than to Ehrlichman as it was taking up too much of Mr. Ehrlichman's time from his regular duties. (Bk. 7, p. 2739) Previous to this Dean had been keeping himself informed as to the progress of the FBI and Department of Justice investigation on Watergate so that he could keep Ehrlichman and Haldeman informed. Both Attorney General Kleindienst and Mr. Petersen confirmed that Dean had represented to them that he was "responsible to keep the President informed." (Bk. 9, p. 3618); that he "had been delegated by the President to be posted and kept informed throughout the course of the investigation". (Bk. 9, pp. 3575, 3576, 3652) It is equally clear from the recorded conversations between Dean and the President that he did not keep the President fully informed until March 21, 1973.[2] Indeed, on April 16, 1973, Dean so acknowledged that fact to the President, when he said:

D. I have tried all along to make sure that anything I passed to you didn't cause you any personal problem.

An analysis of the March 21, 1973, A.M. conversation thus becomes important in assessing the conduct of the President. On the previous evening the President and Dean talked by telephone and Dean requested a meeting with the President. They met the next morning, alone. at first, and later Mr. Haldeman joined them about half way through the meeting, rather than for only the last few minutes, as Dean testified. (Bk. 4, p. 1383) After some preliminary remarks concerning the Gray confirmation hearings, Dean stated the real purpose for the meeting:

D. The reason that I thought we ought to talk this morning is because in our conversations *I have the impression that you don't know everything I know* and it makes it very difficult for you to make judgments that only you can make on some of these things and I thought that—(Emphasis supplied)

He then proceeded to detail for the President what he believed the President should be made aware of, first in the "overall".

Dean stated, "We have a cancer within, close to the Presidency, that is growing." and that "people are going to start perjuring themselves. . . ." He described the genesis of the DNC break-in; the employment of Liddy; the formulation of a series of plans by Liddy which Dean disavowed, as did Mr. Haldeman; the belief that the CREP had a lawful intelligence gathering operation and the receipt of information from this source; and the arrest at the DNC on June 17, 1972. He then informed the President of a call to Liddy shortly thereafter inquiring ". . . whether anybody in the White House was involved in this" and the response "No, they weren't."

Dean then advised the President of the allegation that Magruder and Porter had committed perjury before the grand jury in denying knowledge that the DNC was to be bugged. He did not tell the President he had helped "prepare" Magruder's testimony as he later admitted before the Senate Committee. (Bk. 3, p. 1206) Dean said he did not know what Mitchell had testified to before the grand jury.

Dean next laid out for the President what happened after June 17. He informed the President "I was under pretty clear instructions not to investigate this . . . I worked on a theory of containment—to try to hold it right where it was", and he admitted that he was "totally aware" of what the FBI and grand jury was doing. Throughout these disclosures the President asked Dean a number of questions such as:

P. Tell me this: did Mitchell go along?

P. Did Colson know what they (Liddy and Hunt) were talking about?

P. Did he (Colson) talk with Haldeman?

P. Did he (Haldeman) know where it (the information) was coming from?

Altogether, the President asked Dean more than 150 questions in the course of this meeting.

Dean then described to the President the commencement of what he alleges was a cover-up involving himself and others. Implicit in these revelations, of course, is that the President was not involved but rather he was learning of these allegations for the first time. In fact, later in the conversation, Dean said:

D. I know, sir, I can just tell from our conversation that these are things *you have no knowledge of*. (Emphasis supplied)

Dean next recited receiving a demand "from Hunt to me" through an intermediary for "$120,000 for personal expenses and attorney's fees".

D. ". . . he wanted it as of the close of business yesterday" (March 20).

Dean told how he rejected the demand.

D. "If you want money, you came to the wrong man, fellow. I am not involved in the money. I don't know a thing about it. I can't help you. You better scramble about elsewhere."

Dean also claimed that Hunt had threatened Ehrlichman if he wasn't paid the money he demanded. Dean analyzed the situation as he saw it, pointing out a number of people know about these events, including Mrs. Hunt who had died in a plane crash. At the mention of Mrs. Hunt, the President interjected that this was a "great sadness" and that he "recalled a conversation with someone about Hunt's problem on account of his wife" and the President said that "of course communication could be considered on the basis of his wife's death, and that was the only conversation I ever had in that light." During their conversations, the President repeatedly and categorically rejected the idea of clemency.

Following this lengthy description of what had transpired, the conversation dealt with what should be done about the situation presented by Hunt's demands. A number of alternatives were considered. Dean pointed out that the blackmail would continue, that it would cost a million dollars and it would be difficult to handle.

D. What really bothers me is this growing situation. As I say, it is growing because of the continued need to provide support for the Watergate people who are going to hold us up for everything we've got, and the need for some people to perjure themselves as they go down the road here. If this thing ever blows, then we are in a cover-up situation. I think it would be extremely damaging to you and the—

P. Sure. The whole concept of administration (of) justice which we cannot have.

Dean then made a recommendation: Dean was unsure of the best course to follow, but stated the approach he preferred.

D. That's right. I am coming down to what I really think, is that Bob and John and John Mitchell and I can sit down and spend a day, or however long, to figure out, one how this can be carved away from you, so that it does not damage you or the Presidency. It just can't. You are not involved in it and it is something you shouldn't.

P. That is true!

The President then began to press Dean for his advice as to what should be done.

P. So what you really come to is what we do. . . . Complete disclosure isn't that the best way to do it?

D. Well, one way to do it is—

P. That would be my view.

Dean then suggested that another grand jury be convened but Dean points out that "some people are going to have to go to jail. That is the long and short of it also."

Among the alternatives considered were the payment of the money generally and the payment of the amount demanded by Hunt, specifically. The mechanics of these alternatives, such as how the money could be raised and delivered, were explored.

The President expressed the belief that the money could be raised, and perhaps, even, a way could be found to deliver it. However, he recognized and pointed out that blackmail would continue endlessly, and in the final analysis would not be successful unless the Watergate defendants were given executive clemency, which he said adamantly, could not be done. The President stated:

P. No, it is wrong that's for sure.

After the alternatives were explored, the President's conclusion regarding the demands for money were clearly stated:

P. . . . But in the end, we are going to be bled to death. And in the end, it is all going to come out anyway. Then you get the worst of both worlds. We are going to lose and the people are going to—

H. And look like dopes.

P. And in effect look like a cover-up. So that we can't do . . .

Restating it, the President said:

P. But my point is, do you ever have any choice on Hunt? That is the point. No matter what we do here now, John, whatever he wants if he doesn't get it—immunity, etc., he is going to blow the whistle.

Finally the discussion as to what should be done was concluded by the President, at least tentatively deciding to have another grand jury investigation at which members of the White House staff would appear and testify:

P. I hate to leave with differences in view of all this stripped land. I could understand this, but I think I want another grand jury proceeding and we will have the White House appear before them. Is that right, John?

D. Uh huh.

Further discussion ensued concerning the benefits of calling for a grand jury investigation—political as well as substantive—and the meeting ended with an agreement to have Dean, Mitchell, Haldeman and Ehrlichman meet the next day to consider what they would recommend. The conclusion of the meeting, however, was not ambiguous:

H. We should change that a little bit. John's point is exactly right. The erosion here now is going to you, and that is the thing that we have to turn off at whatever

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[2] Apparently Dean even on March 21, 1973, concealed other matters from the President as well. In *U.S.* v. *Stans, et al*, he testified that despite the fact that he had made calls to the SEC, he told the President, "no one at the White House has done anything for Vesco." Of course the statement to the President was not true if Dean did make such calls for he certainly was at the White House.

Among the other significant matters which Dean did not report to the President, even on March 21, 1973, were (1) that Dean had assisted Magruder in preparing his perjured Grand Jury testimony; (2) that Dean had authorized promises of executive clemency to be made to Watergate defendants; (3) that he had personally handled money which went to the Watergate defendants; (4) that he had delivered documents from Hunt's safe to F.B.I. Director Gray; (5) that Dean had personally destroyed documents from Hunt's safe; or (6) that Dean had ordered Hunt out of the country, and then retracted the order.

cost. We have to turn it off at the lowest cost we can, but at whatever cost it takes.

D. That's what we have to do.

P. Well, the erosion is inevitably going to come here, apart from anything and all the people saying well the Watergate isn't a major issue. It isn't. But it will be. It's bound to. (Unintelligible) has to go out. Delaying is the great danger to the White House area. We don't, I say that the White House can't do it. Right?

D. Yes, Sir.

As the President has stated, the transcript of the meeting on the morning of March 21, 1973, contains ambiguities and statements which taken out of context could be construed to have a variety of meanings. The conversation was wide ranging, consideration was given to a number of different possibilities, but several things clearly stand out:

1. The President had not previously been aware of any payments made allegedly to purchase silence on the part of the Watergate defendants.

2. The President rejected the payment of $120,000 or any other sum to Hunt or other Watergate defendants.

3. The President determined that the best way to proceed was to have White House people appear before a grand jury even though it meant that some people might have to go to jail.

Tapes of recorded conversations following the meeting in the morning of March 21, 1973, further establish that the President not only did not approve of any payment to Hunt, but he did not even know a payment had been made to Hunt's lawyer in the amount of $75,000.

In the afternoon of the same day, March 21, 1973, the President met again with Dean, Haldeman and now Ehrlichman. This conversation makes it even more clear that the President did not suggest that blackmail should be paid to Hunt. Ehrlichman pointed out:

E. The problem of the Hunt thing or some of these other people, there is just no sign off on them. That problem goes on and on.

The President again reiterated his view:

P. Maybe we face the situation. We can't do a thing about the participants. If it is going to be that way eventually why not grow? That is what you are sort of resigned to, isn't it?

And later near the end of the meeting:

P. You see, if we go your route of cutting the cancer out—if we cut it out now. Take a Hunt, well wouldn't that knock the hell out from under him?

D. That's right.

Shortly after this the President terminated the meeting, apparently rather abruptly, inquiring as to the time for the meeting the next day among Mitchell, Dean, Haldeman and Ehrlichman.

Again the recorded conversation clearly discloses that not only did the President not approve or even know of a payment made or to be made to Hunt. It is in fact quite clear that, subject to some other solution being suggested at a meeting scheduled for the next day at which Mr. Mitchell would attend, he favored "cutting the cancer out . . . now".

The President next met with his principal aides and now Mitchell on the afternoon of March 22, 1973. This was the first meeting of the President with John Mitchell following the disclosures of March 21, 1973. Mitchell and the others had met that morning as the President had requested. If the allegations of the grand jury as stated in pending indictments are correct as to when the arrangements for the payment of Hunt's legal fees were made, they would have had to have been made prior to this meeting on the afternoon of March 22nd. The tape recording of this meeting establishes that no one at the meeting disclosed to the President that such an arrangement had been made. In fact, the President was not informed about these arrangements until mid-April when Ehrlichman was reporting the results of his investigation to the President. In attempting to pin down what had happened, the President was given two versions, one by Ehrlichman and Haldeman on April 14 and another by John Dean on April 16.

Ehrlichman and Haldeman explained to the President what had transpired:

P. What happened?

E. And he just said, "It's taken care of."

H. Mitchell raised the problem to Dean and said, "What have you done about that other problem?" Dean said.

H. he kind of looked at us, and then said, "Well, you know, I don't know." And Mitchell said, "Oh, I guess that's been taken care of." Apparently through LaRue.

P. Apparently who?

H. LaRue. Dean told us, LaRue.

On April 16 Dean described how it happened that Hunt's legal fees were paid. After repeating Hunt's threat against Ehrlichman he said:

D. . . . Alright I took that to John Ehrlichman. Ehrlichman said "Have you talked to Mitchell about it?" I said "No I have not." He said "Well, will you talk to Mitchell?" I said "Yes I will." I talked to Mitchell. I just passed it along to him. And then we were meeting down here a few days later in Bob's office with Bob, and Ehrlichman and Mitchell and myself, and Ehrlichman said at that time, "Well is that problem with Hunt straightened out?" He said it to me and I said "Well, ask the man who may know; Mitchell." Mitchell said "I think that problem is solved."

P. That's all?

D. That's all he said.

If Dean's disclosure to the President on April 16, 1973, about the payment of Hunt's legal fees is to be believed, then it is clear that this fact was concealed from the President when he met with Mitchell and the others on the afternoon of March 22nd. The explanation for this concealment perhaps is contained in a significant statement made by Dean to the President at their meeting on the morning of April 16, 1973:

D. I have tried all along to make sure that anything I passed to you myself didn't cause you any personal problems.

This explanation for not making a full disclosure to the President may have been well intentioned at the time but in the last analysis only served to prolong the investigation.

The Conduct of the President Following the Disclosures Made on March 21, 1973

Dean disclosed for the first time on March 21, 1973, that he had been engaged in conduct that might have amounted to obstruction of justice and allegations that other high officials and former officials were also involved. These matters were thoroughly probed by the President in his talk with Dean, with the President often taking the role of devil's advocate; sometimes merely thinking out loud.

Having received this information of possible obstruction of justice having taken place following the break-in at the DNC the President promptly undertook an investigation into the facts. The record discloses that the President started his investigation the night of his meeting with Dean on March 21st, as confirmed by Dean in his conversation with the President on April 16, 1973.

P. Then it was that night that I started my investigation.

D. That's right . . .

P. . . . That is when I frankly became interested in the case and I said, "Now I want to find out the score" and set in motion Ehrlichman, Mitchell and—not Mitchell but a few others.

At the meeting with Mitchell and the others on the afternoon of March 22nd, the President instructed Dean to prepare a written report of his earlier oral disclosures:

H. I think you (Dean) ought to hole up for the weekend and do that and get it done.

P. Sure.

H. Give it your full attention and get it done.

P. I think you need—why don't you do this? Why don't you go up to Camp David?

D. I might do it, I might do it.

P. Completely away from the phone. Just go up there (inaudible). *I want a written report.* (Emphasis supplied)

Later during this same conversation the President said:

P. I feel that at a very minimum we've got to have this statement. Let's look at it. I don't know what it—where is it—If it opens up doors, it opens up doors—you know.

The recording of this conversation in which the President instructed Dean to go to Camp David to write a report should be compared with Dean's testimony in which he stated:

"He (the President) *never at any time* asked me to write a report, and it wasn't until after I had arrived at Camp David that I received a call from Haldeman asking me to write the report up." (Bk. 4, p. 1385) (Emphasis supplied)

Dean in fact did go to Camp David and apparently did some work on such a report but he never completed the task. The President then assigned Ehrlichman to investigate these allegations.

By as early as March 27, the President met with Ehrlichman and Haldeman to discuss the evidence thus far developed and how it would be best to proceed.

Again the President stated his resolve that White House officials should appear before the grand jury:

P. . . . Actually if called, we are not going to refuse for anybody called before the grand jury to go, are we, John?

The President then reviewed with Haldeman and Ehrlichman the evidence developed to that time. They stated that they had not yet talked to Mitchell and indicated this would have have to be done. They reviewed what they had been advised was Magruder's current position as to what had happened and compared that with what Dean had told them. They reported that Hunt was before the grand jury that same day. It is interesting to note that neither the President, Haldeman nor Ehrlichman say anything that indicate surprise in Hunt's testifying before the grand jury. If in fact he had been paid to keep quiet, it might have been expected that someone would have expressed at least disappointment that he was testifying before the grand jury less than a week later.

They confirmed to the President, as Dean had, that no one at the White House had prior knowledge of the Watergate breakin. Ehrlichman said, "There just isn't a scintilla of a hint that Dean knew about this." The President asked about the possibility of Colson having prior knowledge and Ehrlichman said, "His response was one of total surprise . . . He was totally nonplussed, as the rest of us." Ehrlichman then reviewed with the President the earlier concern that they had for national security leaks and the steps taken to find out about how they occurred.

It was decided to ask Mitchell to come to Washington to receive a report of the facts developed so far and a call was placed to him for that purpose. It was also decided that Ehrlichman should also call the Attorney General and review the information on hand with him. It was during this meeting that the possibility of having a commission or a special prosecutor appointed in order to avoid the appearance of the Administration investigating itself and a call was placed to former Attorney General Rogers to ask him to meet with the President to discuss the situation.

The next day Ehrlichman, pursuant to the President's direction given the previous day, called Attorney General Kleindienst and

among other things advised him that he was to report directly to the President if any evidence turns up of any wrongdoing on the part of anyone in the White House or about Mitchell. Kleindienst raised the question of a possibility of a conflict of interest and suggests that thought be given to appointing a special prosecutor.

On March 30, 1973, consideration was given to the content of a press briefing with respect to White House officials appearing before the grand jury. As a result thereof, Mr. Ziegler stated at the Press briefing that day:

"With regard to the grand jury, the President reiterates his instructions that any member of the White House staff who is called by the grand jury will appear before the grand jury to answer questions regarding that individual's alleged knowledge or possible involvement in the Watergate matter."[8]

Even prior to the completion of Ehrlichman's investigation, the President was taking steps to get the additional facts before the grand jury. On April 8, 1973, on the airplane returning to Washington from California, the President met with Haldeman and Ehrlichman and directed they meet with Dean that day and urge him to go to the grand jury—"I am not going to wait, he is going to go." (Bk. 7. p. 2757) Haldeman and Ehrlichman met with Dean that afternoon from 5 to 7. At 7:33 Ehrlichman reported the results of that meeting to the President by telephone:

P. Oh, John, Hi.

E. I just wanted to post you on the Dean meeting. It went fine. He is going to wait until after he'd had a chance to talk with Mitchell and to pass the word to Magruder through his lawyers that he is going to appear at the grand jury. His feeling is that Liddy has pulled the plug on Magruder and that (unintelligible) he thinks he knows it now. And he says there's no love lost communicating informally.

Indeed, Dean did, in fact, communicate his intentions to Mitchell and Magruder not to support Magruder's previous testimony to the grand jury. (Bk. 6, p. 1006) This no doubt was the push, initially stimulated by the President, which got Magruder to go to the U.S. Attorney on the following Saturday, April 14, and change his testimony.

On the morning of April 14, 1973, the President met again with Haldeman and Ehrlichman to discuss the Watergate matter.

This was an in-depth discussion lasting more than two and one-half hours. The obvious purpose was to review the results of three week's investigation on the part of Ehrlichman and Haldeman and determine what course of action they would recommend.

Several conclusions were reached at that meeting by the President. From Ehrlichman's report on what Ehrlichman called "hearsay" facts, the President concluded, with regard to Mitchell:

P. I'm not convinced he's guilty but I am convinced he ought to go before a grand jury.

There was a discussion as to who would be the appropriate person to talk to Mitchell and tell him that continued silence did not well serve the President. Ultimately, it was decided that Haldeman should call Mitchell to come to Washington and that Ehrlichman should talk to him.

With respect to Magruder, the President said:

P. We've come full circle on the Mitchell thing. The Mitchell thing must come first. That is something today. We've got to make this move today. If it fails, just to get back our position I think you ought to talk to Magruder.

H. I agree.

P. And you tell Magruder, now Jeb, this evidence is coming in, you ought to go to the grand jury. Purge yourself if you're perjured and tell this whole story.

H. I think we have to.

P. Then, well Bob, you don't agree with that?

H. No, I do.

The President instructed Ehrlichman to see Magruder, also, and tell him that he did not serve the President by remaining silent.

The President's decision to urge Mitchell and Magruder to go to the grand jury was based on his recognition of his duty to act on the body of information Ehrlichman had reported to him:

E. Here's the situation. Look again at the big picture. You now are possessed of a body of fact.

P. That's right.

E. And you've got to—you can't just sit there.

P. That's right.

E. You've got to act on it. You've got to make some decisions and the Dean thing is one of the decisions you have to make . . .

At another point in the discussion, the same point was reiterated:

E. Well, you see, that isn't that kind of knowledge that we had was not action knowledge like the kind of knowledge that I put together last night.

I hadn't known really what had been bothering me this week.

P. Yeah.

E. But what's been bothering me is—

P. That with knowledge we're still not doing anything.

E. Right.

P. That's exactly right. The law and order—That's the way I am. You know it's a pain for me to do it—the Mitchell thing is damn painful.

A decision was reached to speak to both Mitchell and Magruder before turning such information as they had developed over to the Department of Justice in order to afford them "an opportunity to come forward". The President told Ehrlichman that when he met with Mitchell to advise him that "the President has said let the chips fall where they may. He will not furnish cover for anybody."

The President summed up the situation by stating:

P. No, seriously, as I have told both of you, the boil had to be pricked. In a very different sense—that's what December 18th was about. We have to prick the boil and take the heat. Now that's what we're doing here. We're going to prick this boil and take the heat. I—am I overstating?

E. No, I think that's right. The idea is this will prick the boil. It may not. The history of this thing has to be though that you did not tuck this under the rug yesterday or today, and hope it would go away.

The decision was also made by the President that Ehrlichman should provide the information which he had collected to the Attorney General. Ehrlichman called the Attorney General, but did not reach him.

Mitchell came to Washington that afternoon and met with Ehrlichman. Immediately following that meeting, Ehrlichman reported to the President, stating Mitchell protested his innocence, stating:

"You know, these characters pulled this thing off without my knowledge . . . I never saw Liddy for months at a time . . . I didn't know what they were up to and nobody was more surprised than I was . . . I can't let people get away with this kind of thing . . . I am just going to have to defend myself every way I can."

Ehrlichman said he explained to Mitchell that the President did not want anyone to stand mute on his account; that everyone had a right to stand mute for his own reasons but that the "interests of the President . . . were not served by a person standing mute for that reason alone."

Ehrlichman said that he advised Mitchell that the information that had been collected would be turned over to the Attorney General and that Mitchell agreed this would be appropriate.

Even later on April 14, Ehrlichman finally was able to reach Magruder and met with Magruder and his lawyers for the purpose of informing him that he should not remain silent out of any misplaced loyalty to the President. Ehrlichman found, however, that Magruder had just come from a meeting with the U.S. Attorneys where he had told the full story as he knew it. He, Magruder, told Ehrlichman what he had told the U.S. Attorney, which Ehrlichman duly reported to the President.

During this meeting with the President, Ehrlichman's earlier call to the Attorney General was completed, and Ehrlichman spoke to the Attorney General from the President's office. Ehrlichman told the Attorney General that he had been conducting an investigation for about the past three weeks for the President as a substitute for Dean on White House and broader involvement. He also told him that he had reported his findings to the President the day before and that he had advised people not to be reticent on the President's behalf about coming forward. He informed the Attorney General that he had talked to Mitchell and had tried to reach Magruder, but that he had not been able to meet with Magruder until after Magruder had conferred with the U.S. Attorneys. He offered to make all of his information available if it would be in any way useful.

Following the telephone call Ehrlichman said that the Attorney General wanted him to meet with Henry Petersen the next day regarding the information he had obtained. During the course of the conversation relating to Magruder changing his testimony the President stated:

P. It's the right thing. We all have to do the right thing. Damn it! We just cannot have this kind of business, John. Just cannot be.

Late on the evening of April 14th, after the Correspondents' dinner, the President spoke by telephone first with Haldeman and then with Ehrlichman. The President told each that he now thought all persons involved should testify in public before the Ervin Committee.

On the morning of Sunday, April 15th, the President talked with Ehrlichman and told him that he had received a call from the Attorney General who had advised him that he had been up most of the night with the U.S. Attorney, and with Assistant Attorney General Petersen. The Attorney General had requested to see the President, personally, the President told Ehrlichman, and the President had agreed to see him after Church. The President and Ehrlichman again reviewed the available evidence developed during Ehrlichman's investigation and the status of relations with the media.

In the early afternoon of April 15, the President met with Attorney General Kleindienst. Kleindienst confirmed to the President that the U.S. Attorneys had broken the case and knew largely the whole story as a result of Magruder's discussions with them and from disclosures made by Dean's attorneys, who were also talking to the U.S. Attorney. The Attorney General anticipated indictments of Mitchell, Dean and Magruder and others, possibly including Haldeman and Ehrlichman. Kleindienst indicated that he felt that he could not have anything to do with these cases especially because of his association with Mitchell, Mardian and LaRue. The President expressed reservations about having a special prosecutor:

P. First it's a reflection—it's sort of an

[8] Copy submitted with transcript of conversations.

admitting mea culpa for our whole system of justice. I don't want to do that . . .

The President then suggested that Kleindienst step aside and that the Deputy Attorney General, Dean Sneed, be placed in charge of the matter. The President expressed confidence in Silbert doing a thorough job.

Kleindienst pointed out that even if he were to withdraw, his deputy is still the President's appointee and that he would be "in a tough situation . . ." Kleindienst recommended that a Special Prosecutor be appointed and a number of names were suggested. The President's reaction to the idea of a Special Prosecutor was negative.

P. ". . . I want to get some other judgments because I—I'm open on this. I lean against it and I think it's too much of a reflection on our system of justice and everything else."

Following a further review of the evidence, Kleindienst raised the question about what the President should do in the event charges are made against White House officials. The President resisted the suggestion that they be asked to step aside on the basis of charges alone.

P. . . . the question really is basically whether an individual, you know, can be totally, totally—I mean, the point is if a guy isn't guilty, you shouldn't let him go.

K. That's right, you shouldn't.

P. It's like me—wait now—let's stand up for people if there—even though they are under attack.

Further discussion on this subject included the suggestion that Assistant Attorney General Henry Petersen might be placed in charge rather than the Deputy Attorney General. Kleindienst pointed out, "He's the first career Assistant Attorney General I think in the history of the Department."

Shortly after this the tape at the President's office in the Executive Office Building ran out. It is clear, however, from a recorded telephone conversation between the President and Kleindienst that he and Henry Petersen met later in the afternoon with the President. This was verified by Mr. Petersen's testimony before the Senate Committee. It was during this meeting that the President assigned the responsibility for the on-going investigation to Mr. Petersen.

At his meeting with the President, Assistant Attorney General Petersen presented to the President a summary of the allegations which related to Haldeman, Ehrlichman and Strachan, and that the summary indicated no case of criminal conduct by Haldeman and Ehrlichman at that time. (Bk. 9, p. 3875)

The President, on the afternoon of April 15, 1973, had every reason to believe that the judicial process was moving rapidly to complete the case. He continued to attempt to assist. He had four telephone conversations with Petersen after their meeting. In the afternoon, having been told that Liddy would not talk unless authorized by "higher authority," who all assumed was Mitchell, the President directed Petersen to pass the word to Liddy through his counsel that the President wanted him to cooperate. Subsequently, the President told Petersen that Dean doubted Liddy would accept the word of Petersen, so Petersen was directed to tell Liddy's counsel that the President personally would confirm his urging of Liddy to cooperate. The President stated:

P. I just want him (Liddy) to be sure to understand that as far as the President is concerned, everybody in this case is to talk and to tell the truth. You are to tell everybody, and you don't even have to call me on that with anybody. You just say those are your orders.

The President continued to seek additional facts and details about the whole matter. Petersen could not reveal the details of the further disclosures by Dean's attorneys, so the President sought Petersen's advice about getting further information from Dean.

P. Right. Let me ask you this—why don't I get him in now if I can find him and have a talk with him?

HP. I don't see any objection to that, Mr. President.

P. Is that all right with you?

HP. Yes, sir.

P. All right—I am going to get him over because I am not going to screw around with this thing. As I told you.

HP. All right.

P. But I want to be sure you understand, that you know we are going to get to the bottom of this thing.

HP. I think the thing that—

P. What do you want me to say to him? Ask him to tell me the whole truth?

After talking with Dean and reviewing Dean's further information, the President raised the question about when Dean and perhaps Haldeman and Ehrlichman should resign and Petersen responded, "We would like to wait, Mr. President."

On the morning of April 16, the President began a long series of meetings on the entire subject. Being uncertain of when the case would become public, the President decided he wanted resignations or requests for leave in hand from those against whom there were allegations. He had Ehrlichman draft such letters, and discussed them with Haldeman and Ehrlichman.

The President then met with Dean and discussed with him the manner in which his possible resignation would be handled. Dean resisted the idea of his resigning without Haldeman and Ehrlichman resigning as well. The President reviewed with Dean the disclosures Dean made to the President on March 21st, and on the evening of April 15th.

The President had some more advice for John Dean on this occasion:

P. Thank God. Don't ever do it, John. Tell the truth. That is the thing I have told everybody around here—tell the truth! All they do, John, is compound it. That Hiss would be free today if he hadn't lied. If he had said,

P. "Yes I knew Chambers and as a young man I was involved with some Communist activities but I broke it off a number of years ago." And Chambers would have dropped it. If you are going to lie, you go to jail for the lie rather than the crime. So believe me, don't ever lie."

As to the President's actions, he told Dean:

P. No, I don't want, understand when I say don't lie. Don't lie about me either.

D. No, I won't sir—you—

The President met with Haldeman at noon on April 16th to discuss at length how and when Haldeman should make a public disclosure of his actions in the Segretti and Watergate matters. Haldeman reported that Mr. Garment recommended that he and Ehrlichman resign. Garment had been assigned by the President on April 9 to work on the matter. The President stated that he would discuss that problem with William Rogers that afternoon and asked Haldeman to get with Ehrlichman and fill in Rogers on the facts.

The President met in the early afternoon alone with Henry Petersen for nearly two hours in the Executive Office Building. They discussed the effect the Senate Committee hearings would have on the trials in the event indictments are returned.

The President then asked Petersen what he should do about Dean's resignation.

HP. Yes. As Prosecutor I would do something different but from your point of view I don't think you can sit on it. I think we have the information under control but that's a dangerous thing to say in this City.

P. Ah

HP. And if this information comes out I think you should have his resignation and it should be effective . . .

Petersen, however, urged the President not to announce the resignation if the information did not get out, as that would be "counter-productive" in their negotiations with Dean's counsel. Petersen reviewed the status of the evidence at length with the President with a view toward making a press release before an indictment or information was filed in open Court.

During the course of the conversation Petersen informed the President that they were considering giving Dean immunity. As for Haldeman and Ehrlichman, Petersen recommended that they resign. The status of the situation was reviewed as follows:

P. Okay. All right come to the Haldeman/Ehrlichman thing. You see you said yesterday they should resign. Let me tell you they should resign in my view if they get splashed with this. Now the point is, is the timing. I think that it's, I want to get your advice on it, I think it would be really hanging the guy before something comes in if I say look, you guys resign because I understand that Mr. Dean in the one instance, and

P. Magruder in another instance, made some charges against you. And I got their oral resignations last night and they volunteered it. They said, look, we want to go anytime. So I just want your advice on it. I don't know what to do, frankly. (Inaudible) so I guess there's nothing in a hurry about that is there? I mean I—Dean's resignation. I have talked, to him about it this morning and told him to write it out.

HP. (Inaudible).

P. It's under way—I asked for it. How about Haldeman and Ehrlichman? I just wonder if you have them walk the plank before Magruder splashes and what have you or what not. I mean I have information, true, as to what Magruder's going to do. (Inaudible) nothing like this (inaudible).

HP. Or for that matter, Mr. President.

P. Yeah.

HP. Its confidence in the Office of the Presidency.

P. Right. You wouldn't want—do you think they ought to resign right now?

HP. Mr. President, I am sorry to say it. I think that mindful of the need for confidence in your office—yes.

P. (Inaudible) basis?

HP. That has nothing to do—that has nothing to do with guilt or innocence.

At the end of the meeting with Petersen, the President had every reason to believe that a public disclosure of the entire case in court would be made within forty-eight hours and perhaps sooner. The remaining questions for Presidential decision were: (1) What action he should take on the resignation, suspension or leave of Haldeman, Ehrlichman and Dean and whether it should be before or after they were formally charged; (2) what position he should take on immunity for Dean; and (3) what statement he should issue prior to the public disclosure in court.

On the afternoon of April 17, the President discussed the problem of granting immunity to White House officials with Henry Petersen. Peterson pointed out that he was opposed to immunity but he pointed out that they might need Dean's testimony in order to get Haldeman and Ehrlichman. The President agreed that under those circumstances he might have to move on Haldeman and Ehrlichman, provided Dean's testimony was corroborated. The President told Petersen:

P. That's the point. Well, I feel it strongly—I mean—just understand—I am not trying to protect anybody—I just want the damn facts if you can get the facts from Dean and I don't care whether——

HP. Mr. President, if I thought you were trying to protect somebody, I would have walked out.

As for Dean, the President told Petersen:

P. ". . . No I am not going to condemn Dean until he has a chance to present him-

self. No he is in exactly the same position they are in."

The President remained convinced, however, that a grant of immunity to a senior aide would appear as a cover-up.

P. What you say—Look we are having you here as a witness and we want you to talk.

HP. That is described as immunity by estoppel.

P. I see, I see—that's fair enough.

HP. That is really the prosecutor's bargain.

P. That is much better basically than immunity—let me say I am not, I guess my point on Dean is a matter of principle—it is a question of the fact that I am not trying to do Dean in—I would like to see him save himself but I think find a way to do it without—if you go the immunity route I think we are going to catch holy hell for it.

HP. Scares hell out of me.

The President went over the draft of his proposed statement with Peterson. Peterson further counseled the President that no discussion of the facts of the case could be made without prejudicing the case and the rights of the defendants.

Later on the afternoon of April 17, the President issued his statement, revealing that he had new facts and had begun his own investigation on March 21; that White House staff members who were indicted would be suspended, and if they were convicted, they would be discharged. He announced that all members of the White House staff would appear and testify before the Senate Committee. The President further stated that:

I have expressed to the appropriate authorities my view that no individual holding, in the past or present, a position of major importance in the Administration should be given immunity from prosecution.

In addition he stated that all White House staff employees were expected fully to cooperate in this matter.

After making his public statement, the President met with Secretary of State Rogers, and they were joined later by Haldeman and Ehrlichman. Secretary Rogers reiterated his advice that the President could not permit any senior official to be given immunity. He also reiterated his advice that for the President to discharge his senior aides before they were formally charged with a crime would highly prejudice their legal rights and convict them without a trial.

The President had concluded that he should treat Dean, Haldeman and Ehrlichman in the same manner. Peterson had advised the President that action on Dean would prejudice the negotiations of the U.S. Attorneys with Dean's lawyers, and that Dean's testimony might be needed for the case.

On the evening of April 19, the President met with Messrs. Wilson and Strickler, counsel retained by Haldeman and Ehrlichman upon recommendation of Secretary Rogers. Wilson and Strickler made strong arguments that Haldeman and Ehrlichman had no criminal liability and should not be discharged.

The President continued to struggle with the question of administrative action against his aides.

On April 27, Petersen reported to the President that Dean's lawyer was threatening that unless Dean got immunity, "We will bring the President in—not in this case but in other things."

On the question of immunity in the face of these threats, the President told Petersen:

P. All right. We have got the immunity problem resolved. Do it, Dean if you need to, but boy I am telling you—there ain't going to be any blackmail.

On April 27, the President was also advised by Petersen that the negotiations with Dean's attorneys had bogged down, and action by the President against Dean, Haldeman and Ehrlichman would now be helpful to the U.S. Attorney.

Three days later, on April 30, the President gave a nationwide address. He announced that he accepted the resignations of Haldeman, Ehrlichman, Attorney General Kleindienst and Dean. The President then announced the nomination of Elliot Richardson as the new Attorney General.

CONCLUSION

Throughout the period of the Watergate affair the raw material of these recorded confidential conversations establishes that the President had no prior knowledge of the break-in and that he had no knowledge of any cover-up prior to March 21, 1973. In all of the thousands of words spoken, even though they often are unclear and ambiguous, not once does it appear that the President of the United States was engaged in a criminal plot to obstruct justice.

On March 21, 1973, when the President learned for the first time of allegations of such a plot and an alleged attempt to blackmail the White House, he sought to find out the facts first from John Dean then others. When it appeared as a result of these investigations that there was reason to believe that there may have been some wrongdoing he conferred with the Attorney General and with the Assistant in charge of the criminal division of the Department of Justice and cooperated fully to bring the matter expeditiously before the grand jury.

Ultimately Dean has plead guilty to a felony and seven former White House officials stand indicted. Their innocence or guilt will be determined in a court of law.

This is as it should be.

The recent acquittals of former Secretary Stans and former Attorney General Mitchell in the Vesco case demonstrate the wisdom of the President's actions in insisting that the orderly process of the judicial system be utilized to determine the guilt or innocence of individuals charged with crime, rather than participating in trials in the public media.

APPENDIX 1. MEETING: THE PRESIDENT, HALDEMAN AND DEAN, OVAL OFFICE, SEPTEMBER 15, 1972. (5:27–6:17 pm)

This opens just as Dean comes in the door.

P. Hi, how are you? You had quite a day today didn't you. You got Watergate on the way didn't you?

D. We tried.

H. How did it all end up?

D. Ah, I think we can say well at this point. The press is playing it just as we expect.

H. Whitewash?

D. No, not yet—the story right now—

P. It is a big story

H. Five indicted plus the WH former guy and all that.

D. Plus two White House fellows.

H. That is good that takes the edge off whitewash really that was the thing Mitchell kept saying that to people in the country Liddy and Hunt were big men. Maybe that is good.

P. How did MacGregor handle himself?

D. I think very well he had a good statement which said that the Grand Jury had met and that it was now time to realize that some apologies may be due.

H. Fat chance.

D. Get the damn (inaudible)

H. We can't do that.

P. Just remember, all the trouble we're taking, we'll have a chance to get back one day. How are you doing on your other investigations?

H. What has happened on the bug?

P. What bug?

D. The second bug there was a bug found in the telephone of one of the men at the DNC.

P. You don't think it was left over from the other time?

D. Absolutely not, the Bureau has checked and re-checked the whole place after that night. The man had specifically checked and re-checked the telephone and it was not there.

P. What the hell do you think was involved?

D. I think DNC was planted.

P. You think they did it?

D. Uh huh

P. (Expletive deleted)—do they really want to believe that we planted that?

H. Did you get anything on the finger prints?

D. No, nothing at all—either on the telephone or on the bug. The FBI has unleashed a full investigation over at the DNC starting with O'Brien right now.

H. Laughter. Using the same crew—

D. The same crew—the Washington Field Office.

P. What kind of questions are they asking him?

D. Anything they can think of because O'Brien is charging them with failing to find all the bugs.

H. Good, that will make them mad.

D. So Gray is pissed and his people are pissed off. So maybe they will move in because their reputation is on the line. I think that is a good development.

P. I think that is a good development because it makes it look so (adjective deleted) funny. Am I wrong?

D. No, no sir. It looks silly. If we can find that the DNC planted that, the whole story will reverse.

P. But how could they possibly find it, though?

D. Well, they are trying to ascertain who made the bug. It is a custom made product. If they can get back to the man who manufactured it and who he sold it to and how it came down through the chain.

P. Boy, you never know when those guys get after it—they can really find it.

D. The resources that have been put against this whole investigation to date are really incredible. It is truly a larger investigation than was conducted against the after inquiry of the JFK assassination.

P. Oh.

D. Good statistics supporting the finding.

H. Isn't that ridiculous—this silly thing.

P. Yes (Expletive deleted). Goldwater put it in context when he said "(expletive deleted) everybody bugs everybody else. You know that."

D. That was priceless.

P. It happens to be totally true. We were bugged in '68 on the plane and in '62 even running for Governor—(expletive deleted) thing you ever saw.

D. It is a shame that evidence to the fact that that happened in '68 was never around. I understand that only the former Director had that information.

H. No, that is not true.

D. There was evidence of it?

H. There are others who have information.

P. How do you know? Does DeLoache know?

D. DeLoache?

H. I have some stuff too—on the bombing incident and too in the bombing halt stay.

P. The difficulty with using it, of course, is it reflects on Johnson. If it weren't for that, I would use it. Is there any way we could use it without using his name—saying that the DNC did it? No—the FBI did the bugging.

D. That is the problem—would it reflect on Johnson or Humphrey?

H. Johnson. Humphrey didn't do it.

P. Oh, hell no.

H. He was bugging Humphrey, too.

P. (Expletive deleted).

P. Well, on the other hand. I want you to ask Connally. What crazy things we do. That this might help with the bombing. I don't think he will talk to Johnson—and also it would reflect on the Bureau. They hate to admit that.

H. It is a rough one on them with all this stuff that they don't do Congressmen, etc.

P. It isn't worth it—the hell with it. What is the situation on the little red box? Have they found the box yet?

D. Gray has never had access to the box. He is now going to pursue the box. I spoke to him just about thirty minutes ago. Pat said "I don't know about the box. Don't know where it is now. We never had an opportunity before when it was first released in the press that there was a box to go in but we have decided now we have grounds to go in and find it."

H. The latest public story was that she handed it over to Edward Bennett Williams.

D. That is right.

H. The Bureau ought to go into Edward Bennett Williams and start questioning him and have him tied up for a couple of days.

P. Yeah, I hope they do. The Bureau better get over pretty quick and get that little red box. We want it cleared up. We want to get to the bottom of it. If anybody is guilty over here we want to know.

H. It will probably be in the news!

D. You might be interested in some of the allocations we got. The Stans' libel action was assigned to Judge Ritchie.

P. (Expletive deleted.)

D. Well now that is good and bad. Judge Ritchie is not known to be one of the (inaudible) on the bench, that is considered by me. He is fairly candid in dealing with people about the question. He has made several entrees off the bench—one to Kleindienst and one to Roemer McPhee to keep Roemer abreast of what his thinking is. He told Roemer he thought Maury ought to file a libel action.

P. Did he?

H. Can he deal with this concurrently with the court case?

D. Yeah. The fact that the civil case drew to a halt—that the depositions were halted he is freed.

H. It was just put off for a few days, wasn't it?

D. It did more than that—he had been talking Silbert, one of the Assistant U.S. Attorneys down here. Silbert said, "We are going to have a hell of a time drawing these indictments because these civil depositions will be coming out and the Grand Jury has one out on this civil case but it is nothing typical."

Someone asked the President if he wanted Mitchell's call—he said, "Yeah."

D. Based on that when Silbert had told Ritchie this and with a casual encounter—in fact it was just in the hall, so Ritchie stopped the civil case so Silbert can get the indictment down.

Telephone call from John Mitchell:

Hello.

P.—comments only from here on until end of call:

Well are you still alive.

I was just sitting here with John Dean and he tells me you were going to be sued or something.

Good, Good.

Yeah.

Good.

Sure.

Well I tell you just don't let this keep you or your colleagues from concentrating on the big game. This thing is just one of those side issues and a month later everybody looks back and wonders what all the shooting was about. OK, John. Good night. Get a good night's sleep. And don't bug anybody without asking me? OK? Yeah.

Thank you.

D. Three months ago I would have had trouble predicting there would be a day when this would be forgotten, but I think I can say that 54 days from now nothing is going to come crashing down to our surprise.

P. That what?

D. Nothing is going to come crashing down to our surprise.

P. Oh well, this is a can of worms as you know a lot of this stuff that went on. And the people who worked this way are awfully embarrassed. But the way you have handled all this seems to me has been very skillful putting your fingers in the leaks that have sprung here and sprung there. The Grand Jury is dismissed now?

D. That is correct. They have completed and they have let them go so there will be no continued investigation prompted by the Grand Jury's inquiry. The GAO report referred over to Justice is on a shelf right now because they have hundreds of violations—they have violations of McGovern, of Humphrey, violations of Jackson, and several hundred Congressional violations. They don't want to start prosecuting one any more than they prosecute the other.

P. They definitely will not prosecute us unless they prosecute the others.

D. Well, we are talking about technical violations referred over also.

P. What about watching the McGovern contributors and all that sort of thing?

D. We have (inaudible) eye out on that. His I understand is not in full compliance.

P. He asked?

D. No.

P. Well, not yet. His 300 committees—have they all reported yet?

D. We have a couple delinquent state committees.

P. It said in the paper that McGovern had 300 committees reported.

D. No, they have not. There are a lot of things he has never done—as he has never disclosed the fact that he has some 300 committees. The Wall Street Journal piece that picked it up and carried that story brought out his committes.

P. Can we say anything publicly about it?

D. Purpose there hasn't been a tax sham—it is hard to comprehend why he set up that many committees. He doesn't have that many large contributors, but they may have to disburse through a great number of smaller committees.

H. Unless someone is stealing $900,000.

D. That's right.

P. It could be. That could be possible.

H. He may be getting $900,000 from somebody. He may have two or three angels.

P. I don't think he is getting a hell of a lot of small money. I don't believe (expletive deleted). Have you had the P.O. checked yet?

H. That is John's area. I don't know.

P. Well, let's have it checked.

D. Well as I see it, the only problems we may have are the human problems and I will keep a close watch on that.

P. Union?

D. Human.

H. Human frailities.

D. People get annoyed—some finger pointing—false accusations—any internal dissension of any nature.

P. You mean on this case?

D. On this case. There is some bitterness between the Finance Committee and the Political Committee—they feel they are taking all the heat and all the people upstairs are bad people—not being recognized.

P. We are all in it together. This is a war. We take a few shots and it will be over. We will give them a few shots and it will be over. Don't worry. I wouldn't want to be on the other side right now. Would you?

D. Along that line, one of the thing's I've tried to do, I have begun to keep notes on a lot of people who are emerging as less than our friends because this will be over some day and we shouldn't forget the way some of them have treated us.

P. I want the most comprehensive notes on all those who tried to do us in. They didn't have to do it. If we had had a very close election and they were playing the other side I would understand this. No—they were doing this quite deliberately and they are asking for it and they are going to get it. We have not used the power in this first four years as you know. We have never used it. We have not used the Bureau and we have not used the Justice Department but things are going to change now. And they are either going to do it right or go.

D. What an exciting prospect.

P. Thanks. It has to be done. We have been (adjective deleted) fools for us to come into this election campaign and not do anything with regard to the Democratic Senators who are running, et cetera. And who the hell are they after? They are after us. It is absolutely ridiculous. It is not going to be that way any more.

H. Really, it is ironic that we have gone to extremes. You and your damn regulations. Everybody worries about not picking up a hotel bill.

D. I think you can be proud of the White House staff. It really has had no problems of that sort. And I love this GAO audit that is going on now. I think they have some suspicion that even a cursory investigation is going to discover something here. I don't think they can find a thing. I learned today, incidentally, and have not confirmed it, that the GAO auditor who is down here is here at the Speaker of the House's request.

P. That surprises me.

H. Well, (expletive deleted) the Speaker of the House.

Maybe we better put a little heat on him.

P. I think so too.

H. Because he has a lot worse problems than he is going to find down here.

D. That's right.

H. That is the kind of thing that, you know, we really ought to do is call the Speaker and say, "I regret to say your calling the GAO down here because of what it is going to cause us to do to you."

P. Why don't you see if Harlow will tell him that.

H. Because he wouldn't do it—he would just be pleasant and call him Mr. Speaker.

D. I suppose the other area we are going to see some publicity on in the coming weeks because I think now that the indictments are down there will be a cresting on that—the white wash—the civil rights cases in advance. But Wright Patman's hearings—his banking and currency committee—whether we will be successful in turning that off or not I don't know. We have a plan where Rothblatt and Bittman who were counsel for the seven who were indicted today are going to go up and visit the five top members and say that if you commence hearings you are going to jeopardize the civil rights of these individuals in the worst way and they will never get a fair trial.

P. Why not ask that they request to be heard by the committee?

D. They could say, "If you do commence with these hearings we intend to come up and say what you are doing to the rights of individuals." Something to that effect.

P. They could even get a motion in court to get the thing dismissed.

H. Going the other way—

P. Getting the criminal charges dismissed on the grounds of civil rights.

D. We have someone approaching the ACLU for these guys—having them exert some pressure because we don't just want Stans up there in front of the cameras with Patman asking all these questions. It is going to be the whole thing over and over again. I understand too, or I have been told, that John Connally is close to Patman and if anyone could talk turkey to Patman, Connally could. Jerry Ford is not really taking an active interest in this matter that is developing so Stans is going to see Jerry Ford and try to brief him and explain to him the problems he has. The other thing we are going to do—we are looking at all the campaign reports of every member of that committee because we are convinced that none of them complied exactly with the law either. If they want to play rough—some day we better say, "Gentlemen, we want to call your attention that you have not complied with A, B, C, and F and we are not going to hold that a secret if you start talking campaign violations here."

P. What about Ford? Do you think so? Connally can't because of the way he is set up. If anybody can do it, Connally could, but if Ford can get the minority members. They have some weak men and women on that committee, unfortunately. Heckler is alright.

D. Heckler was great.

P. Widnall, et cetera. Jerry should talk to Widnall. After all, if we ever win the House, Jerry will be the Speaker and he could tell him if he did not get off—he will not be Chairman ever.

D. That would be very helpful to get all of these people at least pulling together. If Jerry could get a little action on this.

H. Damn it Jerry should. That is exactly the thing he was talking about, that the reason they are staying is so that they can run investigations.

P. The point is that they ought to raise hell about these hearings. I don't know that the counsel calls the members of the committee often. I think if they have to have this blunderbuss in the public arena then this is all it is.

D. That is the last forum where we have the least problem right now. Kennedy has already said he may call hearings of the Administrative Practices sub-committee. As these committees spin out oracles we used to get busy on each one. I stopped doing that about two months ago. We just take one thing at a time.

P. You really can't sit and worry about it all the time. The worst may happen but it may not. So you just try to button it up as well as you can and hope for the best, and remember basically the damn business is unfortunately trying to cut our losses.

D. Certainly that is right and certainly it has had no effect on you. That's the good thing.

H. No, it has been kept away from the White House and of course completely from the President. The only tie to the White House is the Colson effort they keep trying to pull in.

D. And, of course, the two White House people of lower level—indicted—one consultant and one member of the Domestic Staff. That is not very much of a tie.

H. That's right.

P. Or Manson. (expletive deleted). If they had been killers. Isn't that true?

H. It is certainly true.

P. These (characterization deleted) they have had no way. They ought to move the trial away from——

D. There has been extensive clipping on the part of the counsel in this case. They may never get a fair trial.

They may never get a jury that will convict them. The Post, you know, that they have a real large team assigned to cover this case. Believe me, the Maury Stans story about his libel suit that had so much coverage in the Evening News they put way back on page 8 of the Post and did not even cover it in total.

H. Yes, I will talk to Bill.

D. I think Dick Cook has been working on it.

P. Maybe Mitchell should do.

H. Could Mitchell do it?

P. No.

D. I don't think it would be good to draw him into it. I think Maury could talk to Ford if that would do any good. I think Maury ought to brief Ford on exactly what his whole side of the story is. Maury understands the law.

H. I will talk to Cook.

P. Maybe Ehrlichman should talk to him. Ehrlichman understands the law.

H. Is that a good idea? Maybe it is.

P. I think maybe that is the thing. This is a big play. He has to know that it comes from the top. While I can't talk for myself he has to get at this and—the thing up.

D. Well, if we got that slide up there—it is a tragedy to let them have a field day up there.

P. What is the first move? When does he call his witnesses?

D. Well, he has not even gotten the vote of his committee—he hasn't even convened his committee as to whether he can call hearings. That is why he won't come Monday morning. His attorney is going to arrive on the doorstep of the chairman and to tell him what to do and he proceeds. One of the members of the committee, Jerry Brown, wrote Kleindienst a letter saying, "If the chairman holds committee hearings on this, isn't this going to jeopardize your criminal case?"

P. That is smart politics for Michigan and some tie into Ford. He is a very smart fellow.

D. Good lawyer and being helpful. He is anxious to help.

P. Tell Ehrlichman to get Brown and Ford in together and they can work out something. They ought to get off their ——— and push it. No use to let Patman have a free ride here.

D. Well we can keep them well briefed on moves if they will move when we provide them with the strategy. And we will have a raft of depositions going the other way soon. We will be hauling the O'Briens in and the like on our due process soon.

P. What did they ask—any questions?

D. No. I saw Rothblatt laughing at the start of the symposium. He is quite a character. He has been getting into the sex life of some of the members of the DNC.

P. Why? What is the justification?

D. Well, he is working on the entrapment theory that they were hiding something and they had secret information of theirs to hide and if they could someway conspire to bring this thing about themselves. It is a way-out theory that no one had caught.

H. (Laughter)

D. He had scheduled Patricia Harris and she did not show up. She went to the beauty parlor instead so he went down to the Court House and she had been directed to show up and then the next day the Judge cut all the depositions off. But he had a host of wild questions about where O'Brien got his compensation when he was Chairman. Not that he would know anything about that, but it was just an interesting question he might want to ask the Chairman under oath.

H. That's what Gibbons said—the same hunting license that gave them.

D. No—that is right.

H. So we can play the same game they are playing. We ought to be able to do better at it.

P. Well.

H. Are those depositions sealed?

D. That's right.

H. They are?

D. But that argues that they will want them unsealed less than we will, and we may be arguing at some point to get them unsealed.

P. Yeah.

D. I think what is going to happen on the civil case is that the Judge is going to dismiss the complaint that is down there right now. They will then file a new complaint which will come back to Ritchie again. That will probably happen the 20th, 21st, 22nd. Then 20 days will run before any answers have to be filed and the depositions will be commenced so we are eating up an awful lot of time.

P. Why will the Judge dismiss the complaint?

D. Probably on the middle ground—both on the substantive ground that they haven't stated a good cause of action—that there is improper class actions filed. O'Brien doesn't indeed represent any class. And he will just dismiss it on the merits. It is not a good complaint. He has already shaved it down to almost nothing on his original order. They will then have to re-design it in a much narrower action but the Judge himself can't suggest something to counsel. He has to do a cute argument here. If he dismisses on the merits, that they can't file another suit. They are out of the court totally.

H. But our two suits go hang?

D. We have two suits—we have the abuse of process and the libel suit.

H. We can take depositions on both of those?

D. Absolutely.

P. Hell yes.

(Inaudible)

H. (Laughter)

D. We can blunder down the road anyway.

NOTE

(Further conversation following unrelated to Watergate.)

APPENDIX 2. MEETING: THE PRESIDENT AND DEAN, OVAL OFFICE, FEBRUARY 28, 1793. (9:12–10:23 AM)

D. Good morning, Sir.

P. Oh, hi.

D. How are you?

P. I wanted to talk with you about what kind of a line to take. I now want Kleindienst on the—it isn't a matter of trust. You have it clearly understood that you will call him and give him directions and he will call you, et cetera, and so on. I just don't want Dick to go off—you see, for example, on executive privilege—I don't want him to go off and get the damn thing—get us—

D. Make any deals on it—

P. Make a deal—that is the point. Baker, as I said, is going to keep at arm's length and you've got to be very firm with these guys or you many not end up with many things. Now as I said the only back-up position I can possibly see is one of a (inaudible) if Kliendienst wants to back (inaudible) for (inaudible)—didn't want to but suggested we ought to back them heavily, send them up there in executive session. Well, now you all know that under executive session we still have the problem, and it ain't good. Well, I am thinking particularly of Baker because it will go to him without any question and that is going to be far more significant. This bothers us at the moment, but that's (inaudible) to me.

And they will haul him up there and bull-

rag him around the damn place and it will raise holy hell with Rogers and all our—the other people.

D. Yeah.

P. I sent some notes out—a couple of yellow pages—something on the teachers' thing that I am not doing today. Just send it back to me, please.

Secretary. Alright, Sir.

P. So you see, I think you better have a good, hard face to face talk with him and say, look, we have thought this thing over. And you raise the point with him that this cannot be in executive session because he is likely to float it out there and they will grab it.

D. That's right, and as I mentioned yesterday, he is meeting with Sam Ervin and Baker in this joint session and that is probably one of the first things they will discuss.

P. The main thing Ervin is going to be talking about is executive privilege. Has that meeting been set yet, though?

D. No, it has not. There is ample time to have Dick go up there —

P. You have a talk with him and say we had a talk about this—now your position now I know (inaudible) which they probably never accept but it will make his position be reasonable in the public mind. That is what we have in mind.

D. Right. Correct.

P. Another possibility is the one that Ehrlichman has suggested. If you could have an agreement that the Chairman and the ranking member could question basically the same under very restricted—a little bit early (inaudible)

D. Them coming down here, say?

P. Basically, that is the suggestion.

D. I think that is sort of "if" we couldn't get the written interrogatories. That is still a serious precedent to deal with if they come down here and start questioning people I think the issues would have to be so narrowed for even that situation. And that sort of thing would evolve with the narrowing of the issues where what information a Haldeman or Ehrlichman might have. The Committee needs to be complete in its report of its investigation.

P. Yeah. We will say that you can have written interrogatories under oath, then answer questions.

D. Publicly you are not withholding any information and you are not using the shield of the Presidency.

P. When you talk to Kleindienst—because I have raised this (inaudible) thing with him on the Hiss Case — he has forgotten, I suppose. Go back and read the first chapter of SIX CRISES. But I know, as I said, that was espionage against the nation, not against the party. FBI, Hoover, himself, who's a friend of mine said "I am sorry I have been ordered not to cooperate with you" and they didn't give us one (adjective omitted) thing. I conducted that investigation with two (characterization omitted) committee investigators—that stupid—they were tenacious. We got it done.

Then we worked that thing. We then got the evidence, we got the typewriter, we got the Pumpkin Papers. We got all of that ourselves. The FBI did not cooperate. The Justice Department did not coperate. The Administration would not answer questions except, of course, for Cabinet officers, I mean like Burling came down and some of the others.

D. Funny, when the shoe is on the other foot how they look at things, isn't it?

P. Well, as I said, the New York Times, the Washington Post and all the rest. They put it in terms of executive privilege because they were against the investigation. So the real question now is say that I having been through that—we have talked it over and that I have always felt very miffed about that because I thought that was very wrong and now this is another matter. But I think we ought to cooperate in finding an area of cooperation. Here it is. You see, the Baker theory is that he wants to have a big slambang thing for a whole week and then he thinks interest in the whole thing will fall off. And he is right about that. But his interest in having a big slambang for a week is that we bring all the big shots up right away. The big shots you could bring up. They could bring up Stans. They have to put him on, and they've got to put Mitchell on. They would like, of course, to get Haldeman, Ehrlichman and Colson.

D. I understand that you and Bob have talked about running Stans out as sort of a stalking horse on it, on another post.

P. It is not my idea. I guess Moore or somebody mentioned it.

D. I think it was my idea. I think it could be one defusing factor in the hearings. Stans would like to get his story out. He is not in any serious problem ultimately. It could be rough and tumble, but Maury is ready to take it and it would be a mini-hearing there is no doubt about it. But this further detracts from the other committee.

P. It would be a mini-hearing, it is true. Except knowing the Press and knowing—like they have taken—they sold several of these stories about Colson and Haldeman about four times.

D. Well, I know that.

P. Well, I just wonder if that doesn't do that?

D. At present I hesitate to send Stans. They would give him a hot seat.

P. Somebody is after him about Vesco. I first read the story briefly in the Post. I read, naturally, the first page and I turned to the Times to read it. The Times had in the second paragraph that the money had been returned, but the Post didn't have it.

D. That is correct.

P. The Post didn't have it until after you continued to the back section. It is the (adjective omitted) thing I ever saw.

D. Typical.

P. My guess is the Star pointed out (inaudible) that they (inaudible). Actually they got the money after the 10th, but I don't think they pointed out that Sears got it before.

D. For all purposes, the donor—Vesco—

D. Stans would never do a thing like that! Never. Never. Never.

D. I think we have a good strong case that the donor had relinguished control of the money, and constructive possession of the money was in the hands of the finance committee, Sears and the like. So that there is not—ah—

P. How did they get my brother in it? Eddie?

D. That was sheer sandbagging of your brother. Here is what they did. They called him down here in Washington . . .

P. Who did?

D. It was Vesco and Sears and said that, "we want to talk to you about the nature of this transaction because we have had earlier conversations with Stans". He really wasn't privy to it, and didn't know much about it, but what the long and short of it was that they were after him to find out from Stans whether they wanted cash or checks. Stans just responded to your brother and said, "I don't really care—whatever they want to do", and that is what he relayed back. He didn't even understand why he was there. He is just as clean as a whistle. There is just nothing there at all.

P. I know that. I know that myself. So you sort of lean to having Stans starting out there?

D. I think it would take a lot of the teeth out of the—you know—the stardom of the people are trying to build up to. If Stans has already gone to a hearing in another committee, obviously they will use everything they have at that time and it won't be a hell of a lot. It confuses the public. The public is bored with this thing already.

P. Yeah.

D. One of the things I think we did succeed in before the election—

P. Stans is very clean. Unless I make a mistake on this thing, the way I analyze it, and I have stayed deliberately away from it, but I think I can sense what it is. The way I analyze the thing, Stans would have been horified at any such thing. And, what happened was he honestly is outraged. He thinks what happened was he thinks he eventually found a line on somebody's hard earned cash and got into this silly business with it.

D. He does and he is a victim of circumstances, of innuendo, of fales charges. He has a darn good chance of winning that libel suit he has against Larry O'Brien.

P. Has he?

D. That's right.

P. Good. That's why Larry filed a countersuit.

D. That's right.

P. I see. Zielgler was disturbed at the news that they supoenaed newsmen. Did that disturb you?

D. No, it didn't disturb me at all. No sir. I talked with Ron at some length about it the other night. I said, "Ron, first of all you can rest assured that the White House was not involved in that decision." Exceptional case.

P. It should involve prosecution.

D. No, it is a civil deposition and it is not because we haven't reached the newsman's privilege issue yet, and that is way down the road yet, if for some reason they refuse to testify on some given evidence. What they are trying to establish is the fact that Edward Bennett Williams' law firm passed out an amended complaint that libeled Stans before it was into the Court process, so it was not privileged. And the newsmen are the people who can answer that question. Also they are trying to find out how Larry O'Brien and Edward Bennett Williams made statements to the effect that this law suit—the first law suit they had filed against the Committee—was not really to establish any invasion of privacy threat, rather they were harrassing the Committee.

P. The Committee to Re-Elect?

D. They made this off the record to several newsmen and we know they did this. That this was a drummed up law suit.

P. So therefore that proves also malice, doesn't it?

D. It make the abuse of process case that we have against them on a counter suit. And the lawyers made a very conscious and good decision to proceed with the suit and if they did, they were going to have to have this information and it doesn't bother me if they supoenaed nine or ten—

P. Well, one hell of a lot of people don't give one damn about this issue of the suppression of the press, etc. We know that we aren't trying to do it. They all squeal about it. It is amusing to me when they say—I watched the networks and I thought they were restrained. What (expletive omitted) do they want them to do—go through the 1968 syndrome when they were 8 to 1 against us. They are only three to one this time. It is really sickening though to see these guys. These guys have always figured we have the press on our side. You know we receive a modest amount of support—no more. Colson sure making them move it around, saying we don't like this or that and (inaudible)

D. Well, you know Colson's threat of a law suit which was printed in Evans and Novak

had a very sobering effect on several of the national magazines. They are now checking before printing a lot of this Watergate junk they print. They check the press office trying to get a confirmation or denial, or call the individuals involved. And they have said they are doing it because they are afraid a libel suit on them. So it did have a sobering effect. We will keep them honest if we can remind them that they can't print anything and get away with it.

P. Well, as you of course know, at the time of the Hills case (inaudible).

D. Yes, I have noticed. We have to establish, one, malice for reckless disregard (inaudible)

P. Yeah. Malice is impossible for (inaudible) It has to get, it's got to get up in through me. (inaudible) Reckless disregard maybe.

D. Tough. That is a bad decision, Mr. President. It really is a bad decision.

P. What is the name of the case—horrible.

D. (inaudible) & Sullivan and it came out of the South on a civil rights . . .

P. It was about some guy who was a police chief or something. Anyway, I remember reading it at the time when I though we were suing LIFE for Hills. When LIFE was guilty as hell.

D. Did you win it?

P. Supreme Court—four to three. There were a couple missing or it would have probably been five to three and one-half.

P. Well, let's go back so it is clearly understood. We must go forward on that. I think you had better go over and get in touch with Dick. And say Dick you keep it at your level.

P. My guess is that he is going to be in the end, and I would say, "this is the position, Dick, you should take on this." Tell him I took that position with Baker. Baker is a smoothy—impressive—The President didn't say this or that—they recommended it and the President has approved it. Right? Is that what you would say?

D. Yes sir, I think that is absolutely on all fours. And how about our dealings with Baker? Under normal Congressional relations, vis-a-vis Timmons and Baker, should we have Timmons dealing?

P. Well, he objected to (inaudible) something that is a curious thing on that (inaudible) made a very big gaff calling him and urging and trying to influence who would be on his staff. (expletive omitted) I don't know why he did that, if he did. But if he did, I don't know why Baker would resent it. But, nevertheless, I don't know how to deal with him, frankly.

H. Why don't you ask (inaudible) to see him.

P. I gathered the impression that Baker didn't want to talk with anyone but Kleindienst.

D. Well, OK, I think that is one we will just have to monitor and that is one we will have to know an awful lot about along the road.

P. Well let Timmons tell Baker that if he wants to talk with anybody at the White House, if he says he doesn't want to talk to Haldeman, doesn't want to talk to Ehrlichman, that you, Dean, are available. But nobody else. How does that sound to you?

D. I think that sounds good.

P. You tell Timmons that he sees him privately, and tells him that's it. We are not pressing him. We don't care, because Baker . .

D. I would suspect if we are going to get any insight to what that Committee is going to do, it is going to be through Gurney. I don't know about Weicker, where he is going to fall out on this thing.

P. Weicker, I think the line to Weicker is through Gray. Gray has to shape up here and handle himself well too. Do you think he will?

D. I do. I think Pat has had it tough. He goes up this morning as you know. He is ready. He is very comfortable in all of the decisions he has made, and I think he will be good.

P. But he is close to Weicker—that is what I meant.

D. Yes, he is.

P. And so, Gray . . .

D. Has a lead in there—yes.

P. One amusing thing about the Gray thing, and I knew this would come. They say Gray is a political crony and a personal crony of the President's. Did you know that I have never seen him socially?

D. Is that correct? No, I didn't.

P. I think he has been to a couple White House events, but I have never seen him separately.

D. The Press has got him meeting you at a social function. And, back in 1947, (inaudible) is something I have read.

P. Maybe at a Radford party or something like that. That's all. I don't know. But Gray is somebody that I know only—He was Radford's Assistant, used to attend NSC meetings. He has never been a social friend. Edgar Hoover, on the other hand, I have seen socially at least a hundred times. He and I were very close friends.

D. This is curious the way the press—

P. (expletive deleted)—Hoover was my crony. He was closer to me than Johnson, actually although Johnson used him more. But as for Pat Gray, (expletive deleted) I never saw him.

D. While it might have been a lot of blue chips to the late Director, I think we would have been a lot better off during this whole Watergate thing if he had been alive. Because he knew how to handle that Bureau—knew how to keep them in bounds.

P. Well, Hoover performed. He would have fought. That was the point. He would have defied a few people. He would have scared them to death. He has a file on everybody.

P. But now at the present time, the Bureau is leaking like a sieve to Baker, (inaudible). It isn't coming from Henry Petersen is it?

D. No. I would just not believe that.

P. It isn't coming from that (unintelligible).

D. No. Well, they are getting the raw data. They are getting what they call the 302 forms. Actually, the summaries of the interviews.

P. If you could handle it that way, I think that is the best thing to do. Do you ever wonder really if Colson (characterization deleted) should bring a suit. For example, I notice that Colson has a lot of vulnerabilities. You know, in terms of people that he knew, et cetera, et cetera. But I mean on a narrow issue—

D. Well, Chuck and I talked about this. He could possibly win a suit, but lose the war, for this reason: A counterdiscovery in a libel action has no bounds.

P. I get it. OK.

D. That's the problem there.

P. That the District Court (inaudible).

D. Federal Court. They could just come in and depose him on everything he has done at this point in time.

P. Keep him out of it. Keep him out of it.

D. That's right.

P. What—Why doesn't Stans be the sue-er?

D. He's got a good one, and he may well prevail. It may well be the decisive settlement of all these other suits we've got out there. You know, we have 14 million dollar suits against us, and we have 7 or 10 against them.

P. (Expletive deleted) They ought to all get together and drop them.

D. That is what we are trying to get accomplished.

P. Hell, yes!

D. It is just causing everybody problems.

P. That is right—they've got problems, and we've got problems.

P. You see this Vesco thing coming up burns my tail. I raised hell with Haldeman on this and he didn't do anything about it. I guess he couldn't. What (expletive omitted) became of our investigation of their financial activities? (Expletive omitted) They cancelled debts, they borrowed money. What the hell is that?

D. It is still going on, Mr. President. McGovern's stuff is in such bad shape. That is another unfortunate thing. The GAO comes in to audit us. They find all the documents, so they are able to make——

P. Just like two year old state tax.

D. They have now, but it gets about that much coverage in the paper. They can't even figure out what McGovern's done, the books are such a mess, but you haven't seen them say anything yet. And that is one of the things that hopefully we will bring out in hearings, as to what a mess this was, et cetera.

P. How are you going to bring it out? You can't bring it out in these hearings.

D. Well I think I would rather do it independently, so that the media types will bring it out. Chuck is going to be of aid when he is out there not connected with the White House, coming through with bits of tidbits. Chuck will still have his channels to flip things out.

P. Sure! Sure! In my view—of course it is hard to believe since he loves the action and the rest—but apart from the financial—for the country's aid, etc.—I dont care what you think: Colson can be more valuable out than in, because basically in, he has reached the point that he was too visible.

D. A lightning rod.

P. And outside he can start this and say that I am a private citizen and I can say what I (expletive omitted) please.

D. Right. I think Chuck can be of great aid in this thing, and I think he will do it.

P. Now, as to the other thing. Just to recap. You will talk to Timmons about Baker, and get that tied down if you can. I doubt if much can be done there. Then when you talk to Kleindienst, he should know that it has been decided, and that's it. Well, he will say they won't take me. Then say "why not?" We shall see. Going on to the interrogatory thing—we shall see—your view would not to give any further ground on that?

D. I would say hope not. You initially hold the line as far as you can go. If it becomes necessary for informational purposes, the President is not going to hide any information. He has just given a sworn statement through an interrogatory—send your questions down they will be answered. We won't hide the information—we won't diminish the ability of the President to operate internally and the like because we have a political circus going.

P. OK. I understand that Mollenhoff still thinks everybody should go up and testify.

D. Yeah.

P. At least you had a talk with him. I do want you to look at the case, though.

D. Yes Sir.

P. If the guy's got a bad rap, this man, (expletive omitted) we will get him out of it!

D. I am doing that. I talked with Clark yesterday. I talked with him last night again. He is on this as hot and heavy as can be and—

P. Does the think he's got a bad rap?

D. He does—he thinks he's got a bad rap. I know Rule hasn't a bad rap. When a bureaucrat takes it upon himself to go out, and go way beyond the pale in terms of attack-

ing an Administration that can't be tolerated. Suppose a Congressman or a Senator or one of his Administrative Assistants went out and attacked one of his contributors. What would he do? Fire him! That's right.

P. I noticed where several of our Congressmen and Republican Senators called upon us to reinstate Rule. Congress is, of course, on its (inaudible). And yet they are so enormously frustrated that they are exhausted. Isn't that the point?

D. I think there is a lot of that.

P. It is too bad. We can take very little comfort from it because we have to work with them. But they become irrelevant because they are so damned irresponsible, as much as we would like to say otherwise.

D. Yes, sir. I spent some years on the Hill myself and one of the things I always noticed was the inability of the Congress to deal effectively with the Executive Branch because they have never provided themselves with adequate staffs, had adequate information available—

P. Well now they have huge staffs compared to what we had.

D. Well they have huge staffs, true, as opposed to what they had years ago. But they are still inadequate to deal effectively—

P. (Expletive deleted) Don't try to help them out!

D. I am not suggesting any reserve money for them. I ought to to keep my observations to myself. I think this is going to be very different. It will be hot, I think they are going to be tough. I think they are going to be gory in some regards, but I am also absolutely convinced that if everyone pulls their own oar in this thing, in all those we've got with various concerns, we can make it through these things and minimal people will be hurt. And they may even paint themselves as being such partisans and off base, that they are really damaging to the institutions of the government themselves.

P. I frankly say that I would rather they would be partisan—rather than for them to have a facade of fairness and all the rest. Ervin always talks about his being a great Constitutional lawyer. (expletive deleted) He's got Baker totally toppled over to him. Ervin works harder than most of our Southern gentlemen. They are great politicians. They are just more clever than the minority. Just more clever!

D. I am convinced that he has shown that he is merely a puppet for Kennedy in this whole thing. The fine hand of the Kennedy's is behind this whole hearing. There is no doubt about it. When they considered the resolution on the Floor of the Senate I got the record out to read it. Who asked special permission to have their Staff man on the floor? Kennedy brings this man Flug out on the floor when they are debating a resolution. He is the only one who did this. It has been Kennedy's push quietly, his constant investigation. His committee did the (unintelligble) subpoenas to get at Kalmbach and all these people.

P. Uh, huh.

D. He has kept this quiet and constant pressure on this thing. I think this fellow Sam Dash, who has been selected Counsel, is a Kennedy choice. I think this is also something we will be able to quietly and slowly document. Leak this to the press, and the parts and cast become much more apparent.

P. Yes, I guess the Kennedy crowd is just laying in the bushes waiting to make their move. I had forgotten, by the way, we talk about Johnson using the FBI. Did your friends tell you what Bobby did?

D. I haven't heard but I wouldn't be—

P. Johnson believed that Bobby bugged him.

D. That wouldn't surprise me.

P. Bobby was a ruthless (characterization omitted). But the FBI does blatantly tell you that—or Sullivan told you about the New Jersey thing. He did use a bug up there for intelligence work. (inaudible)

D. (inaudible) Intelligence workers had agents all over the property.

P. The doctors say that the poor old gent had a tumor. The FBI said he had one.

D. He had Abe Fortas and Deke DeLoache backed up by some other people in the Bureau and try to talk this doctor into examining this guy to say the man had a brain tumor. He was very (unintelligible) ill, slightly erratic, but eager. This doctor wouldn't buy it.

P. The doctor had never examined him before or anything.

D. No.

P. They were trying to set it up though, huh? What other kind of activities?

D. Well, as I say, I haven't probed Sullivan to the depths on this thing because I want to treat him at arm's length until he is safe, because he has a world of information that may be available.

P. But he says that what happened on the bugging thing. Who told what to whom again?

D. On the '68 thing—I was trying to track down the leaks. He said that the only place he could figure it coming from would be one of a couple of sources he was aware of that had been somewhat discovered publicly. He said that Hoover had told Patrick Coyne about the fact that this was done. Coyne had told Rockefeller—now Rockefeller had told Kissinger. I have never run it any step beyond what Mr. Sullivan said there. The other thing is that when the records were unavailable for Mr. Hoover all these logs, etc. Hoover tried to reconstruct them by going to the Washington Field Office and he made a pretty good stir about what he was doing when he was trying to get the record and reconstruct it. He said that at that time we probably hit the grapevine in the Bureau that this had occurred. But there is no evidence of it. The records show at the Department of Justice and the FBI that no such surveillance was ever conducted.

P. Shocking to me!

D. What the White House had from reporters in LIFE. The other person who knows and is aware of it is Mark Felt, and we have talked about Mark Felt before.

P. Let's face it. Suppose Felt comes out now and unwraps. What does it do to him?

D. He can't do it.

P. How about (unintelligible)? Who is going to hire him? Let's face it—the guy who goes out—he couldn't do it unless he had a guarantee from somebody like TIME Magazine who would say look we will give you a job for life. Then what do they do? He would go to a job at LIFE, and everyone would treat him like a pariah. He is in a very dangerous situation. These guys you know—the informers. Look what it did to Chambers. Chambers informed because he didn't give (expletive deleted). But then one of the most brilliant writers according to Jim Shepley we have ever seen in this country—and I am not referring to the Communist issue—greatest writer of his time—about 30 years ago, probably TIME's best writer of the century—they finished him. Either way, the informer is not one in our society. Either way, that is the one thing people can't survive. They say no civilized (characterization deleted) informs. Hoover to Coyne to Nelson Rockefeller to Kissinger. Right?

D. That's right.

P. Why did Coyne tell it to Nelson Rockefeller? I have known Coyne for years. I haven't known him well, but he was a great friend of one of my Administrative Assistants, Bob King, who used to be a Bureau head.

D. Now this is Sullivan's story. I have no reason to know whether it is true, but I don't have any reason to doubt that it is true.

P. Hoover told me, and he also told Mitchell personally that this had happened.

D. I was talking the '68 incident that occurred. I wasn't referring to that now. When this Coyne, etc., this was the fact that newsmen—excuse me I thought you were making reference to the fact that three years ago the White House had allegedly—

P. Oh, sure, sure. That is not the same one.

D. On the '68 incident all I have been able to find out is what you told me that Hoover had told you, what he had told Mitchell.

P. Yeah. Mitchell corroborates that, doesn't he?

D. Kevin Phillips called Pat Buchanan the other day with a tidbit that Dick Whelan on the NSC staff has seen memoranda between the NSC and the FBI that the FBI had been instructed to put surveillance on Anna Chennault, the South Vietnamese Embassy and the Agnew plane. This note also said that Deke DeLoach was the operative FBI officer on this.

P. The Agnew plane? I think DeLoach's memory now is very very hazy. He doesn't remember anything.

D. I talked to Mitchell about this and he has talked to DeLoach. DeLoach has in his possesion, and he has let Mitchell review them, some of the files on this.

P. But not—

D. But they don't go very far; this is DeLoach protecting his own hide.

P. It is just as well because we can't do anything with it. So Hoover told Coyne, who told Rockefeller, that newsmen were being bugged.

D. That tickles you. That is right.

P. Why do you suppose they did that?

D. I haven't the foggiest idea. It is a Sullivan story as to where the leak might have come from about the current Time Magazine story, which we are stonewalling totally here.

P. Oh, absolutely.

(Material not related to Presidential action deleted)

P. Well, is this the year you are going to try to get out the '68 story?

D. Well, I think the threat of the '68 story when Scott and others were arguing that the Committee up on the Hill broadened its mandate to include other elections. They were hinting around at something in 1968 and 1964 that should be looked at.

P. Yeah, Goldwater claims he was bugged.

D. That's right. Now I think that threats—

P. didn't you say that Johnson did bug Goldwater?

D. Well, I don't know if he bugged him.

P. He did intelligence work?

D. He did intelligence up one side and down the other—

P. From the FBI?

D. Just up one side and down the other on Goldwater. I haven't had a chance to talk to the Senator, and I have known the Senator for twenty years. He is the first man in public life I ever met. Barry Jr. and I were roommates in school together, so I can talk to the man. So I am really going to sit down with him one day and see what really happened.

P. Does he have any hard evidence?

D. Then we can go from there . . .

P. Right.

D. Get some stuff written, etc. I do think you have to remember, as I am sure you realize, this is mainly a public relations thing anyway.

P. What is the situation anyway with regard to the situation of the sentencing of the seven? When in the hell is that going to occur?

D. That is likely to occur, I would say, as early as late this week, but more likely sometime next week.

P. Why has it been delayed so long?

D. Well, they have been in the process of preparing a pre-sentence report. The Judge sends out probation officers to find out everybody who knew these people, and then he will . . .

P. He is trying to work on them to see who will break them down?

D. Well, there is some of that. They are using the probation officer for more than the normal probation report. They are trying to do a mini-investigation by the judge himself which is his only investigative tool here so they are virtually completed now. The U.S. Attorneys handles these, the Assistant U.S. Attorneys.

P. You know when they talk about a 35 year sentence, here is something to think about. There were no weapons! Right? There was no success! Why does that sort of thing happen? It is just ridiculous! (Characterization deleted)

Are they in jail?

D. Well, all but one. Hunt made the bond—everybody else is in jail. They have a $100,000 surety bond which means that they have to put actual collateral, and some of these people have a $100,000. The Court of Appeals has been sitting for two weeks or better now on a review of the bond issue and letting people out for charity cases.

(Material unrelated to Presidential action deleted)

P. You still think Sullivan is basically reliable?

D. I have nothing to judge that on except that I have watched him for a number of years. I watched him when he was working with Tom Huston on domestic intelligence, and his desire to do the right thing. I tried to stay in touch with Bill, and find out what his moods are. Bill was forced on the outside for a long time. He didn't become bitter. He sat back and waited until he could come back in. He didn't try to force or blackmail his way around with knowledge he had. So I have no signs of anything but a reliable man who thinks a great deal of this Administration and of you.

(Material unrelated to Presidential action deleted.)

D. I have got to say one thing. There has never been a leak out of my office. There never will be a leak out of my office. I wouldn't begin to know how to leak and I don't want to learn how you leak.

P. Well, it was a shocking thing. I was reading a book last night. A fascinating book, although fun book, by Malcolm Smith Jr. on Kennedy's Thirteen Mistakes, the great mistakes. And one of them was on the Bay of Pigs. And what had happened, there was Chester Bowles had learned about it, and he deliberately leaked it. Deliberately, because he wanted the operation to fail! And he admitted it! Admitted it!

D. Interesting. Interesting.

P. This happens all the time. Well, you can follow these characters to their Gethsemane. I feel for those poor guys in jail, particularly for Hunt with his wife dead.

D. Well there is every indication they are hanging in tough right now.

P. What the hell do they expect though? Do they expect clemency in a reasonable time? What would you advise on that?

D. I think it is one of those things we will have to watch very closely. For example——

P. You couldn't do it, say in six months.

D. No, you couldn't. This thing may become so political as a result of these hearings that it is a vendetta. This judge may go off the deep end in sentencing, and make it so absurd that its clearly injustice that they have been heavily——

P. Is there any kind of appeal left?

D. Right. Liddy and McCord, who sat through the trial, will both be on appeal and there is no telling how long that will last. It is one of these things we will just have to watch.

P. My view though is to say nothing about them on the ground that the matter is still in the courts and on appeal. Second, my view is to say nothing about the hearings at this point, except that I trust they will be conducted the proper way and I will not comment on the hearings while they are in process. Of course if they break through—if they get muckraking—It is best not to cultivate that thing here at the White House. If it is done at the White House again they are going to drop the (adjective deleted) thing. Now there, of course, you say but you leave it all to them. We'll see as time goes on. Maybe we will have to change our policy. But the President should not become involved in any part of this case. Do you agree with that?

D. I agree totally, sir. Absolutely. That doesn't mean that quietly we are not going to be working around the office. You can rest assured that we are not going to be sitting quietly.

P. I don't know what we can do. The people who are most disturbed about this (unintelligible) are the (adjective deleted) Republicans. A lot of these Congressmen, financial contributors, et cetera, are highly moral. The Democrats are just sort of saying, "(expletive deleted) fun and games!"

D. Well, hopefully we can give them Segretti.

P. (Expletive deleted) He was such a dumb figure, I don't see how our boys could have gone for him. But nevertheless, they did. It was really juvenile! But, nevertheless, what the hell did he do? What in the (characterization deleted) did he do? Shouldn't we be trying to get intelligence? Weren't they trying to get intelligence from us?

D. Absolutely!

P. Don't you try to disrupt their meetings? Didn't they try to disrupt ours? (expletive deleted) They threw rocks, ran demonstrations, shouted, cut the sound system, and let the tear gas in at night. What the hell is that all about? Did we do that?

D. McGovern had Dick Tuck on his payroll, and Dick Tuck was down in Texas when you were down at the Connally ranch and set up to do a prank down there. But it never came off.

P. What did Segretti do that came off?

D. He did some humorous things. For example, there would be a fund-raising dinner, and he hired Wayne the Wizard to fly in from the Virgin Islands to perform a magic show. He sent invitations to all the black diplomats and sent limousines out to have them picked up, and they all showed up and they hadn't been invited. He had 400 pizzas sent to another—Sure! What the hell! Pranks! Tuck did all those things in 1960, and all the rest.

D. I think we can keep the Segretti stuff in perspective because it is not that bad. Chapin's involvement is not that deep. He was the catalyst, and that is about the extent of it.

P. Sure, he knew him and recommended him.

D. That's right.

P. But he didn't run him. He was too busy with us.

D. The one I think they are going to go after with a vengeance—and I plan to spend a great deal of time with next week, as a matter of fact a couple of days getting this all in order—is Herb Kalmbach.

P. Yes.

D. Herb—they have subpoenaed his records, and he has records that run all over hell's acres on things. You know Herb has been a man who has been moving things around for Maury and keeping things in tow and taking care of—

P. What is holding up his records?

D. They already have gotten to the banks that had them, and what I think we will do is that there will be a logical, natural explanation for every single transaction. It is just a lot of minutia we've got to go through but he is coming in next week and I told him we would sit down and he is preparing everything—all that is available, and we are going to sit down with Frank DeMarco and see if we can't get this whole thing—

P. They can't get his records with regard to his private transactions?

D. No, none of the private transactions. Absolutely, that is privileged material. Anything to do with San Clemente and the like—that is just so far out of bounds that—

P. Did they ask for them?

D. No. No indication.

P. Kalmbach is a decent fellow. He will make a good witness.

D. I think he will.

P. He is smart.

D. He has been tough thus far. He can take it. His skin is thick now. Sure it bothered him when all this press was being played up. LA Times were running stories on him all the time and the like. Local stations have been making him more of a personality and his partners have been nipping at him, but Herb is tough now. He is ready and he is going to go through. He is hunkered down and he is ready to handle it, so I am not worried about Herb at all.

P. Oh well, it will be hard for him. I suppose the big thing is the financing transaction that they will go after him for. How does the money get to the Bank of Mexico, etc.

D. Oh, well, all that can be explained.

P. It can?

D. Yes, indeed! Yes, sir! They are going to be disappointed with a lot of the answers they get. When they actually get the facts—because the Times and the Post had such innuendo—when they get the facts, they are going to be disappointed.

P. The one point that you ought to get to Baker. I tried to get it through his thick skull. His skull is not thick but tell Kleindienst in talking to Baker—and Herb should emphasize that the way to have a successful hearing and a fair one is to run it like a court: no hearsay, no innuendo! Now you know—

D. That's a hell of a good point.

P. (expletive deleted) well, they are not going to but tell them that is the way Nixon ran the Hiss Case. As a matter of fact some innuendo came out, but there was (adjective deleted) little hearsay. We really just got the facts, and tore them to pieces. Say "no hearsay" and "no innuendo." Ervin should sit like a court there: that is hearsay, and the counsel for our people should get up and say, "I object to that, Mr. Chairman," on the basis that it is hearsay.

D. That is a heck of an idea, Mr. President. Some of these early articles said—will Sam Ervin, Constitutional man, be a judge? Will he admit hearsay? We can try to get some think pieces out to try to get a little pressure on him to perform that way, to make it look like partisan when he doesn't.

P. The point that Kleindienst gets out: no hearsay, no innuendo! There will be no hearsay, no innuendo. This will be a model of a Congressional hearing. That will disappoint

the (adjective deleted) press. No hearsay! No innuendo! No leaks!

D. Well, there are a lot of precedents. I have been involved in two Congressional investigations. One was the Adam Clayton Powell investigation when I was working over there as the Minority Counsel of the House Judiciary. We didn't take hearsay. We stuck to the facts on that. We did an investigation of the Oklahoma judges. Again, the same sort of thing. We went into executive session when necessary. I bet if we look around, respectable investigations that have been held up there that could be held up, and some of it should be coming forth to set the stage for these hearings. I am planning a number of brain sessions with some of the media people to—

P. I know. It is very important, but it seems like a terrible waste of your time. But it is important in the sense that all this business is a battle and they are going to wage the battle. A lot of them have enormous frustrations about those elections, state of their party, etc. And their party has its problems. We think we have had problems, look at some of theirs. Strauss has had people and all the actors, and they haven't done that well you know.

D. Well I was—we have come a long road on this thing now. I had thought it was an impossible task to hold together until after the election until things started falling out, but we have made it this far and I am convinced we are going to make it the whole road and put this thing in the funny pages of the history books rather than anything serious because actually—

P. It will be somewhat serious but the main thing, of course, is also the isolation of the President.

D. Absolutely! Totally true!

P. Because that, fortunately, is totally true.

D. I know that sir!

P. (expletive deleted) Of course, I am not dumb and I will never forget when I heard about this (adjective deleted) forced entry and bugging. I thought, what in the hell is this? What is the matter with these people? Are they crazy? I thought they were nuts! A prank! But it wasn't! It wasn't very funny. I think that our Democratic friends know that, too. They know what the hell it was. They don't think we'd be involved in such.

D. I think they do too.

P. Maybe they don't. They don't think I would be involved in such stuff. They think I have people capable of it. And they are correct, in that Colson would do anything. Well, ok.—Have a little fun. And now I will not talk to you again until you have something to report to me.

D. Alright, sir.

P. But I think it is very important that you have these talks with our good friend Kleindienst.

D. That will be done.

P. Tell him we have to get these things worked out. We have to work together on this thing. I would build him up. He is the man who can make the difference. Also point out to him what we have. (expletive deleted) Colson's got (characterization deleted), but I really, really,—this stuff here—let's forget this. But let's remember this was not done by the White House. This was done by the Committee to Re-Elect, and Mitchell was the Chairman, correct?

D. That's correct!

P. And Kleindienst owes Mitchell everything. Mitchell wanted him for Attorney General. Wanted him for Deputy, and here he is. Now, (expletive deleted). Baker's got to realize this, and that if he allows this thing to get out of hand he is going to potentially ruin John Mitchell. He won't. Mitchell won't allow himself to be ruined. He will put on his big stone face. But I hope he does and he will. There is no question what they are after. What the Committee is after is somebody at the White House. They would like to get Haldeman or Colson, Ehrlichman.

D. Or possibly Dean.—You know, I am a small fish.

P. Anybody at the White House they would—but in your case I think they realize you are the lawyer and they know you didn't have a (adjective deleted) thing to do with the campaign.

D. That's right.

P. That's what I think. Well, we'll see you.

D. Alright, sir.—Good bye.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I be permitted daily to place in the RECORD from day to day, as I read them, chronologically, the transcripts of the subsequent meetings included in this public volume until the entire volume itself has been placed in the RECORD.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none and it is so ordered.

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

Mr. ROBERT C. BYRD. I yield.

Mr. MANSFIELD. Is it the intent of the Senator to place in the RECORD those portions of the reply to the House Committee on the Judiciary only after the Senator has read them?

Mr. ROBERT C. BYRD. Only after I have read them personally.

Mr. MANSFIELD. Would the Senator consider using Roman numerals——

Mr. ROBERT C. BYRD. Yes.

Mr. MANSFIELD. To keep the portions in sequence?

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

Mr. President, I ask unanimous consent that the first day's insertion be entitled "Public Transcripts—I," using the Roman numeral I.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. ROBERT C. BYRD. Mr. President, I wish to supplement my earlier request. I ask unanimous consent that as I daily provide for the RECORD the portions of the transcripts they merely carry the heading "Public Transcripts—II," "III," and so forth, without my name, so that at some point they may be all gathered together, if need be, without the repetition of my name in connection with the insertions.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that even though there may be other requests from Senators to insert these transcripts into the RECORD, no permission be granted for such in view of the fact that the entire volume will, in time, be printed in the CONGRESSIONAL RECORD, thus saving the cost to the taxpayers of duplications; with the understanding, however, that Senators, in making speeches, may, of course, excerpt from the transcripts such portions as they may deem relevant in connection with whatever comments they may wish to make.

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

Mr. GRIFFIN. Mr. President, I shall not object, but I do wish to comment. I hope that this project, so large in its scope and cost, will not be duplicated by other requests to reprint the same materials in the RECORD.

Mr. ROBERT C. BYRD. I would share that hope. I know we cannot control what the House would wish to do, but I think it would be well if our actions today were called to the attention of the Joint Committee on Printing, so that perhaps by so doing, the result would be only one insertion into the RECORD of the entire volume.

Mr. GRIFFIN. Indeed, I wonder if the majority whip and the minority whip might not wish to join in a letter to the Chairman of the Joint Committee on Printing so as to advise that committee of this action.

Mr. ROBERT C. BYRD. I would be very glad to join in it. I would hope that the distinguished minority whip would prepare the letter.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT OF DEPARTMENT OF DEFENSE PROCUREMENT FROM SMALL AND OTHER BUSINESS FIRMS

A letter from the Acting Assistant Secretary of Defense—Installations and Logistics—transmitting, pursuant to law, a report on Department of Defense Procurement from Small and Other Business Firms, for July 1973–February 1974 (with an accompanying report). Referred to the Committee on Banking, Housing and Urban Affairs.

REPORTS OF NATIONAL RAILROAD PASSENGER CORPORATION

A letter from the Director, Federal Affairs, National Railroad Passenger Corporation (Amtrak), transmitting, pursuant to law, a report of that Corporation, for the month of February, 1974 (with an accompanying report). Referred to the Committee on Commerce.

A letter from the Director, Federal Affairs, National Railroad Passenger Corporation—Amtrak—transmitting, pursuant to law, a report of that Corporation, for the month of March 1974 (with an accompanying report). Referred to the Committee on Commerce.

REPORT OF DIRECTOR OF ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

A letter from the Director, Administrative Office of the United States Courts, transmitting, pursuant to law, a report of that Office on applications for court orders made to federal and state courts to permit the intercep-

tion of wire or oral communications (with an accompanying report). Referred to the Committee on the Judiciary.

PROPOSED LEGISLATION FROM SECRETARY OF THE TREASURY

A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to increase the limit on dues for United States membership in the International Criminal Police Organization (with an accompanying paper). Referred to the Committee on the Judiciary.

REPORT ON YOUTH CAMP SAFETY

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on youth camp safety (with an accompanying report). Referred to the Committee on Labor and Public Welfare.

PROPOSED LEGISLATION FROM DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

A letter from the Acting Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to extend the National Health Service Corps, and for other purposes (with an accompanying paper). Referred to the Committee on Labor and Public Welfare.

PROPOSED LEGISLATION FROM GENERAL SERVICES ADMINISTRATION

A letter from the Administrator, General Services Administration, transmitting a draft of proposed legislation to amend section 5316 of title 5, United States Code, relating to level V of the Executive Schedule, to apply to the position of General Counsel of the General Services Administration (with an accompanying paper). Referred to the Committee on Post Office and Civil Service.

PROPOSED LEGISLATION FROM VETERANS' AMINISTRATION

A letter from the Administrator, Veterans' Administration, transmitting a draft of proposed legislation to amend title 38, United States Code, by revising provisions relating to the payment of monetary benefits to persons under legal disability, including minors (with an accompanying paper). 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. ALLEN):

A resolution of the Senate of the State of New York. Referred to the Committee on Foreign Relations:

"SENATE RESOLUTION No. 62

"Senate Resolution 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 and calling upon the Governor to proclaim April 28, 1974 as Solidarity Day

"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; and

"Whereas, The State of Israel, now celebrating its 26th Independence Day, has expressed its solidarity to freedom-loving people everywhere; and

"Whereas, An attempt was made to destroy the State of Israel on October 6, 1973; and

"Whereas, The State of Israel continues to remain a symbol of the strength of the democratic system and has earned the respect and admiration of all people who champion the cause of freedom; now, therefore, be it

"Resolved, That the Senate of the State of New York express its solidarity in asking that the President and the Congress of the United States 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; and be it further

"Resolved, That the Senate of the State of New York, in the interest of justice and humanity, express its solidarity in requesting that the President and the Congress of the United States call upon the Soviet government 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 be it further

"Resolved, That the Senate of the State of New York express its solidarity, in urging that the United States government 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 the Senate of the State of New York express its solidarity with the people of Israel on its 26th Independence Day; and be it further

"Resolved, That the Honorable Malcolm Wilson, Governor of the State of New York be and he hereby is respectfully requested to issue, publish and declare to the people of the State of New York an appropriate proclamation designating April 28th, 1974 as Solidarity Day; and be it further

"Resolved, That in order to effectuate the purposes of this resolution, copies of this resolution be transmitted to the President, Vice President and Secretary of State of the United States, to the Secretary of the Senate and the Clerk of the House of Representatives of the United States, and to each member of the Congress of the United States from the State of New York."

Three resolutions of the Senate of the State of Washington. Referred to the Committee on Commerce:

"SENATE RESOLUTION 245

"Whereas, The recent federal court decision in the case of the United States Government vs. the State of Washington (U.S. District Court, Western District of Washington at Tacoma, Civil Number 9213, February 12, 1974) has overturned long standing Washington state statutes designed to conserve our fisheries resources; and

"Whereas, The application of the court decision may affect other natural resources such as water, mineral deposits, forest products, and game animals; and

"Whereas, The fishing resource has been substantially paid for by the taxes and fees of all of our citizens; and

"Whereas, The court decision leaves a void in the regulation and preservation of the natural resources of this state and potentially of all states in the Union containing lands regulated by the same or similar treaties; and

"Whereas, The decision substantially modifies long standing United States Supreme Court decisions under which the states were permitted to preserve and regulate their natural resources; and

"Whereas, In some instances fish and species of fish have been developed by this state since the signing of the treaties; and

"Whereas, One of the continuing goals of this country has been to create equality among all of its citizens as evidenced by the Thirteenth, Fourteenth, Fifteenth, and Twenty-Sixth amendments to the Constitution of the United States, Decisions of the United States Supreme Court, the Civil Rights Act of 1964, and the Equal Rights Amendment to the Constitution of the United States which has been passed by Congress and ratified by thirty-three states; and

"Whereas, The effect of the recent court decision is to establish a preferential treatment of one race over others;

"Now, therefore, be it resolved, by the Senate of the State of Washington that it respectfully request that:

(1) The United States government seek agreements with all tribes of American Indians to renegotiate existing treaties in order to achieve the goal of equal rights for all;

"(2) The Congress of the United States reaffirms the right of the several states to regulate their natural resources; and

"Be it further resolved, That until such time as the treaties are renegotiated and the right to regulate our natural resources is reaffirmed that the Senate respectfully requests that:

"(1) The Congress provide the funds necessary for the states to supervise the above mentioned federal court decision; and

"(2) The Congress provide sufficient funds to the states for the replacement of fish runs and wild life under the Block Grant Program; and

"Be it further resolved, That the Secretary of the Senate cause suitably engraved copies of this resolution to be immediately transmitted to the Honorable Richard M. Nixon, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington."

SENATE RESOLUTION 246

"Whereas, Many collisions between automobiles and railroad cars occur each year, injuring or killing many persons and causing great property damage; and

"Whereas, A disturbing proportion of cartrain accidents occur at night when automobile drivers, arriving at a crossing after the engine has passed and too late to be warned by approaching lights and whistles, proceed into the darkened middle of the passing train; and

"Whereas, Many railcars in the United States travel between states and cross into Canada in the course of commerce; and

"Now, therefore, be it resolved By the Senate of the State of Washington, That we do hereby encourage the Congress to enact legislation and the Department of Transportation to enact rules and regulations requiring the marking of the sides of railroad cars with light reflectorization material, and that uniform regulations on this subject be sought with Canada.

"Be it further resolved, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the Honorable Richard M. Nixon, President of the United

States, to the President of the Senate of the United States, the Speaker of the House of Representatives of the United States, to each member of the Congress from this State, and to the Secretary of the Department of Transportation."

"SENATE RESOLUTION 251

"Whereas, The agriculture industry is of primary importance to the nation and to the State of Washington; and

"Whereas, The export of agricultural commodities is necessary to balance the nation's international trade for purchase of petroleum and other commodities essential to the health, welfare and national defense of the United States; and

"Whereas, The utilization of anhydrous ammonia presently stored in Kenai Peninsula in Alaska is necessary for the maintenance of present agricultural production in the State of Washington; and

"Whereas, No American vessels can satisfy the provisions of the Jones Act for the shipping or the carrying of anhydrous ammonia between Kenai Point in Alaska and ports in the State of Washington; and

"Whereas, Foreign vessels are available for this trade; and

"Whereas, The Secretary of the Treasury has authority under existing conditions to waive the requirements of the federal Jones Act and allow the use of foreign vessels to carry commodities from one United States port to another; and

"Whereas, The said transportation by foreign ships would greatly alleviate the immediate problem of acquiring supplies of anhydrous ammonia; and

"Whereas, The wheat growers of the State of Washington may suffer up to $273,000,000 in reduced production due to the lack of this source of fertilizer; and

"Whereas, Such loss would adversely affect the balance of trade and the United States labor force and the economy of the State of Washington; and

"Whereas, The initial request for waiver has been denied;

"Now, therefore, be it resolved, That the national administration be advised of the importance of the agriculture industry and labor force, and reconsider the denial of said waiver and permit the use of foreign vessels in transporting anhydrous ammonia by one ship from the Kenai Peninsula in Alaska to ports in Washington for a period of one year, and that Congress be requested to adopt a limiting amendment to the Jones Act providing for the use of one foreign ship to carry anhydrous ammonia from the Kenai Peninsula in Alaska to West Coast ports in Washington for a period not to exceed one year from the enactment of this resolution: PROVIDED, That after the expiration of such one year period, the Jones Act be fully restored to its primary purpose of protecting the American economy and labor force.

"Be it further resolved, That copies of this resolution be transmitted by the Secretary of the Senate to the President of the United States Senate, to the Honorable Richard M. Nixon, President of the United States, to the members of the Washington Congressional delegation and to the United States Secretary of the Treasury."

A resolution of the Senate of the State of Washington. Referred to the Committee on Finance:

"SENATE RESOLUTION

"Whereas, The price of health care for the citizens of the United States is expected to be $100 billion between July 1st of 1973 and June 30th, 1974; and

"Whereas, Despite the increasing cost of health care it remains difficult if not impossible for the poor, the working poor, the aged, and those living in rural areas to have access to quality health care; and

Whereas, Health care benefits for the working middle class citizen vary greatly, and the accessibility of health care is not assured despite the financing mechanisms available to workers;

"Now, therefore, be it resolved, By the Senate of the State of Washington respectfully prays that the federal Congress shall proceed with all deliberate speed to establish a national health care system that shall set comprehensive health care as a right of all United States residents; that such a system shall be equitably financed by federal social insurance and general tax revenues; that the national health care system shall be reorganized to ensure an equal, efficient, and effective health care delivery system with free choice of health care provided without discrimination as to method; that adequate health manpower, services, and facilities shall be made available to the public; and

"Be it further resolved, That the national health care system should reduce reliance upon cumbersome claims paying mechanisms by providing lump sum annual or monthly payments to health delivery organizations which are close to the people, integrate health care for their members, and are able and willing to assure quality of care with freedom of choice and control costs; and

"Be it further resolved, That to guarantee accountability and to ensure responsiveness to the public, consumer participation shall be made a priority goal in the establishment, implementation, and maintenance of a national health care system; and

"Be it further resolved, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the Honorable Richard M. Nixon, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and to each member of Congress from the State of Washington."

A resolution of the Senate of the State of Washington. Referred to the Committee on Labor and Public Welfare:

"SENATE RESOLUTION 265

"Whereas, The Congress of the United States passed the Economic Opportunity Act in 1964; and

"Whereas, The Economic Opportunity Act of 1964 provided for the establishment of Community Action Agencies; and

"Whereas, The Community Action Agencies have served as vehicles for a mobilization against poverty; and

"Whereas, These funds are being used to carry out a wide range of programs in public and private institutions which have the effect of reducing poverty and meeting the needs of thousands of families; and

"Whereas, No funds for the Office of Economic Opportunity and the Community Action Programs are requested by the President in his fiscal 1975 budget; and

"Whereas, Continuation of Community Action Programs is greatly needed in the state of Washington; and

"Whereas, The state and local governments of Washington do not possess the revenues necessary to continue these programs; and

"Whereas, The Federal government should commit itself fully to the elimination of poverty;

"Now, therefore, be it resolved, By the Senate, that the President of the United States and the Congress continue to provide funds to support the Community Action Program.

"Be it further resolved, That copies of this resolution be forwarded to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate and the members of the Washington State Congressional delegation."

A resolution of the Senate of the State of Washington. Ordered to lie on the table:

"To: The President of the United States Senate, the Speaker of the House of Representatives, to the Honorable Peter Rodino, Chairman of the Judiciary Committee of the House of Representatives, and to each member of Congress from the State of Washington:

"Whereas, The most ancient and venerable of all traditions of democratic governments is that they have been governments of laws, not merely of men; and

"Whereas, All persons are equally subject to such laws, no single individual having the right to place himself above the laws; and

"Whereas, Revelations recent and continuous consistently produce evidence sufficient to establish, beyond the realm of coincidence, that high ranking federal government officials directly associated with the executive branch and the White House have engaged in extensive and deliberate illegal conduct and activities which include, but have not been limited to, burglary, obstruction of justice, perjury, extensive illegal surveillance of private individuals, and gross violation of federal and state campaign and election laws; and

"Whereas, The President himself has publicly accepted responsibility for many acts of impropriety committed by numerous individuals directly responsible to him; and

"Whereas, The President has repeatedly shown a considerable degree of reluctance to release vital information and evidence which would have provided full disclosure of the facts involved in the unfortunate progression of clandestine occurrences commonly known as "Watergate"; and

"Whereas, The President, his administration, the officials thereof, and, above all, the American people are entitled to an orderly and complete disclosure of this matter, which will hopefully restore the people's confidence in the ability of the federal government to administer its duties as provided for by the Constitution of the United States; and

"Whereas, Our founding fathers, in their wisdom, prescribed an orderly procedure for the impeachment and trial of all civil officers, including the President, under the mandate of Article II, Section 4 of the Constitution of the United States;

"Now, therefore, We respectfully pray that the Judiciary Committee of the House of Representatives of the 93rd Congress of the United States do send to the House of Representatives a resolution and articles of impeachment specifying the charges against the President as may be determined by the Committee; and

"Further, We respectfully pray that the House of Representatives of the United States vote to impeach the President in order that a full public hearing, conducted solely upon documented facts and evidence, be commenced by the Senate of the United States; and

"Be it further resolved, That copies of this letter be immediately transmitted by the Secretary of the Senate to the President of the United States Senate, the Speaker of the House of Representatives, to the Honorable Peter Rodino, Chairman of the Judiciary Committee of the House of Representatives, and to each member of Congress from the State of Washington."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

S. 3433. A bill to further the purposes of the Wilderness Act by designating certain acquired lands for inclusion in the National Wilderness Preservation System, to provide for study of certain additional lands for such inclusion, and for other purposes (Rept. No. 93-803).

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

S. 239. A bill for the relief of Loretto B. Fitzgerald (Rept. No. 93-804);

S. 506. A bill for the relief of Rosina C. Beltran (Rept. No. 93-805);

S. 1357. A bill for the relief of Mary Red Head (Rept. No. 93-806);

S. 2593. A bill for the relief of Ioan Gheorghe Iacob (Rept. No. 93-807);

S. 2594. A bill for the relief of Jan Sejna (Rept. No. 93-808);

H.R. 5759. An act for the relief of Morena Stolsmark (Rept. No. 93-809); and

H.R. 6116. An act for the relief of Gloria Go (Rept. No. 93-810).

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

S. 2220. A bill to repeal the "cooly trade" laws (Rept. No. 93-812).

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

S. 3371. A bill to amend the Forest Pest Control Act of June 25, 1947 (Rept. No. 93-813).

REPORT OF SPECIAL SUBCOMMITTEE ON CRIMINAL LAWS AND PROCEDURES—REPORT OF A COMMITTEE (S. REPT. NO. 93-811)

Mr. McCLELLAN, from the Committee on the Judiciary, submitted a report pursuant to Senate Resolution 56, section 7, 93d Congress, first session, entitled "Report on the Activities of the Special Subcommittee on Criminal Laws and Procedures of the Committee on the Judiciary, 93d Congress, First Session." which was ordered to be printed.

EXECUTIVE REPORTS OF COMMITTEES

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

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

Harry D. Berglund, of Minnesota, to be U.S. marshal for the district of Minnesota;

Ollie L. Canion, of Louisiana, to be U.S. marshal for the eastern district of Louisiana;

C. Nelson Day, of Utah, to be U.S. attorney for the district of Utah;

Jonathan L. Goldstein, of New Jersey, to be U.S. attorney for the district of New Jersey;

William W. Milligan, of Ohio, to be U.S. attorney for the southern district of Ohio;

Raymond J. Howard, of Wisconsin, to be U.S. marshal for the eastern district of Wisconsin;

Robert G. Renner, of Minnesota, to be U.S. attorney for the district of Minnesota;

Richard A. Pyle, of Oklahoma, to be U.S. attorney for the eastern district of Oklahoma;

Carl H. Slayback, of Illinois, to be U.S. marshal for the southern district of Illinois;

Eugene E. Siler, Jr., of Kentucky, to be U.S. attorney for the eastern district of Kentucky; and

Leonard E. Alderson, of Wisconsin, to be U.S. marshal for the western district of Wisconsin.

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

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

Philip W. Tone, of Illinois, to be U.S. Circuit judge for the seventh circuit.

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. PERCY:

S.J. Res. 208. A joint resolution to provide for a study to develop the ways and means of eliminating poverty among retired older Americans and to assure each American an adequate retirement income. Referred to the Committee on Labor and Public Welfare.

S. 3424. A bill to amend the Internal Revenue Code of 1954 to permit the deduction of all expenses for medical care of a taxpayer and his spouse if either of them attained the age of 65, to provide a credit or refund of social security taxes withheld from the wages of certain individuals who have attained the age of 65 and a corresponding reduction in the tax on self-employment income of such individuals, to replace the retirement income credit with a deduction for retirement income, and to increase the number of additional personal exemptions allowable to retired taxpayers. Referred to the Committee on Finance.

S. 3425. A bill to amend the Wagner-Peyser Act to provide for a strengthened employment counseling and placement program for older workers and for other purposes. Referred to the Committee on Labor and Public Welfare.

S. 3426. A bill to amend title VII of the Civil Rights Act of 1964 to provide for a program to prevent discrimination on account of age in employment, to amend the Age Discrimination in Employment Act of 1967 to provide for improved administration of that Act, and for other purposes. Referred to the Committee on the Judiciary.

S. 3427. A bill to liberalize the retirement earnings limitation under the Social Security Act;

S. 3428. A bill to provide for computation of benefits under title II of the Social Security Act based on the combined earnings of a husband and wife;

S. 3429. A bill to amend title II of the Social Security Act to eliminate the special dependency requirement for entitlement to husband's or widower's benefits, to provide for the payment of benefits to divorced husbands and surviving divorced husbands, to provide for the payment of benefits to widower fathers with minor children, and to provide that benefits based on a man's wages and self-employment income will be computed in the manner prescribed for the computation of benefits based on a woman's wages and self-employment income; and

S. 3430. A bill to provide for a permanent Advisory Council on Social Security. Referred to the Committee on Finance.

By Mr. CLARK:

S. 3431. A bill to amend the Consolidated Farm and Rural Development Act to assist young farmers to obtain real estate loans more easily under such act, and for other purposes. Referred to the Committee on Agriculture and Forestry.

By Mr. JAVITS:

S. 3432. A bill to extend the National Health Service Corps and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. AIKEN (for himself, Mr. JACKSON, Mr. ALLEN, Mr. BELLMON, Mr. BUCKLEY, Mr. CLARK, Mr. CURTIS, Mr. DOLE, Mr. DOMINICK, Mr. EASTLAND, Mr. FULBRIGHT, Mr. GRIFFIN, Mr. HELMS, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. MANSFIELD, Mr. McCLELLAN, Mr. McGOVERN, Mr. HUGH SCOTT, Mr. SPARKMAN, Mr. TALMADGE, and Mr. YOUNG):

S. 3433. A bill to further the purposes of the Wilderness Act by designating certain acquired lands for inclusion in the National Wilderness Preservation System, to provide for study of certain additional lands for such inclusion, and for other purposes. Referred to the Committee on Agriculture and Forestry.

By Mr. HUGH SCOTT:

S. 3434. A bill to establish university coal research laboratories and to establish energy resource fellowships, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. BENTSEN:

S. 3435. A bill to authorize a project for flood protection in and in the vicinity of Baytown, Tex. Referred to the Committee on Public Works.

By Mr. BROOKE:

S. 3436. A bill to increase the availability of mortgage credit for residential housing. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. NELSON:

S. 3437. A bill to raise needed revenues by gearing the income tax more closely to an individual's ability to pay, and by broadening the income tax base of individuals and corporations. Referred to the Committee on Finance.

By Mr. MONDALE (for himself, Mr. HUMPHREY, Mr. SCHWEIKER, and Mr. CLARK):

S. 3438. A bill to amend the Regional Rail Reorganization Act of 1973 in order to expand the planning and rail service continuation subsidy authority under such Act, and for other purposes. Referred to the Committee on Commerce.

By Mr. NELSON:

S. 3439. A bill to be cited as "The National Fuel Economy Testing Act of 1974". Referred to the Committee on Commerce.

By Mr. MATHIAS (for himself, Mr. MANSFIELD, Mr. ERVIN, Mr. JAVITS, Mr. HART, and Mr. PEARSON):

S. 3440. A bill to require in all cases court orders for the interception of communications by electronic and other devices, for the entering of any residence, for the opening of any mail, for the inspection or procurement of certain records, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. MONTOYA (for himself, Mr. BENTSEN, Mr. CRANSTON, Mr. FULBRIGHT, Mr. KENNEDY, Mr. MONDALE, and Mr. TUNNEY):

S.J. Res. 209. Joint resolution to authorize and request the President to issue a proclamation designating May 12-18, 1974, as "National Migrant Education Week". Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PERCY:

S.J. Res. 208. A joint resolution to provide for a study to develop the ways and means of eliminating poverty among retired older Americans and to assure each American an adequate retirement income. Referred to the Committee on Labor and Public Welfare.

S. 3424. A bill to amend the Internal Revenue Code of 1954 to permit the deduction of all expenses for medical care of a taxpayer and his spouse if either of them attained the age of 65, to provide a credit or refund of social security taxes withheld from the wages of certain individuals who have attained the age of 65 and a corresponding reduction in the tax on self-employment income of such individuals, to replace the retirement income credit with a deduction for retirement income, and to increase the number of additional personal exemptions allowable to retired taxpayers. Referred to the Committee on Finance.

S. 3425. A bill to amend the Wagner-Peyser Act to provide for a strengthened employment counseling and placement program for older workers and for other purposes. Referred to the Committee on Labor and Public Welfare.

S. 3426. A bill to amend title VII of the Civil Rights Act of 1964 to provide for a program to prevent discrimination on account of age in employment, to amend the Age Discrimination in Employment Act of 1967 to provide for improved administration of that Act, and for other purposes. Referred to the Committee on the Judiciary.

S. 3427. A bill to liberalize the retirement earnings limitation under the Social Security Act;

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S. 3429. A bill to amend title II of the Social Security Act to eliminate the special dependency requirement for entitlement to husband's or widower's benefits, to provide for the payment of benefits to divorced husbands and surviving divorced husbands, to provide for the payment of benefits to widower fathers with minor children, and to provide that benefits based on a man's wages and self-employment income will be computed in the manner prescribed for the computation of benefits based on a woman's wages and self-employment income; and

S. 3430. A bill to provide for a permanent Advisory Council on Social Security. Referred to the Committee on Finance.

Mr. PERCY. Mr. President, the time has come for the Congress to set as a goal for the United States the elimination of poverty among our senior citizens. And the time has come for the Congress to take some signficant steps toward achieving this goal.

I am introducing today a comprehensive set of proposals designed to promote income security for our 20 million elderly citizens. What I want—and what I believe all Americans want—is to determine income security for our 20 million elderly persons who must live on an income below the poverty line and when no retired person must accept a drastic reduction in his standard of living merely because he has reached retirement age.

Let there be no mistake: By introducing this legislation I am not suggesting that the Treasury of the United States assume the responsibility of issuing monthly checks to every retired person in order to maintain his income at preretirement levels.

I am suggesting that more can be done to facilitate an individual person's effort to obtain a decent retirement income or to take care during his productive years to provide for his own financial well-being during retirement.

An individual must plan for his retirement and not rely on his government to fulfill his every need. It is tragic that many of us do not—or cannot—prepare for the sudden loss of a weekly or monthly salary or wages that comes with retirement. Few of us do anything more than pay our social security taxes. But social security benefits were not designed to be a person's sole means of support during retirement.

And what is the result of this lack of foresight on the part of the average American?

Despite the progress of the last several years, lack of an adequate income is still the No. 1 problem facing the aged.

In 1970, the median income of families headed by a person 65 or older was $4,981, fully $4,600 below the median income of all families.

In 1972, the median income of men 65 and over was $3,746; the median income of women was $1,899.

Over 3.7 million elderly—18.6 percent of the population aged 65 and over—have incomes which fall below the official poverty line.

Perhaps even more distressing than these income statistics is that retirement in fact results in a sudden and sharp reduction in income for millions of older persons. At the present time, public programs of old-age benefits together with private pensions or individual savings programs seldom yield a retirement income which replaces a significant proportion of preretirement take-home pay.

An economist who formerly worked for the Bureau of Labor Statistics wrote in 1972:

> When both public and the private retirement systems are considered together, there is wide diversity in the extent to which an individual's retirement benefits replace previous earnings. If he is married, able to work until 65 years old, and in addition has had extended employment under a private pension plan, he is likely to find his combined benefits will replace at least 60 percent (and perhaps as much as 75 percent) of his previous earnings. If on the other hand, he is single, applies for Social Security retirement benefits at 62, and is not entitled to any private benefits, his replacement rate may be as low as 20–25 percent.

Think of it. Some retired persons may actually have to get along on less than one-quarter of their preretirement income. This does not have to be if we can provide suitable incentives for a person to save for retirement while he is young, if we can encourage continuous employment for those older persons who want to work, if we can remove some of the remaining inequities in the Social Security Act, and if we can provide some relief from Federal income taxes for the elderly.

I think it is reasonable for the Congress to establish an interim goal of assuring retired persons an income which is above the poverty line and not less than 50 percent of their income in the years before retirement. This goal is very reasonable, according to Social Security Administration estimates.

If one takes into account the social security increases of 1970 and 1972, but not the increases of 1974, the Social Security Administration estimates that the median retirement income for men is 42 to 43 percent of preretirement income and 49 to 50 percent for women.

I also think it is reasonable for the Congress to establish a longer range goal of finding ways of assuring retired persons an income which will enable them to retain their preretirement command of goods and services. This level of income has been calculated by one expert to be about 70 percent of income before retirement for higher income persons and up to 80 percent at lower income levels.

Mr. President, the golden years should not be years of poverty or years of hardship and deprivation. This can be avoided through proper planning for retirement by every individual and by society as a whole. After years of contributing to society, the elderly should not find society turning its back on them.

In order to promote public debate about the issues involved in achieving income security for the elderly, I am today introducing eight bills. Some closely resemble pending legislation but are different enough to warrant separate introduction. I do not anticipate that all eight bills will be enacted in their present form, but I do hope they will act as a catalyst for congressional action on this important subject.

I shall now discuss each of my bills in turn. I have arranged my discussion in accordance with the priority I attach to the consideration of the bills.

I am proposing today the creation of a National Commission on Retirement Income, to be charged with the mission of suggesting ways in which we may achieve our goals of income security for the elderly through maximum utilization of private pension, annuity, and individual savings programs in combination with social security benefits and, if necessary, supplemental security income.

I am also introducing a bill to provide tax relief to the elderly. My bill repeals the retirement tax credit, an overly complex and basically outdated method of reducing the Federal tax burden on the elderly. In place of the tax credit—an option utilized, by the way, by perhaps no more than 50 percent of the eligible population—I propose a deduction from

taxable retirement income of an amount up to the average amount of social security benefits payable to beneficiaries during that year. An elderly taxpayer subtracts the amount of social security benefits he receives from this average amount to determine the amount by which he may reduce his taxable income.

In addition my tax relief bill provides for a triple exemption rather than a double exemption for the elderly; full deduction of medical expenses; and a tax credit for the amount of FICA—payroll—taxes paid by wage earners age 65 and over.

Older Americans do not want charity. They do not expect handouts. That is why I am proposing two bills designed to assure greater income security through expanded employment opportunities for older workers.

One of these directs the U.S. Employment Service to give special emphasis to employment counseling and placement services for older workers. Besides directing the Employment Service to undertake an action program to identify job opportunities for older workers, my bill also requires a specialist on employment of older workers in all State offices of the Employment Service.

The second of these bills amends the Civil Rights Act of 1964 to prohibit discrimination in employment on the basis of age. It also extends the coverage of the Age Discrimination in Employment Act and directs the Secretary of Labor to cooperate with the Equal Employment Opportunity Commission in eliminating age discrimination in employment. Finally, my bill directs the Secretary of Labor to require affirmative action by recipients of Federal grants and contracts to hire older workers.

I am also proposing a series of amendments to the Social Security Act aimed at eliminating some of the inequities which remain in the law.

First, I propose that the earnings limitation or retirement test be phased out gradually over the next 10 years. This provision of the law—a provision, incidentally, which dates from 1954, not from 1935—is perhaps the greatest obstacle to an adequate income for many thousands of retired persons. Older persons who want to work should be permitted to earn as much as they can or want.

Second, I propose that the earnings records of husbands and wives be combined for the purpose of the calculation of social security benefits. This will eliminate the situation in which families with identical incomes often receive widely differing monthly benefits.

Third, I propose that the Social Security Act be amended to equalize the treatment of men and women. Most of the changes I am proposing will benefit men rather than women. Unfortunately these minor changes in the law will not directly attack the greatest discriminating feature reflected in the law: Women receive almost uniformly low benefits because they hold almost uniformly low paying jobs.

Finally, I propose a permanent Advisory Council on Social Security. A majority of the Council will be persons who are receiving social security benefits. They will advise the Secretary of Health, Education, and Welfare on ways to improve the operation of the system and, hopefully, benefits available under the law.

Mr. President, I do not pretend to have all the answers. I do not pretend to be able to solve the income problems of the elderly overnight. But I believe we must set ourselves a specific goal and begin to analyze the alternative ways of achieving that goal.

I am putting forward today my proposals for public debate and review. I urge my colleagues who have not already addressed the problem of income security for the elderly to do the same. In that way we may hasten the day when the golden years become a reality rather than an illusion.

I ask unanimous consent that an outline of my legislative program be printed in the RECORD together with the text of the joint resolution and bills I am proposing.

There being no objection, the outline and the texts of the joint resolution and bills were ordered to be printed in the RECORD, as follows:

SENATOR PERCY'S LEGISLATIVE PROGRAM TO PROMOTE INCOME SECURITY FOR THE ELDERLY

1. A Joint Resolution known as the Retirement Income Improvement Act

a. Declares it to be the policy of the United States to eliminate poverty among older Americans and to seek ways of assuring that retirement income—from all sources—will have a purchasing power substantially equal to the individual's income immediately prior to retirement.

b. Establishes a National Commission on Retirement Income to be composed of seven members at least two of whom shall be Social Security beneficiaries or Supplementary Security Income recipients.

c. Directs the Commission to report on ways and means to help assure retired persons an income which (1) exceeds the poverty line, (2) equals not less than 50 percent of pre-retirement income, and (3) provides purchasing power substantially equal to that which the individual enjoyed in the years immediately prior to retirement.

d. Directs the Commission to report on ways in which individual retirement savings programs and private pension programs either alone or in conjunction with Federal programs can assure adequate retirement income as set forth in the previous paragraph.

e. Directs the Commission to develop an investment policy which maximizes the potential yield from the Social Security Trust Fund and minimizes the potential of depreciation in the value of the Trust Fund.

f. Directs the Commission to report within one year of the adoption of the Resolution.

2. A bill known as the Older Americans Tax Relief Act

a. Restores full deductibility of medical expenses for persons 65 years of age and over.

b. Provides a tax credit on Federal Income Tax returns for FICA (Social Security) taxes paid by workers age 65 and over.

c. Provides a triple rather than a double personal exemption for persons aged 65 or over.

d. Repeals the retirement tax credit provisions of the Internal Revenue Code and substitutes a flat deduction from taxable income of an amount of retirement income equal to the average amount of Social Security benefits paid in a given year *minus* the amount of non-taxable benefits received in that year.

3. A bill known as the Older Workers Employment Assistance Act—

a. Directs the United States Employment Service to give special emphasis to employment counseling and placement services for older workers.

b. Directs the United States Employment Service to develop and implement a special action program designed to identify employment opportunities for older workers and to recruit and place older workers in these positions.

c. Requires a specialist on employment of older workers in all state offices of the United States Employment Service.

4. A bill to strengthen efforts to end age discrimination in employment—

a. Amends the Civil Rights Act of 1964 to prohibit discrimination in employment on the basis of age as well as on the basis of race, color, ethnicity, and sex.

b. Directs the Equal Employment Opportunity Commission to cooperate with the Secretary of Labor and other public officials in eliminating age discrimination in public and private employment.

c. Requires affirmative action to hire older workers by recipients of Federal grants and contracts.

d. Extends the coverage of the Age Discrimination in Employment Act to Federal, state and local governmental employees and to employers of 20 or more employees (rather than 25) and provides more money to carry out the provisions of the law.

5. A bill to phase out the earnings limitation or retirement test over the next ten years—

a. Lowers the age of applicability from 72 to 70 immediately.

b. Provides for new limits on earned income as follows:

$3000 as of January 1, 1976
$3600 as of January 1, 1978
$4800 as of January 1, 1980
no limit after January 1, 1984

6. A bill to improve Social Security benefits for families in which both husband and wife work—

a. Provides for the earnings of husband and wife in each year to be combined up to the maximum which may be credited for the year.

b. Provides for both husband and wife to receive a benefit (before any reduction due to early retirement) equal to 75 percent of the age-65 benefit based on the combined earnings.

c. Provides for widows to receive a benefit based on the combined earnings.

d. Provides for the earnings records of the couple to be separated on divorce.

e. Provides for benefits to be payable to the couple only; that is, benefits payable to surviving dependents other than the spouse will be payable as provided for under present law.

7. A bill to provide for equal treatment of men and women under Social Security

a. Eliminates the special dependency requirement as a prerequisite for men to receive husband's or widower's benefits.

b. Provides for the payment of benefits to divorced husbands and surviving divorced husbands on the same terms as apply to divorced wives.

c. Provides for the payment of benefits to widower fathers with minor children on the basis of the deceased wife's earning record.

d. Provides for equal treatment of all men and women, including those born before 1913, with regard to the number of quarters of coverage needed for insured status and

computation of average earnings on which benefits are based.

8. A bill to establish a permanent Advisory Council on Social Security

a. Directs the Secretary of Health, Education and Welfare to appoint a permanent Advisory Council of 11 members to advise him on the status of the Trust Funds and on ways of improving the operation of the programs.

b. Requires at least four meetings a year and annual reports to the President and the Congress.

c. Requires that a majority of the members of the Council be entitled to benefits under the Social Security Act.

S.J. RES. 208

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That this joint resolution may be cited as the "Retirement Income Improvement Act".

DECLARATION OF POLICY

SEC. 2. The Congress hereby declares it to be the policy of the United States to eliminate poverty among older Americans and to seek ways of assuring that the retirement income of such Americans to the extent practicable will equal in purchasing power, their income immediately prior to retirement.

DEFINITIONS

SEC. 3. For the purpose of this joint resolution—

(1) "Commission" means the National Commission on Retirement Income; and

(2) "older Americans" means any individual who attains 60 years of age or older.

COMMISSION ESTABLISHED

SEC. 4. (a) There is established a Commission to be known as the "National Commission on Retirement Income".

(b) The Commission shall be composed of seven members appointed by the President from among individuals of the public, at least two of whom are individuals whose income is derived in substantial portion from Social Security benefits paid under title II of the Social Security Act or Supplemental Security Benefits paid under title XVI of that Act.

(c) At no time shall more than four members of the Commission be individuals who are members of the same political party.

(d) Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made, and subject to the same limitations with respect to party affiliations as the original appointment was made.

(e) Four members shall constitute a quorum, but a lesser number may conduct hearings. The Chairman shall be selected by the members from among the members.

FUNCTIONS OF THE COMMISSION

SEC. 5. (a) The Commission shall make a full and complete study and investigation of the ways and means—

(1) to eliminate poverty among older Americans;

(2) to assure all retired older Americans a retirement income greater than the poverty line income established pursuant to section 625 of the Economic Opportunity Act of 1964;

(3) to assure at the earliest practicable time to all retired individuals a total retirement income that is in excess of the poverty line income established pursuant to section 625 of the Economic Opportunity Act of 1964 and not less than an amount equal to 50 percent of the income of such individuals in the years immediately preceding their retirement;

(4) to establish reasonable and appropriate retirement income levels designed to protect retired individuals against excessive diminution of purchasing power after their retirement in order to eliminate the desirability or necessity for Federal programs to supplement retirement income; and

(5) to assure all retired individuals access to a retirement income from public and private sources which ultimately will be substantially equal in purchasing power to the income of such individuals in the years immediately prior to their retirement to protect such individuals against a drastic reduction in purchasing power upon retirement;

(b) In order to carry out its functions under subsection (a) of this section, the Commission shall—

(1) analyze the extent to which private pension programs and individual retirement savings programs either alone or in conjunction with social security benefits under titles II and XVI of the Social Security Act are adequate to assure the desirable level of retirement income; and

(2) analyze and develop an investment policy designed to maximize the yield of funds invested from the Federal Old-age Insurance and Survivors Insurance Trust Fund established under section 201 of the Social Security Act, and minimize any chance of depreciation in the value of such Fund.

(c) The Commission shall submit to the President and to the Congress such interim reports as it deems advisable and not later than one year after the effective date of this joint resolution, submit a final report of its study and investigation together with such recommendations, including recommendations for additional legislation, as it deems advisable.

(d) The Commission shall cease to exist 30 days after the submission of its final report.

POWERS AND ADMINISTRATIVE PROVISIONS

SEC. 6. (a) The Commission or, on the authorization of the Commission, any subcommittee thereof, may, for the purpose of carrying out the provisions of this joint resolution, hold such hearings as may be required for the performance of its functions under this joint resolution, administer oaths for the purpose of taking evidence in any such hearings and issue subpenas to compel witnesses to appear and testify and to compel the production of documentary evidence in any such hearing. Any member authorized by the Commission may administer oaths or affirmations to witnesses appearing before the Commission, or any subcommittee thereof.

(b) Each department, agency, and instrumentality of the executive branch of the government, including independent agencies, is authorized and directed to furnish to the Commission, upon request made by the Chairman or Vice Chairman, such information as the Commission deems necessary to carry out its functions under this joint resolution.

(c) Subject to such rules and regulations as may be adopted by the Commission, the Chairman, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, shall have the power—

(1) to appoint and fix the compensation of such staff personnel as he deems necessary, including an executive director who may be compensated at a rate not in excess of that provided for level V of the Executive Schedule in title 5, United States Code, and

(2) to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

(d)(1) Subpenas issued pursuant to subsection (a) of this section shall bear the signature of the Chairman of the Commission and may be served by any person designated by the Chairman of the Commission for that purpose.

(2) The provisions of section 1821 of title 28, United States Code, shall apply to witnesses summoned to appear at any such hearing. The per diem and mileage allowances of witnesses so summoned under authority conferred by this section shall be paid from funds appropriated to the Commission.

(3) Any person who willfully neglects or refuses to appear, or refuses to qualify as a witness or to testify, or to produce any evidence in obedience to any subpena duly issued under authority of this section shall be fined not more than $500, or imprisoned for not more than six months, or both. Upon the certification by the Chairman of the Commission of the facts concerning any such willful disobedience by any person to the United States Attorney for any judicial district in which such person resides or is found, such Attorney shall proceed by information for the prosecution of such person for such offense.

COMPENSATION OF MEMBERS

SEC. 7. Members of the Commission shall receive compensation at the rate of $100.00 a day, including traveltime, for each day they are engaged in the performance of their duties as members of the Commission, and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Commission.

APPROPRIATIONS AUTHORIZED

SEC. 8. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this joint resolution.

S. 3424

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 213(a) of the Internal Revenue Code of 1954 (relating to allowance of deduction for medical, dental, etc., expenses) is amended to read as follows:

"(a) Allowance of Deduction.—There shall be allowed as a deduction the following amounts, not compensated for by insurance or otherwise:

"(1) If neither the taxpayer nor his spouse has attained the age of 65 before the close of the taxable year—

"(A) the amount by which the amount of expenses paid during the taxable year (reduced by any amount deductible under subparagraph (B)) for medical care of the taxpayer, his spouse, and dependents (as defined in section 152) exceeds 3 percent of the adjusted gross income, and

"(B) an amount (not in excess of $150) equal to one-half of the expenses paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents.

"(2) If either the taxpayer or his spouse has attained the age of 65 before the close of the taxable year—

"(A) the amount of the expenses paid during the taxable year for medical care of the taxpayer and his spouse,

"(B) the amount by which the amount of expenses paid during the taxable year (reduced by any amount deductible under subparagraph (C)) for medical care of dependents exceeds 3 percent of the adjusted gross income,

"(C) an amount (not in excess of $150) equal to one-half of the expenses paid during the taxable year for insurance which constitutes medical care of dependents."

(b) Section 213(b) of such Code (relating to limitation with respect to medicine and drugs) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to amounts paid for the care of the taxpayer and his spouse, if either of them has attained the age of 65 before the close of the taxable year.".

(c) The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1973.

SEC. 2. (a)(1) Section 6413 of the Internal Revenue Code of 1954 (relating to special rules applicable to certain employment taxes) is amended by redesignating subsection (d) as (e), and by inserting after subsection (c) the following new subsection:

"(d) SPECIAL REFUNDS FOR CERTAIN INDIVIDUALS WHO HAVE ATTAINED AGE 65.—In the case of an employee who receives wages in or after the month in which he attains age 65, if the sum of—

"(1) the wages received by him during the taxable year and in or after the month in which he attains age 65, and

"(2) his net earnings from self-employment for the taxable year,

does not exceed $200 multiplied by the number of months in the taxable year in or after the month in which he attains age 65, such employee shall be entitled (subject to the provisions of section 31(b)) to a credit or refund of the tax imposed by section 3101 and deducted from the wages paid to such employee during such month (whether or not paid to the Secretary or his delegate)."

(2) Section 31(b)(1) of such Code (relating to credit for special refunds of social security tax) is amended by inserting "or section 6413(d)" after "section 6413(c)".

(3) Section 6413(c) of such Code (relating to special refunds) is amended by inserting after "during such year" in paragraph (1)(E) "(other than wages taken into account under subsection (d), if the employee is entitled to a special refund under such subsection with respect to such wages)".

(b) Section 1401 of such Code (relating to rate of tax on self-employment income) is amended—

(1) by inserting "(other than an individual to whom subsection (c) applies)" after "every individual" in subsections (a) and (b), and

(2) by adding at the end thereof the following new subsection:

"(c) CERTAIN INDIVIDUALS WHO HAVE ATTAINED AGE 65.—In the case of an individual—

"(1) who has attained the age of 65 before the close of the taxable year, and

"(2) whose net earnings from self-employment for the taxable year, when added to the wages (as defined in section 1402(b)) received by him during such year and in or after the month in which he attains age 65, does not exceed $200 multiplied by the number of months in such year

there is hereby imposed (in lieu of the taxes imposed by subsections (a) and (b) on the self-employment income of such individual taxes equal to one-third of the taxes which (but for this subsection) would be imposed on the self-employment income of such individual under subsections (a) and (b)."

(c)(1) Section 201(g)(2) of the Social Security Act is amended by inserting "or 6413(d)" after "section 6413(c)" in the first sentence.

(2) Section 1817(f)(1) of such Act is amended by inserting "or 6413(d)" after "section 6413(c)."

(d) The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1973.

SEC. 3. (a) Part VII of chapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 219 as 220, and by inserting after section 218 the following new section:

"SEC. 219. RETIREMENT INCOME.

"(a) Allowance of Deduction.—In the case of an individual there is allowed as a deduction the amount of retirement income received by that individual during the taxable year.

"(b) Limitations.—

"(1) Individuals under 65 years of age.—In the case of an individual who has not attained the age of 65 before the close of the taxable year, no amount of retirement income shall be taken into account for purposes of subsection (a) other than public retirement system income.

"(2) Individuals 65 years of age or older.—

"(A) In general.—In the case of an individual who at the close of the taxable year is 65 years of age or older, the amount of retirement income taken into account for purposes of subsection (a) shall not exceed—

"(i) an amount (determined by the Secretary or his delegate on the basis of information provided by the Secretary of Health, Education, and Welfare) equal to the average annual entitlement to old-age insurance benefits under title II of the Social Security Act of individuals who, for each of the months in such year, were entitled to such a benefit, reduced by

"(ii) the sum of the amounts received by such individual, during the taxable year, as old-age benefits payable under such title or as pension or annuity payable under the Railroad Retirement Act of 1935 or the Railroad Retirement Act of 1937.

"(B) Joint returns.—In the case of a joint return of tax under section 6013 filed by a taxpayer and his spouse, both of whom are, as of the close of the taxable year, 65 years of age or older, the amount of retirement income taken into account for purposes of subsection (a) shall not exceed—

"(i) an amount (determined by the Secretary or his delegate on the basis of information provided by the Secretary of Health, Education, and Welfare) equal to the sum of—

"(I) the average annual entitlement to old-age insurance benefits under title II of the Social Security Act of individuals who, for each of the months in such year, were entitled to such a benefit and whose wives were entitled, for each of such months, to a wife's insurance benefit payable under such title, and

"(II) the average annual entitlement to wife's insurance benefits under such title of wives who, for each of the months in such year, were entitled to such a benefit reduced by—

"(III) the sum of the amounts received by the taxpayer (or his spouse) during the taxable year as old-age or wife's insurance benefits payable under such title, or as pension or annuity under the Railroad Retirement Act of 1935 or the Railroad Retirement Act of 1937.

"(3) Earned income.—The amount of the deduction allowable under this section (but for this paragraph) for any taxable year shall be reduced by any amount received by the taxpayer during the taxable year as compensation for personal services rendered by him during the taxable year.

"(c) Definitions.—

"(1) Retirement income.—The term 'retirement income' means income from pensions and annuities, interest, dividends, and gross rents to the extent included in gross income but only to the extent such income does not represent compensation for personal services rendered during the taxable year.

"(2) Public Retirement System Income.—The term 'public retirement system income' means income from a pension, annuity, retirement, or similar fund or system established by the United States, a State, a territory or possession of the United States, or any political subdivision of any of the foregoing, to the extent that such income does not represent compensation for personal services rendered during the taxable year.".

(b)(1) The table of sections for such part is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 219. Retirement income.
"Sec. 220. Cross references.".

(2) Section 62 of such Code (relating to definition of adjusted gross income) is amended by inserting after paragraph 9 the following:

"(10) Retirement income.—The deduction allowed by section 219.".

(3) Section 37 of such Code (relating to retirement income credit) is repealed.

(c) The amendments made by this section shall apply to taxable years ending after the date of enactment of this Act.

SEC. 4. (a) Section 151(c) of such Code (relating to allowance of additional exemption for taxpayer or spouse aged 65 or more) is amended to read as follows:

"(c) Additional exemptions for taxpayer or spouse aged 62 or more.—

"(1) For taxpayer.—An additional exemption of $750 for the taxpayer if he has attained the age of 62 before the close of his taxable year, or of $1,500 if he has attained the age of 65 before the close of his taxable year.

"(2) For spouse.—An additional exemption of $750 for the spouse of the taxpayer if the spouse has attained the age of 62 before the close of such taxable year, or of $1,500 if the spouse has attained the age of 65 before the close of such taxable year. The provisions of this paragraph shall not apply if a joint return of tax is made by the taxpayer and his spouse under section 6013 or if, for the calendar year in which the taxable year of the taxpayer begins, the spouse has gross income or is the dependent of another taxpayer.

"(3) Limitation.—The provisions of this subsection shall not apply for any taxable year of a taxpayer who has not attained the age of 65 before the close of that taxable year if he receives compensation during that year for personal services rendered during that year.".

(b) The amendment made by this section shall apply to taxable years beginning after December 31, 1973.

S. 3425

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 "Older Workers Employment Assistance Act".

SEC. 2. (a) Subsection (a) of section 3 of the Act entitled "An Act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes", approved June 6, 1933, as amended, is amended by—

(1) inserting "(1)" after the subsection designation;

(2) inserting after "handicapped persons" in such subsection the following: "and for older workers"; and

(3) adding at the end thereof the following:

"(2) It shall be the further duty of the bureau to carry out through the employment offices, and where appropriate through agreements with other public agencies and non-

profit private organizations, a special action program designed to identify employment opportunities for older workers and to provide improved recruitment and placement services for such workers."

(b) Subsection (b) of section 3 of such Act is amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following:

"(2) For the purpose of this section and section 8 of this Act, the term "older worker" means any individual who is legally qualified to engage in a gainful occupation and who is 40 years of age or older."

SEC. 3. The second sentence of section 8 of the Act entitled "An Act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes", approved June 6, 1933, as amended, is amended by—

(1) inserting after "opportunities" the following: "for older workers as well as"; and

(2) inserting before the period the following: "for older workers, and one person whose duty will be the effectuation of such purposes for handicapped persons".

S. 3426

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 "Age Discrimination in Employment Amendments of 1974".

SEC. 2. (a) Section 702 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–1) is amended by inserting "(a)" immediately after the section designation and by adding at the end thereof the following new subsection:

"(b) The provisions of this title shall apply to individuals, with respect to discrimination on account of age as an unfair employment practice, who are at least 40 years of age but less than 65 years of age."

(b) The section heading of such section 702 is amended to read as follows:

"EXEMPTIONS AND APPLICATION"

SEC. 3. (a)(1) Section 703(a)(1) of the Civil Rights Act of 1964 is amended by inserting immediately after the word "sex" a comma and the word "age".

(2) Section 703(a)(2) of such Act is amended by inserting immediately after the word "sex" a comma and the word "age".

(b) Section 703(b) of such Act is amended by inserting immediately after the word "sex" a comma and the word "age".

(c)(1) Section 703(c)(1) of such Act is amended by inserting immediately after the word "sex" a comma and the word "age".

(2) Section 703(c)(2) of such Act is amended by inserting immediately after the word "sex" a comma and the word "age".

(d) Section 703(d) of such Act is amended by inserting immediately after the word "sex" a comma and the word "age".

(e) Section 703(e) of such Act is amended by inserting immediately after the word "sex" a comma and the word "age".

(f) Section 703(h) of such Act is amended by inserting after the word "sex" both times it appears in such subsection a comma and the word "age".

(g) Section 703(j) of such Act is amended by inserting after the word "sex" the first two times it appears in such subsection a comma and the word "age".

(h) The section heading of section 703 of such Act is amended to read as follows:

"DISCRIMINATION BECAUSE OF RACE, COLOR, RELIGION, SEX, AGE, OR NATIONAL ORIGIN"

(i) Section 704(b) of such Act is amended by inserting after the word "sex" both times it appears in such subsection a comma and the word "age".

(j) Section 706(g) of such Act is amended by inserting after the word "sex" a comma and the word "age".

SEC. 4. Title VII of the Civil Rights Act of 1964 is amended by adding at the end thereof the following new section:

"SPECIAL PROVISIONS RELATING TO DISCRIMINATION ON ACCOUNT OF AGE

"SEC. 719. (a)(1) The Secretary of Labor, after consultation with the Commission, shall establish and carry out a program to prevent discrimination on account of age in employment by Government contractors and subcontractors similar to the nondiscrimination program carried out by the Secretary of Labor through the Office of Federal Contract Compliance.

"(2) The Secretary of Labor, after consultation with the Commission, shall establish and carry out a program to prevent discrimination on account of age in Federally-assisted construction contracts similar to the nondiscrimination program carried out by the Secretary of Labor through the Office of Federal Contract Compliance.

"(3) The Secretary of Labor, after consultation with the Commission, shall establish and carry out a program to prevent discrimination on account of age in employment by any other recipients of Federal assistance.

"(b) In carrying out the provisions of this section the Secretary of Labor shall require, of contractors, subcontractors, and other recipients of Federal assistance, an affirmative action plan designed to prevent discrimination on account of age in employment.

"(c) For the purpose of paragraph (3) of subsection (a) of this section, the term 'Federal assistance' includes any Federal financial assistance to any program or activity by way of grant, loan, or contract other than a contract insurance or guarantee.".

SEC. 5. (a) The first sentence of section 11(b) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 630 (b)) is amended by striking out "twenty-five" and inserting in lieu thereof "twenty".

(b) The second sentence of section 11(b) of such Act is amended to read as follows: "The term also means (1) any agent of such a person, and (2) a State or political subdivision of a State and any agency or instrumentality of a State or a political subdivision of a State, and any interstate agency, but such term does not include the United States, or a corporation wholly owned by the Government of the United States.".

(c) Section 11(c) of such Act is amended by striking out ", or an agency of a State or political subdivision of a State, except that such term shall include the United States Employment Service and the system of State and local employment services receiving Federal assistance".

(d) Section 11(f) of such Act is amended to read as follows:

"(f) The term 'employee' means an individual employed by any employer except that the term 'employee' does not include any person elected to public office in any State or political subdivision of any State by the qualified voters thereof, or any person chosen by such officer to be on such officer's personal staff, or an appointee on the policy making level or an immediate advisor with respect to the exercise of the constitutional or legal powers of the office. The exemption set forth in the preceding sentence does not include employees subject to the civil service laws of a State government, governmental agency, or political subdivision.".

(e) Section 16 of such Act is amended by striking the figure "$3,000,000", and inserting in lieu thereof "$5,000,000".

Sec. 6. The Age Discrimination in Employment Act of 1967 is amended by redesignating sections 15 and 16, and all references thereto, as section 16 and section 17, respectively, and by adding immediately after section 14 the following new section: "NONDISCRIMINATION ON ACCOUNT OF AGE IN FEDERAL GOVERNMENT EMPLOYMENT

"SEC. 15. (a) All personnel actions affecting employees or applicants for employment (except with regard to aliens employed outside the limits of the United States) in military departments as defined in section 102 of title 5, United States Code, in executive agencies as defined in section 105 of title 5, United States Code (including employees and applicants for employment who are paid from nonappropriated funds) in the United States Postal Service and the Postal Rate Commission, in those units in the government of the District of Columbia having positions in the competitive service, and in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and in the Library of Congress shall be made free from any discrimination based on age.

"(b) Except as otherwise provided in this subsection, the Civil Service Commission is authorized to enforce the provisions of subsection (a) through appropriate remedies, including reinstatement or hiring of employees with or without backpay, as will effectuate the policies of this section. The Civil Service Commission shall issue such rules, regulations, orders and instructions as it deems necessary and appropriate to carry out its responsibilities under this section. The Civil Service Commission shall—

"(1) be responsible for the review and evaluation of the operation of all agency programs designed to carry out the policy of this section, periodically obtaining and publishing (on at least a semiannual basis) progress reports from each such department, agency, or unit;

"(2) consult with and solicit the recommendations of interested individuals, groups, and organizations relating to nondiscrimination in employment on account of age; and

"(3) provide for the acceptance and processing of complaints of discrimination in Federal employment on account of age.

The head of each such department, agency, or unit shall comply with such rules, regulations, orders, and instructions of the Civil Service Commission which shall include a provision that an employee or applicant for employment shall be notified of any final action taken on any complaint of discrimination filed by him thereunder. Reasonable exemptions to the provisions of this section may be established by the Commission but only when the Commission has established a maximum age requirement on the basis of a determination that age is a bona fide occupational qualification necessary to the performance of the duties of the position. With respect to employment in the Library of Congress, authorities granted in this subsection to the Civil Service Commission shall be exercised by the Librarian of Congress.

"(c) Any persons aggrieved may bring a civil action in any Federal district court of competent jurisdiction for such legal or equitable relief as will effectuate the purpose of this Act.

"(d) When the individuals has not filed a complaint concerning age discrimination with the Commission, no civil action may be commenced by any individual under this section until the individual has given the Commission not less than thirty days' notice of intent to file such action. Such notice shall be filed within one hundred and eighty days after the alleged unlawful practice occurred. Upon receiving a notice of intent to sue, the Commission shall promptly notify all persons named therein as prospective defendants in the action and take any appropriate ac-

tion to assure the elimination of any unlawful practice.

"(e) Nothing contained in this section shall relieve any Government agency or official of the responsibility to assure nondiscrimination on account of age in employment as required under any provision of Federal law.".

S. 3427

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 203(f)(3) of the Social Security Act is amended by striking out "age 72" and inserting in lieu thereof "age 70".

(b) Section 203(f)(8) of such Act is amended to read as follows:

"(8) The exempt amount for each month of a taxable year shall be—

"(A) for the taxable years beginning January 1, 1976 and January 1, 1977—$250,

"(B) for the taxable years beginning January 1, 1978 and January 1, 1979—$300,

"(C) for the taxable years beginning January 1, 1980, through the taxable year beginning January 1983—$400, and

"(D) for the taxable year beginning January 1, 1984, and each taxable year thereafter—all amounts shall be exempt."

S. 3428

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Section 202(a) of the Social Security Act is amended to read as follows:

"(a)(1) Every individual who—

"(A) is a fully insured individual (as defined in section 214(a)),

"(B) has attained age 62, and

"(C) has filed application for old-age insurance benefits or was entitled to disability insurance benefits for the month preceding the month in which he attained age 65,

shall be entitled to an old-age insurance benefit for each month beginning with the first month in which such individual becomes so entitled to such insurance benefits and ending with the month preceding the month in which he dies.

"(2) Except as provided in subsection (q) and subsection (w), such individual's old-age insurance benefit for any month shall be equal to his primary insurance amount (as determined under section 215(a)) for such month, or as determined under paragraph (3) of this subsection if such paragraph is applicable and its application increases the total of the monthly insurance benefits to which such individual and his spouse are entitled for the month in which the provisions of paragraph (3) are met. If the primary insurance amount of an individual or his spouse for any month is determined under paragraph (3), the primary insurance amount of each of them for such month shall, notwithstanding the preceding sentence, be determined only under paragraph (3).

"(3) If an individual and his spouse—

"(A) each is entitled to benefits under this subsection (or section 223), and

"(B) each has filed an election to have his primary insurance amount determined under this paragraph,

then the primary insurance amount of such individual and the primary insurance amount of such spouse, for purposes of determining the old-age insurance benefit (prior to the application of subsection (w)) or disability insurance benefit of each of them for any month beginning with January 1974 or, if later, the month in which their elections under subparagraph (B) were filed, and ending with the month preceding the month in which either of them dies or they are divorced, shall be equal to 75 percent of the amount (specified in subparagraph (E)) derived by—

"(C) combining the annual wages and self-employment income of such individual and such spouse (including any wages and self-employment income taken into account in a recomputation made under section 215(f)) for each year in which either or both of them had any such wages or self-employment income, up to the maximum amount prescribed in section 215(e) for such year,

"(D) computing (under section 215 (b) and (d)) an average monthly wage on the basis of the wages and self-employment income determined under subparagraph (C) (or, if any wages and self-employment income have been taken into account in a recomputation under section 215(f), recomputing as provided in section 215(a)(1) (A) and (C) as though the year with respect to which such recomputation is made is the last year of the period specified in section 215(b)(2)(C)), as though all of such wages and self-employment income had been earned or derived by such individual or his spouse, whichever is younger, and

"(E) determining (under section 215(a)) an amount equal to the primary insurance amount which would result from the average monthly wage determined under subparagraph (D).

For purposes of subparagraph (D), if an individual or his spouse is entitled to disability insurance benefits, such individual or spouse shall be deemed to have attained age 62 at the time provided in section 223(a)(2).

"(4) No benefits payable under subsections (b), (c), (d), (e), (f), (g), (h), or (i) shall be computed on the basis of a primary insurance amount determined under paragraph (3) of this subsection.

"(5) The term 'primary insurance amount' as used in the provisions of this title other than this subsection shall not include a primary insurance amount determined under paragraph (3) unless specifically so indicated."

(b)(1) Section 202(e)(1)(C)(i) of such Act is amended by striking out "such individual", and inserting in lieu thereof "such individual or to an old-age or disability insurance benefit determined under subsection (a)(3),".

(2) Section 202(e)(2) of such Act is amended—

(A) by striking out "and subparagraph (B) of this paragraph" in subparagraph (A) and inserting in lieu thereof "and subparagraphs (B) and (C) of this paragraph"; and

(B) by adding at the end thereof the following new subparagraph:

"(C) In any case where a widow was entitled for the month preceding the month in which the deceased individual died to an old-age insurance benefit or a disability insurance benefit based on a primary insurance amount determined under section 202(a)(3), such widow's insurance benefit for each month shall be determined only on the basis of the wages and self-employment income of her deceased spouse and, for purposes of subparagraph (B), the old-age or disability insurance benefit of the deceased spouse shall be deemed to be the amount it would have been if it had been determined under subsection (a)(1) or section 223, except that after the application of subparagraphs (A) and (B), and subsection 203(a), such a widow's insurance benefit shall be not less than the amount of the old-age or disability insurance benefit to which she would be entitled for such month (based on a primary insurance amount determined under subsection (A)(3)) if such individual had not died, disregarding for this purpose the period beginning with the year after the year of such individual's death and any wages and self-employment income paid to or derived by either of them during such period. This subparagraph shall not apply, in the case of a widow who remarries, with respect to the month in which such remarriage occurs or any subsequent month."

(c) Section 202(f)(3) of such Act is amended—

(A) by striking out "and subparagraph (B) of this paragraph" in subparagraph (A) and inserting in lieu thereof "and subparagraphs (B) and (C) of this paragraph"; and

(B) by adding at the end thereof the following new subparagraph:

"(C) In any case where a widower was entitled for the month preceding the month in which the deceased individual died to an old-age insurance benefit or a disability insurance benefit based on a primary insurance amount determined under section 202(a)(3), such widower's insurance benefit for each month shall be determined only on the basis of the wages and self-employment income of his deceased spouse and, for purposes of subparagraph (B), the old-age or disability insurance benefit of the deceased spouse shall be deemed to be the amount it would have been if it had been determined under subsection (a)(1) or section 223, except that after the application of subparagraphs (A) and (B), and subsection 203(a), such widower's insurance benefit shall be not less than the amount of the old-age or disability insurance benefit to which he would be entitled for such month (based on a primary insurance amount determined under subsection (a)(3)) if such individual had not died, disregarding for this purpose the period beginning with the year after the year of such individual's death and any wages and self-employment income paid to or derived by either of them during such period. This subparagraph shall not apply, in the case of a widower who remarries, with respect to the month in which such remarriage occurs or any subsequent month."

(d) Section 203(a) of such Act is amended by striking out "or" at the end of paragraph (4), by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; or", and by inserting after paragraph (5) the following new paragraph:

"(6) in applying this subsection in any case where the primary insurance amount of the insured individual was determined under section 202(a) (3) and his entitlement under such section has not terminated, the total of monthly benefits to which persons other than such individual may be entitled on the basis of such individual's wages and self-employment income shall be determined as though such individual's primary insurance amount had instead been determined under section 215(a) and without regard to section 202(a)(3)."

(e)(1) Section 215(a)(1) of such Act is amended by inserting after "this subsection" in the matter preceding subparagraph (A) the following: "and in section 202(a)(3)".

(2) Section 215(a)(2) of such Act is amended—

(A) by striking out "or" at the end of subparagraph (A),

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

(C) by adding at the end thereof the following new subparagraph:

"(C) an amount equal to the primary insurance amount on which such disability insurance benefit is based if such primary insurance amount was determined under section 202(a)(3) and his entitlement under".

(3) Section 215(f)(1) of such Act is amended by inserting "(or section 202(a)(3))" after "determined under this section."

(4) The second sentence of section 215(f)(2) of such Act is amended by inserting be-

fore the period at the end thereof the following: ", and, in the case of an individual whose primary insurance amount was determined under section 202(a)(3), as though such amount had instead been determined under subsection (a) of this section and without regard to section 202(a)(3)".

(5) Section 223(a)(2) of such Act is amended by inserting "(or under section 202(a)(3))" after "under section 215".

SEC. 2. The amendments made by the first section of this Act shall apply only with respect to monthly insurance benefits under title II of the Social Security Act for months after December 1973. The Secretary of Health, Education, and Welfare shall, notwithstanding any other provision of the Social Security Act, make such recomputation of individuals who are entitled to benefits under section 202(a) of the Social Security Act for the month of December, 1973, as may be necessary to assure the application to such individuals of the amendments made by the first section of this Act.

S. 3429

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 202(c) of the Social Security Act is amended to read as follows:

"Husband's Insurance Benefits

"(c)(1) The husband (as defined in section 216(f)) and every divorced husband (as defined in section 216(d)) of an individual entitled to old-age or disability insurance benefits, if such husband or such divorced husband—

"(A) has filed application for husband's insurance benefits,

"(B) has attained age 62 or (in the case of a husband) has in his care (individually or jointly with such individual) at the time of filing of such application a child entitled to a child's insurance benefit on the basis of the wages and self-employment income of such individual,

"(C) in the case of a divorced husband, is not married, and

"(D) is not entitled to old-age or disability insurance benefits or is entitled to old-age or disability insurance benefits based on a primary insurance amount which is less than one-half of the primary insurance amount of such individual.

shall (subject to subsection (s)) be entitled to a husband's insurance benefit for each month beginning with the first month in which he becomes so entitled to such insurance benefits and ending with the month preceding the first month in which any of the following occurs—

"(E) he dies,

"(F) such individual dies,

"(G) in the case of a husband, they are divorced and either (i) he has not attained age 62, or (ii) he has attained age 62 but has not been married to such individual for a period of 20 years immediately before the date the divorce became effective,

"(H) in the case of a divorced husband, he marries a person other than such individual,

"(I) in the case of a husband who has not attained age 62, no child of such individual is entitled to a child's insurance benefit,

"(J) he becomes entitled to an old-age or disability insurance benefit based on a primary insurance amount which is equal to or exceeds one-half of the primary insurance amount of such individual, or

"(K) such individual is not entitled to disability insurance benefits and is not entitled to old-age insurance benefits.

"(2) Except as provided in subsection (q), such husband's insurance benefit for each month shall be equal to one-half of the primary insurance amount of his wife (or, in the case of a divorced husband, his former wife) for such month.

"(3) In the case of any divorced husband who marries—

"(A) an individual entitled to benefits under subsection (b), (e), (g), or (h) or this section, or

"(B) an individual who has attained the age of 18 and is entitled to benefits under subsection (d),

such divorced husband's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) (but subject to subsection (s)), not be terminated by reason of such marriage; except that, in the case of such a marriage to an individual entitled to benefits under subsection (d), the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under subsection (d) unless she ceases to be so entitled by reason of her death."

(b) Section 202(f) of such Act is amended to read as follows:

"Widower's Insurance Benefits

"(f)(1) The widower (as defined in section 216(g)) and every divorced husband (as defined in section 216(d)) of an individual, if such widower or such surviving divorced husband—

"(A) is not married,

"(B)(i) has attained age 60, or (ii) has attained age 50 but has not attained age 60 and is under a disability (as defined in section 223(d)) which began before the end of the period specified in paragraph (5),

"(C)(i) has filed application for widower's insurance benefits, or was entitled to husband's insurance benefits, on the basis of the wages and self-employment income of such individual, for the month preceding the month in which she died, and (I) has attained age 65 or (II) is not entitled to benefits under subsection (a) or section 223, or

"(ii) was entitled, on the basis of such wages and self-employment income, to father's insurance benefits for the month preceding the month in which he attained age 65, and

"(D) is not entitled to old-age insurance benefits or is entitled to old-age insurance benefits each of which is less than the primary insurance amount of such deceased individual,

shall be entitled to a widower's insurance benefit for each month, beginning with—

"(E) if he satisfies subparagraph (B) by reason of clause (i) thereof, the first month in which he becomes so entitled to such insurance benefits, or

"(F) if he satisfies subparagraph (B) by reason of clause (ii) thereof—

"(i) the first month after his waiting period (as defined in paragraph (6)) in which he becomes so entitled to such insurance benefits, or

"(ii) the first month during all of which he is under a disability and in which he becomes so entitled to such insurance benefits, but only if he was previously entitled to insurance benefits under this subsection on the basis of being under a disability and such first month occurs (I) in the period specified in paragraph (5) and (II) after the month in which a previous entitlement to such benefits on such basis is terminated, and ending with the month preceding the first month in which any of the following occurs: he remarries, dies, becomes entitled to an old-age insurance benefit equal to or exceeding the primary insurance amount of such deceased individual, or, if he became entitled to such betnefits before he attained age 60, the third month following the month in which his disability ceases (unless he attains age 65 on or before the last day of such third (month).

"(2)(A) Except as provided in subsection (q), paragraph (4) of this subsection, and subparagraph (B) of this paragraph, such widower's insurance benefit for each month shall be equal to the primary insurance amount of such deceased individual.

basis of whose wages and self-employment income a widower or surviving divorced husband is entitled to widower's insurance benefits under this subsection) was, at any time, entitled to an old-age insurance benefit

"(B) If the deceased individual (on the (which was reduced by reason of the application of subsection (q), the widower's insurance benefit of such widower or surviving divorced husband for any month shall, if the amount of the widower's insurance benefit for such widower or surviving divorced husband (as determined under subparagraph (A) and after application of subsection (q)) 's greater than—

"(i) the amount of the old-age insurance benefits to which such deceased individual would have been entitled (after application of subsection (q)) for such month if such individual were still living, and

"(ii) 82½ percent of the primary insurance amount of such deceased individual,

be reduced to the amount referred to in clause (i), or (if greater) the amount referred to in clause (ii).

"(3) In the case of a widower or surviving divorced husband who marries—

"(A) an individual entitled to benefits under subsection (b), (e), (g) or (h) of this section, or

"(B) an individual who has attained the age of eighteen and is entitled to benefits under subsection (d),

such widower's or surviving divorced husband's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) but subject to subsection (s), not be terminated by reason of such marriage; except that, in the case of such a marriage to an individual entitled to benefits under subsection (d), the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under subsection (d) unless she ceases to be so entitled by reason of her death.

"(4) If a widower, after attaining the age of 60, marries an individual (other than one described in subparagraph (A) or (B) of paragraph (3)), such marriage shall, for purposes of paragraph (1), be deemed not to have occurred; except that, notwithstanding the provisions of paragraph (2) and subsection (q), such widower's insurance benefit for the month in which such marriage occurs and each month thereafter prior to the month in which the wife dies or such marriage is otherwise terminated, shall be equal to one-half of the primary insurance amount of the deceased individual on whose wages and self-employment income such benefit is based.

"(5) The period referred to in paragraph (1)(B)(ii), in the case of any widower or surviving divorced husband, is the period beginning with whichever of the following is the latest:

"(A) the month in which occurred the death of the fully insured individual referred to in paragraph (1) on whose wages and self-employment income his benefits are or would be based, or

"(B) the last month for which he was entitled to father's insurance benefits on the

basis of the wages and self-employment income of such individual, or

"(C) the month in which a previous entitlement to widower's insurance benefits on the basis of such wages and self-employment income terminated because his disability had ceased,

and ending with the month before the month in which he attains age 60, or, if earlier, with the close of the eighty-fourth month following the month within which such period began.

"(6) The waiting period referred to in paragraph (1)(F), in the case of any widower or surviving divorced husband, is the earliest period of five consecutive calendar months—

"(A) throughout which he has been under a disability, and

"(B) which begins no earlier than with whichever of the following is the later: (i) the first day of the seventeenth month before the month in which his application is filed, or (ii) the first day of the fifth month before the month in which the period specified in paragraph (5) begins."

(c) Section 202 (g) of such Act is amended to read as follows:

"Mother's and Father's Insurance Benefits

"(g)(1) The widow, widower, every surviving divorced mother (as defined in section 216(d)), and every surviving divorced father (as defined in section 216(d)), of an individual who died a fully or currently insured individual, if such widow, widower, surviving divorced mother, or surviving divorced father—

"(A) is not married,

"(B) is not entitled to a widow's or widower's insurance benefit,

"(C) is not entitled to old-age insurance benefits, or is entitled to old-age insurance benefits each of which is less than three-fourths of the primary insurance amount of such individual,

"(D) has filed application for mother's or father's insurance benefits, or was entitled to wife's or husband's insurance benefits on the basis of the wages and self-employment income of such individual for the month preceding the month in which such individual died,

"(E) at the time of filing such application has in his or her care a child of such individual entitled to a child's insurance benefit, and

"(F) in the case of a surviving divorced mother or a surviving divorced father—

"(i) the child referred to in subparagraph (E) is his or her son, daughter, or legally adopted child, and

"(ii) the benefits referred to in such subparagraph are payable on the basis of such individual's wages and self-employment income,

shall (subject to subsection (s)) be entitled to a mother's or father's insurance benefit for each month, beginning with the first month in which she or he becomes so entitled to such insurance benefits and ending with the month preceding the first month in which any of the following occurs: no child of such deceased individual is entitled to a child's insurance benefit, such widow, widower, surviving divorced mother, or surviving divorced father becomes entitled to an old-age insurance benefit equal to or exceeding three-fourths of the primary insurance amount of such deceased individual, she or he becomes entitled to a widow's or widower's insurance benefit, she or he remarries, or she or he dies. Entitlement to such benefits shall also end, in the case of a surviving divorced mother or a surviving divorced father, with the month immediately preceding the first month in which no son, daughter, or legally adopted child of such surviving divorced mother or surviving divorced father is entitled to a child's insurance benefit on the basis of the wages and self-employment income of such deceased individual.

"(2) Such mother's or father's insurance benefit for each month shall be equal to three-fourths of the primary insurance amount of such deceased individual.

"(3) In the case of a widow, widower, surviving divorced mother, or surviving divorced father, who marries—

"(A) an individual entitled to benefits under subsection (a), (b), (c), (e), (f), or (h), or under section 223(a), or

"(B) an individual who has attained the age of eighteen and is entitled to benefits under subsection (d),

the entitlement of such widow, widower, surviving divorced mother, or surviving divorced father to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) but subject to subsection (s), not be terminated by reason of such marriage; except that, in the case of such a marriage to an individual entitled to benefits under section 223(a) or subsection (d) of this section, the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under section 223(a) or subsection (d) of this section unless (i) he or she ceases to be so entitled by reason of his or her death, or (ii) in the case of an individual who was entitled to benefits under section 223(a), he or she is entitled, for the month following such last month, to benefits under subsection (a) of this section."

(d) Section 216(d) of such Act is amended—

(1) in the heading thereto, by inserting "Divorced Husbands;" after "Wives;",

(2) in paragraph (1) thereof, by adding at the end thereof the following new sentence: "The term 'divorced husband' means a man divorced from an individual, but only if he had been married to such individual for a period of 20 years immediately before the date the divorce became effective.",

(3) in paragraph (2) thereof, by adding at the end thereof the following new sentence: "The term 'surviving divorced husband' means a man divorced from an individual who has died, but only if he had been married to the individual for a period of 20 years immediately before the date the divorce became effective.", and

(4) in paragraph (3) thereof, by adding at the end thereof the following new sentence: "The term 'surviving divorced father' means a man divorced from an individual who has died, but only if (A) he is the father, of her son or daughter, (B) he legally adopted her son or daughter while he was married to her and while such son or daughter was under the age of 18, (C) she legally adopted his son or daughter while he was married to her and while such son or daughter was under the age of 18, or (D) he was married to her at the time both of them legally adopted a child under the age of 18."

(e)(1) Section 202(b)(3)(A) of such Act is amended by striking out "(f) or (h)" and inserting in lieu thereof "(c), (f), (g), or (h)".

(2) Section 202(d)(5)(A) of such Act is amended by inserting "(c)," immediately after "(b),".

(3) Section 202(e)(3)(A) of such Act is amended by striking out "(f) or (h)" and inserting in lieu thereof "(c), (f), (g), or (h)".

(4) Section 202(h)(4)(A) of such Act is amended by inserting "(c)," immediately after "(b),".

(5) Section 202(k)(2)(B) of such Act is amended by striking out "(f)(5)", each place it appears therein, and inserting in lieu thereof "(f)(4)".

(6) Section 202(k)(3)(A) of such Act is amended by striking out "(f)(3)" and inserting in lieu thereof "(f)(2)".

(7) Section 202(k)(3)(B) of such Act is amended by striking out "(f)(5)" and inserting in lieu thereof "(f)(4)".

(8) Section 202(p)(1) of such Act is amended to read as follows:

"(1) to file proof of support under subparagraph (B) of subsection (h)(1) within the period prescribed by such subparagraph, or".

(9) Section 202(q)(3)(E) of such Act is amended by inserting "or surviving divorced husband" immediately after "in the case of a widower".

(10) Section 202(q)(3)(F) of such Act is amended by inserting "or surviving divorced husband" immediately after "in the case of a widower".

(11) Section 202(q)(3)(G) of such Act is amended by inserting "or surviving divorced husband" immediately after "in the case of a widower".

(12) Section 202(q)(5)(A) of such Act is amended—

(A) in the matter which precedes clause (i) thereof, by inserting "or husband's" after "wife's",

(B) in clause (i) thereof by—

(i) striking out "filed by her" and inserting in lieu thereof "filed by the individual entitled to such benefit",

(ii) striking out "she elects" and inserting in lieu thereof "such individual elects", and

(iii) inserting "or husband's" after "wife's", (C) in clause (ii) thereof by—

(i) striking out "she has in her care" and inserting in lieu thereof "such individual has in his or her care", and

(ii) by inserting ", or his husband's insurance benefit," immediately after "wife's insurance benefit".

(13) Section 202(q)(5)(B) of such Act is amended—

(A) in clause (ii) thereof, by striking out "woman" and inserting in lieu thereof "individual", and

(B) in the matter following clause (ii) thereof, by striking out "she" and inserting in lieu thereof "such individual".

(14) Section 202(q)(5)(C) of such Act is amended by adding at the end thereof the following new sentence: "If a man does not have in his care a child described in subparagraph (A)(ii) in the first month for which he is entitled to a husband's insurance benefit, and if such first month is a month before the month in which he attains age 65, he shall be deemed to have filed in such first month the certificate described in subparagraph (A)(i).".

(15) Section 202(q)(5)(D) of such Act is amended by adding at the end thereof the following new sentence: "No widower's insurance benefit for a month in which he has in his care a child of his deceased wife (or deceased former wife) entitled to child's insurance benefits shall be reduced under this subsection below the amount to which he would have been entitled had he been entitled for such month to father's insurance benefits on the basis of his deceased wife's (or deceased former wife's) wages and self-employment income.

(16) Section 202(q)(6)(A)(i)(II) of such Act is amended by inserting "or husband's" immediately after "wife's".

(17) Section 222(q)(7) of such Act is amended—

(A) in subparagraph (B) thereof, by—

(i) inserting "or husband's" immediately after "wife's", and

(ii) by striking out "she had in her care" and inserting in lieu thereof "the individual entitled to such benefits had in his or her care", and

(B) in subparagraph (D) thereof, by in-

serting "or widower's" immediately after "widow's."

(18) Section 222 (s)(1) of such Act is amended by inserting "(c)(1)," immediately after "(b)(1),".

(19) Section 222 (s)(2) of such Act is amended by striking out "Subsection (f)(4), and so much of subsections (b)(3), (d)(5), (e)(3)," and inserting in lieu thereof "So much of subsections (b)(3), (c)(3), (d)(5), (e)(3), and (f)(3),".

(20) Section 202 (s)(3) of such Act is amended by striking out "Subsections (c)(2)(B) and (f)(2)(B) of this section, so much of subsections (b)(3), (d)(5), (e)(3)," and inserting in lieu thereof "So much of subsections (b)(3), (c)(3), (d)(5), (e)(3), and (f)(3),".

(21) Section 203(a)(3) of such Act is amended—

(A) by striking out "a divorced wife under section 202(b) or as a surviving divorced wife under section 202(e)" and inserting in lieu thereof "a divorced wife under section 202(b), as a surviving divorced wife under section 202(e), as a divorced husband under section 202(c), or as a surviving divorced husband under section 202(f),",

(B) by striking out "she" and inserting "he or she", and

(C) by striking out "no such divorced wife or surviving divorced wife" and inserting in lieu thereof "no such divorced wife, surviving divorced wife, divorced husband, or surviving divorced husband".

(22) The third sentence of section 203(b) of such Act is amended by inserting "or father's" immediately after "mother's".

(23) Section 203(c) of such Act is amended—

(A) in paragraph (2) of the first sentence thereof, by—

(i) inserting "(A)" immediately after "such individual,", and

(ii) inserting, immediately before the semicolon the following: ", or (B) if a husband under age sixty-five entitled to a husband's insurance benefit, did not have in his care (individually or jointly with his wife) a child of his wife entitled to a child's insurance benefit and such husband's insurance benefit for such month was not reduced under the provisions of section 202(q)",

(B) in paragraph (3) of the first sentence thereof, by—

(i) inserting "(A)" immediately after "such individual,", and

(ii) inserting, immediately before the semicolon, the following: ", or (B) if a widower entitled to a father's insurance benefit, did not have in his care a child of his deceased wife entitled to a child's insurance benefit", and

(C) in paragraph (4) of the first sentence thereof, by—

(i) inserting "(A)" immediately after "such individual,",

(ii) striking out "(A)" and inserting in lieu thereof "(i)",

(iii) striking out "(B)" and inserting in lieu thereof "(ii)", and

(iv) inserting, immediately before the period, the following: ", or (B) if a surviving divorced father entitled to a father's insurance benefit, did not have in his care a child of his deceased former wife who (i) is his son, daughter, or legally adopted child and (ii) is entitled to a child's insurance benefit on the basis of the wages and self-employment income of his deceased former wife", and

(D) in the third sentence thereof, by inserting "or surviving divorced husband" immediately after "widower".

(24) Section 203(d)(1) of such Act is amended by inserting "divorced husband," immediately after "husband,".

(25) Section 203(d)(2) of such Act is amended by inserting "or father's" after "mother's" each place it appears therein.

(26) Section 216(f)(3)(A) of such Act is amended by inserting "(c)," immediately after "benefits under subsection".

(27) Section 216(g)(6)(A) of such Act is amended by inserting "(c)," immediately after "benefits under subsection".

(28) The first sentence of section 222(b)(1) of such Act is amended by striking out "widow, widower or surviving divorced wife" and inserting in lieu thereof "widow or surviving divorced wife, or widower or surviving divorced husband".

(29) Section 222(d)(1) of such Act is amended by inserting "and surviving husbands" immediately after "for widowers".

(30) Section 223(d)(2)(A) and (B) of such Act are each amended by striking out "or widower" and inserting in lieu thereof ", widower, or surviving divorced husband".

(31) Section 225 of such Act is amended by inserting "or surviving divorced husband" immediately after "widower".

(f) The amendments made by this section shall apply only with respect to monthly insurance benefits payable under title II of the Social Security Act for months after the month in which this Act is enacted, on the basis of applications filed in or after the month in which this Act is enacted.

Sec. 2. Section 215 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"Special Recomputation of Primary Insurance Amounts of Certain Male Individuals

"(j)(1) If the primary insurance amount of any male individual (as such amount is or would be, except for the provisions of this subsection, in effect for any period after December 1974) is less than the primary insurance amount which would (except for this subsection) have been determined for such individual (if such individual had been a female), then the Secretary shall, notwithstanding any other provision of law, increase such primary insurance amount to the extent necessary to assure that it is equal to the primary insurance amount which would have been determined for such individual (if such individual had been a female).

"(2) Benefits payable on the basis of the primary insurance amount of any individual (described in paragraph (1)) for months after December 1974 shall be based on a primary insurance amount of such individual, as increased pursuant to paragraph (1)."

S. 3430

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 706 of the Social Security Act is amended to read as follows:

"Advisory Council on Social Security

"SEC. 706. (a) The Secretary shall appoint an Advisory Council on Social Security which shall meet at least four times a year for the purpose of monitoring and advising the Secretary about the status of the Federal Old Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, and the Federal Supplementary Medical Insurance Trust Fund in relation to the long-term commitments of the old-age, survivors, and disability insurance program and the programs under parts A and B of title XVIII, and of monitoring and advising the Secretary about the scope of coverage and the adequacy of benefits under, and all other aspects of, these programs, including their impact on the public assistance programs under this Act.

"(b) The Council shall consist of a Chairman and 12 other persons, appointed by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The appointed members shall, to the extent possible, represent organizations of employers and employees in equal numbers, and represent self-employed persons and the public. A majority of the appointed members shall be selected from among those eligible for benefits under title II of this Act.

"(c)(1) The Council appointed hereunder is authorized to engage such technical assistance, including actuarial services, as may be required to carry out its functions and the Secretary shall, in addition, make available to such Council such secretarial, clerical, and other assistance and such actuarial and other pertinent data prepared by the Department of Health, Education, and Welfare as it may require to carry out such functions.

"(2) Appointed members of any such Council, while serving on business of the Council (inclusive of travel time) shall receive compensation at rates fixed by the Secretary, but not exceeding $100 per day and, while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government employed intermittently.

"(d) The Council shall submit reports (including any interim reports such Council may have issued) of its findings and recommendations to the Secretary not later than January 1 of each year after the year in which it is appointed, and such reports and recommendations shall thereupon be transmitted to the Congress and to the Board of Trustees of each of the Trust Funds. The reports required by this subsection shall include—

"(1) a separate report with respect to the old-age, survivors, and disability insurance program under title II and of the taxes imposed under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1954,

"(2) a separate report with respect to the hospital insurance program under part A of title XVIII and of the taxes imposed by sections 1401(b), 3101(b), and 3111(b) of the Internal Revenue Code of 1954, and

"(3) a separate report with respect to the supplementary medical insurance program established by part B of title XVIII and of the financing thereof."

By Mr. CLARK:

S. 3431. A bill to amend the Consolidated Farm and Rural Development Act to assist young farmers to obtain real estate loans more easily under such Act, and for other purposes. Referred to the Committee on Agriculture and Forestry.

YOUNG FARMERS INVESTMENT ACT

Mr. CLARK. Mr. President, one of the most serious problems in American agriculture today is the high cost of establishing a farm and making it work. This dollar obstacle has had an intimidating effect on young people who want to begin farming.

The high cost of land, the high cost of farm machinery and equipment, and high interest rates all make it extremely difficult for an individual to obtain the capital necessary to buy and operate a

successful farm. The increasingly large amounts of capital required to start or build even the most modest farming operations are making it more and more difficult for individuals to stay on the land.

The family farm always has been the foundation of American agriculture, and it is important that this tradition continue. However, that tradition is seriously threatened. Recent studies have revealed a trend toward increased corporate farming. If we do not take positive steps to combat this trend, corporate control of the Nation's farmland will continue to broaden in the years ahead, eroding the quality of life in rural and urban areas alike by forcing even more migration to the cities, and cheapening the quality—but certainly not the price—of the food we eat.

Today I am introducing the Young Farmers' Investment Act which will help keep the individual family farm the cornerstone of American agriculture and stop the accelerating trend toward corporate farming. The legislation will make it easier for farmers, especially young farmers, to buy their own farms and farm equipment.

It will establish a new lending program under the auspices of the Farmers Home Administration, permitting individuals to borrow 90 percent of the purchase price of a farm at an interest rate of 6 percent. The loan will be for a period of 40 years, but, during this period, only one-half of the loan will be repaid. This will keep the regular installment payments on the loan within the means of the borrowers. The balance of the loan becomes due only at the end of the 40 years. It may then be paid off or refinanced. If the farmer's children inherit the land, they can use the Young Farmers' Investment Act for refinancing to avoid selling the farm to pay estate taxes.

The Farm Credit System sponsored a Conference on Financial Needs of Young Farmers in February and from this conference, it was clear that two of the financial needs of young farmers were the need for adequate credit and the need for credit terms tailored to the young farmers' situation. This bill is aimed specifically at these two needs. It provides the credit on terms that those families and individuals just entering farming can afford. Additionally, it will help preserve the family farm by helping offset the effects of soaring land and equipment costs.

The need for this legislation is obvious, and I hope the Congress can give it prompt and favorable consideration.

I ask unanimous consent that the bill be printed in the RECORD at the conclusion of my remarks.

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

S. 3431

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 "Young Farmers Investment Act of 1974".

SEC. 2. Section 305 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1925) is amended by striking out "Sec. 305." and inserting in lieu thereof "Sec. 305. (a)", and by adding at the end of such section a new subsection as follows:

"(b) Direct loans may be made under section 302 for acquiring and improving owner-operated farms without regard to the limitations of subsection (a) of this section but not in excess of the present market value of the farms as certified by the appropriate county committees. The loan shall bear interest at a rate not in excess of 6 per centum per annum. An amount equal to not less than 50 per centum of the loan may be amortized over a period of forty years. The balance of any such loan shall become due and payable at the end of such period or any extension thereof approved by the Secretary if the farm is then owned and operated by a borrower eligible under section 302, or at such earlier date as the farm, or any interest therein, is transferred without the consent or approval of the Secretary to an ineligible person."

By Mr. JAVITS:

S. 3432. A bill to extend the National Health Service Corps and for other purposes. Referred to the Committee on Labor and Public Welfare.

Mr. JAVITS. I today introduce the administration's "National Health Service Corps Amendments of 1974," designed to extend and improve the role of the National Health Service Corps in order to assist communities to develop ambulatory health care services by assigning physicians and dentists and providing other initial assistance to manpower shortage areas.

The National Health Service Corps represents an exciting and challenging mechanism for placing health professionals in areas with critical health manpower shortages. The National Health Service Corps is in every sense a people's program—linking health professionals in a very important personal and professional way to communities and to patients with needs and problems, who in many cases have not had other than distant emergency care available for long periods of time.

The primary mission of the National Health Service Corps addresses the documented problems of geographic maldistribution of providers. A complementary goal of the corps is to assist these communities to develop the capability independently to attract and retain health professionals.

There are three major differences between the administration bill and S. 3181—which I recently introduced with Senators KENNEDY and MAGNUSON—which the administration believes will facilitate independence. First, the Department believes the National Health Service Corps should be given more flexibility—and I agree—to deal with cost recovery during initial stages of operation for communities which are beginning practices. Today the startup costs for communities is expensive and serves as a disincentive with respect to moving away from Federal support.

Second, the bill provides authority to make small loans or grants not to exceed $10,000 for preoperational development, such as locating and setting up proper facilities and establishing billing systems. These initial operating debts are currently a disincentive in moving away from Federal support and I believe such asssitance, at an increased level, is essential. Third, a mechanism for transferring equipment to the nonprofit entities established by the communities—which I support—is provided by the bill so that the purchase of equipment for use in the communities is not an impediment to independence.

Also, the administration bill would authorize such sums as necessary for each of the next 3 fiscal years.

The bill I introduce today and S. 3181, which I joined with Senators KENNEDY and MAGNUSON in introducing, are important steps in alleviating the problem of geographic maldistribution of health providers. I am pleased that the Department of Health, Education, and Welfare has testified it will work closely with the Health Subcommittee of the Committee on Labor and Public Welfare, of which I am ranking minority member, in a spirit of cooperation to fashion the most effective measure.

I ask unanimous consent that the full text of the Department of Health, Education, and Welfare's letter of transmittal and the bill be printed in the RECORD.

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

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
April 30, 1974.

HON. GERALD R. FORD,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed for the consideration of the Congress is a draft bill, "To extend the National Health Service Corps and for other purposes."

The bill, which would be cited as the National Health Service Corps Amendments of 1974, would authorize the appropriation of such sums as may be necessary for the program for an additional period of three fiscal years, 1975 through 1977, and would make several changes in the program structure.

The Secretary is now authorized by section 329(d)(1) of the Public Health Service Act, in connection with the assignment of personnel of the Corps to a health manpower shortage area, to "make such arrangements as he determines are necessary for the use of equipment and supplies of the Service and for the lease or acquisition of other equipment and supplies, and . . . secure the temporary services of nurses and allied health professionals."

In order to make the most effective use of program resources, and to encourage the assisted community, insofar as may be practicable, to participate in the program, it is the Department's practice to assign personnel to an area under an agreement whereby the community contributes some portion of the supplies, equipment, facilities, or supporting services that aid Corps personnel in providing health care.

In order to encourage greater use of community resources in the making of these ancillary arrangements, the draft bill would authorize the Secretary to award one grant, not to exceed $10,000, to each assisted community, to enable the community to meet the costs of establishing medical practice

management systems, and acquiring supplies or equipment.

In addition, in order to encourage a community to make these arrangements without, or at a cost in excess of, this grant, the bill would enable the Secretary to make an early repayment of the community's investment from the fees collected for the health care provided by the Corps. Under existing law the community is reimbursed for this investment. However, because the law now contemplates an immediate fixed division of fees between the Federal Government and the community, in relation to their contribution to the costs (including Corps salary costs) of providing health care services under the program, a community that has made a heavy initial investment in the program must wait a substantial period to recoup that investment. This delay in repayment acts as a substantial disincentive to many health shortage areas to undertake this initial investment.

Finally, in order to encourage a shortage area to become independent of the Corps if it has the capacity to do so, the bill would authorize the Secretary to release to the area any right, title, or interest he may have in equipment or supplies used in connection with the Corps' provision of health care services. In this regard, it should be pointed out that there is ample precedent for vesting authority in the Secretary to waive accountability to the United States for equipment purchased with Federal assistance under grant programs. See, for example, section 436 of the General Education Provisions Act, 20 U.S.C. 1232e, and Public Law 85-934, 72 Stat. 1793, 42 U.S.C. 1891 et seq.

We urge that the draft bill receive prompt and 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,

FRANK C. CARLUCCI,
Acting Secretary.

S. 3432

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act may be cited as the "National Health Service Corps Amendments of 1974."

EXTENSION OF AUTHORIZATION

SEC. 2. Section 329(h) of the Public Health Service Act is amended (1) by striking out "and" before "$25,000,000" and (2) by inserting before the period at the end thereof the folowing: ", and such sums as may be necessary for each of the next three fiscal years".

GRANT TO FACILITATE PROVISION OF HEALTH SERVICES

SEC. 3. Paragraph (2) of section 329(d) is redesignated as paragraph (3), and there is inserted a new paragraph (2) to read as follows:

"(2)(A) The Secretary may award a grant, not to exceed $10,000, to a public or nonprofit private entity to assist the entity in meeting, for an area determined under subsection (b)(1) to have a critical health manpower shortage, any costs of establishing medical practice management systems, or acquiring supplies or equipment. Not more than one such grant may be made with respect to any one such area.

"(B) In the case of any supplies or equipment leased or purchased with a grant under the preceding subparagraph, or leased or purchased by the Secretary under paragraph (1), the Secretary may, at such time or times as he deems appropriate, release to a public or nonprofit private entity all right, title, and interest of the United States, subject to such terms and conditions as he may impose to assure the continued use, for a reasonable period, of the supplies or equipment (or their equivalent) in the provision of health services within the area with respect to which they were leased or purchased."

APPLICATION OF FEES TO COMMUNITY COSTS

SEC. 4. The last sentence of section 329(b)(2)(C) is amended to read as follows: "If, in aid of the provision of health care and services by personnel of the Corps assigned to an area under subparagraph (A), a public or nonprofit private entity enters into an agreement with the Secretary to provide any services, equipment, or facilities that the Secretary would otherwise be authorized or required to provide under this section in connection with that assignment, the Secretary may use, or provide for the use, of any funds collected under this subparagraph for payment to the entity of all or part of the cost of the services, equipment, or facilities so provided, on such basis over the period of the assignment as the Secretary deems appropriate. There shall be subtracted from that payment the amount of any grant awarded to the entity under subsection (d)(2). Any funds collected by the Secretary under this subparagraph, and not used for such payment, shall be deposited in the Treasury as miscellaneous receipts."

EFFECTIVE DATE

SEC. 5. This Act shall become effective with respect to appropriations for fiscal years ending after June 30, 1974.

By Mr. AIKEN (for himself, Mr. JACKSON, Mr. ALLEN, Mr. BELLMON, Mr. BUCKLEY, Mr. CLARK, Mr. CURTIS, Mr. DOLE, Mr. DOMINICK, Mr. EASTLAND, Mr. FULBRIGHT, Mr. GRIFFIN, Mr. HELMS, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. MANSFIELD, Mr. MCCLELLAN, Mr. MCGOVERN, Mr. HUGH SCOTT, Mr. SPARKMAN, Mr. TALMADGE, and Mr. YOUNG):

S. 3433. A bill to further the purposes of the Wilderness Act by designating certain acquired lands for inclusion in the National Wilderness Preservation System, to provide for study of certain additional lands for such inclusion, and for other purposes. Referred to the Committee on Agriculture and Forestry.

Mr. AIKEN. Mr. President, I send to the desk an original bill ordered reported by the Committee on Agriculture and Forestry known as the Eastern Wilderness Areas Act of 1974.

This legislation combines the major provisions of S. 22 as reported by the Agriculture and Forestry Committee on February 15, 1973, and S. 316, as reported by the Committee on Interior and Insular Affairs on December 20, 1973, and referred to the Committee on Agriculture and Forestry on January 23, 1974.

The Eastern Wilderness Areas Act of 1974 would create 19 instant wilderness areas in 15 States and 40 study wilderness areas in 18 States and the Commonwealth of Puerto Rico.

This legislation I am introducing today with 21 cosponsors has its roots in growing national citizen interest in preserving from the impact of man certain limited acres of national forest land in the eastern part of the United States.

Since the enactment of the Wilderness Act of 1964, 95 wilderness areas have been designated in the United States.

However, only four of them have been designated in the national forests east of the 100th meridian, and these four were designated prior to the passage of the 1964 act.

Since the 1964 Wilderness Act, there have been no national forest wilderness designations made in the eastern part of the Nation.

Thus, the bulk of the national forest wilderness areas are located in the western part of the Nation while the Eastern States, where most of the people are located, have few areas where they can go and enjoy a wilderness setting.

This proposed legislation seeks to remedy this imbalance and set aside 19 wilderness areas totaling almost 250,000 acres of eastern national forest land. This represents less than 1 percent of the national forest land located in the East.

The legislation is historic in that it represents a sound compromise between two standing committees of the Senate and thereby accomplishing very worthwhile legislation for all the people of the Nation.

Our committee report will set forth in greater detail the history of the legislative compromise.

The proposed legislation is also historic in that it sets forth the desire and intent of the Agriculture and Forestry Committee to vigorously continue its work in the management of our forest resources.

As this body knows, the Multiple-Use Sustained Yield Act of 1960, which was the work of the Agriculture and Forestry Committee, expressly recognized the establishment of wilderness areas as a national forest purpose.

This legislation I am introducing today further carries out that purpose as expressed in the 1960 act.

I am very appreciative that the Senator from Georgia, Mr. TALMADGE, the two Senators from Alabama, Mr. SPARKMAN and Mr. ALLEN, and the Senator from Minnesota, Mr. HUMPHREY—all original sponsors of S. 3973, a bill the Senate passed in 1972 to create a National Forest Wild Areas System—have stood with me and have helped to make this new legislation possible.

These four Senators and myself were also sponsors of S. 22, the National Forest Wild Areas Act of 1973, which was reported to the Senate on February 15, 1973, parts of which are now included in this new bill.

A special mention must be made for the chairman of the Senate Agriculture Committee, Mr. TALMADGE.

He was like one of the granite hills in the State of Vermont in his steadfast support in working to create wilderness areas in the East.

Without his help and the support of the Committee on Agriculture and Forestry, the Eastern Wilderness Areas Act of 1974 would not have been possible.

Also, I appreciate the cooperation of the chairman of the Interior and Insular Affairs Committee, Mr. JACKSON, in work-

ing out this new legislation as it includes many of the provisions of S. 316 which was Senator JACKSON'S eastern wilderness bill.

His support of the Eastern Wilderness Areas Act of 1974 helps insure that we can now set aside national forest areas in the East without further delay and further the purposes of the National Wilderness Preservation System.

I ask to have printed in the RECORD the names of the sponsors of the Eastern Wilderness Areas Act of 1974, and a short explanation of the bill with section-by-section analysis.

The Senate will note that it includes all of the members of the Committee on Agriculture and Forestry, nine Senators who originally sponsored S. 316, and Senator SPARKMAN.

I am very hopeful that we can act on this legislation as soon as possible and send it over to the House as the 93d Congress is rapidly drawing to a close.

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

SHORT EXPLANATION

The bill being reported by the Committee combines major provisions of (1) S. 22, as reported by the Committee on February 15, 1973 (S. Rept. No. 93-21), and (2) S. 316, as reported by the Committee on Interior and Insular Affairs on December 20, 1973 (S. Rept. No. 93-661), and referred to the Committee on Agriculture and Forestry on January 23, 1974.

The bill designates nineteen areas in fifteen States as wilderness within the National Wilderness Preservation System, which was established by the Wilderness Act of 1964. The bill also designates forty areas in eighteen States and the Commonwealth of Puerto Rico to be studied by the Secretary of Agriculture as to their suitability for preservation as wilderness. All of the areas designated as wilderness and wilderness study areas and eligible for designation are in National Forests east of the 100th meridian, which consist predominantly of acquired lands. The Secretary is authorized under the bill to designate additional wilderness study areas in National Forests east of the 100th meridian.

The designation of the wilderness areas and the wilderness study areas in the eastern United States is designed to preserve such areas as an enduring source of wilderness and afford present and future generations with an opportunity to enjoy primitive recreation in a spacious, natural, and wilderness setting.

The bill provides, with some exceptions, that the wilderness areas designated by the bill are to be managed by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act of 1964. The wilderness study areas are to be managed so as to maintain their potential for inclusion in the National Wilderness Preservation System.

The bill also contains certain amendments to the Wilderness Act of 1964 which are designed to (1) facilitate the administration of the National Wilderness Preservation System, and (2) promote uniformity of management of wilderness areas in the East and the West.

SECTION-BY-SECTION ANALYSIS

SHORT TITLE

The first section of the bill provides that the short title is the "Eastern Wilderness Areas Act of 1974".

Section 2. Statement of findings and policy

Section 2 contains legislative findings and declaration of policy.

Findings are made that—

(1) There is an urgent need to identify, study, designate, and preserve areas in the more populous eastern half of the United States for addition to the National Wilderness Preservation System;

(2) Areas of wilderness in the eastern half of the United States are increasingly threatened by growth pressures arising from the greater population concentrations of the East;

(3) The National Forests in the eastern United States consist predominantly of acquired lands where the impact of man's past activity has been substantial, and the restoration of such lands for conservation and wilderness purposes requires considerable effort;

(4) There is a growing need for the broad range of recreational opportunities which can be provided in the National Forest System; and

(5) Among these opportunities is the opportunity to enjoy primitive recreation in a spacious, natural, and wilderness setting.

Section 2 then declares that it is in the public interest that areas in the eastern half of the United States be promptly designated as wilderness and additional areas be studied. Wilderness areas are to be managed so as to promote and perpetuate the wilderness character of the land and its specific values of solitude, physical and mental challenge, scientific study, inspiration, and primitive recreation.

Section 3. Designation of areas pursuant to this bill

Section 3 provides that only national forest areas east of the 100th meridian may be designated pursuant to the bill as wilderness areas or wilderness study areas.

Section 4. Designation of wilderness areas

Section 4 designates nineteen areas in National Forests east of the 100th meridian as wilderness and components of the National Wilderness Preservation System. The nineteen wilderness areas are as follows:

(1) Sipsey Wilderness, approximately 12,000 acres in the Bankhead National Forest, Alabama.

(2) Caney Creek Wilderness, approximately 14,433 acres in the Ouachita National Forest, Arkansas.

(3) Upper Buffalo Wilderness, approximately 10,590 acres in the Ozark National Forest, Arkansas.

(4) Bradwell Bay Wilderness, approximately 22,000 acres in the Appalachicola National Forest, Florida.

(5) Cohutta Wilderness, approximately 37,300 acres in the Chattahoochee and Cherokee National Forests, Georgia and Tennessee.

(6) Beaver Creek Wilderness, approximately 5,500 acres in the Daniel Boone National Forest, Kentucky.

(7) Big Island Lake Wilderness, approximately 6,600 acres in the Hiawatha National Forest, Michigan.

(8) Glades Wilderness, approximately 16,400 acres in the Mark Twain National Forest, Missouri.

(9) Irish Wilderness, approximately 19,000 acres in the Mark Twain National Forest, Missouri.

(10) Presidential Range-Dry River Wilderness, approximately 20,380 acres in the White Mountain National Forest, New Hampshire.

(11) Joyce Kilmer-Slickrock Wilderness, approximately 15,000 acres in the Nantahala and Cherokee National Forests, North Carolina and Tennessee.

(12) Ellicott Rock Wilderness, approximately 3,600 acres in the Sumter, Nantahala, and Chattahoochee National Forests in South Carolina, North Carolina, and Georgia.

(13) Gee Creek Wilderness, approximately 2,570 acres, in the Cherokee National Forest, Tennessee.

(14) Bristol Cliffs Wilderness, approximately 6,500 acres, in the Green Mountain National Forest, Vermont.

(15) Lye Brook Wilderness, approximately 14,300 acres, in the Green Mountain National Forest, Vermont.

(16) James River Face Wilderness, approximately 8,800 acres, in the Jefferson National Forest, Virginia.

(17) Dolly Sods Wilderness, approximately 10,215 acres, in the Monongahela National Forest, West Virginia.

(18) Otter Creek Wilderness, approximately 20,000 acres, in the Monongahela National Forest, West Virginia.

(19) Rainbow Lake Wilderness, approximately 6,600 acres, in the Chequamegon National Forest, Wisconsin.

Section 5. Designation of wilderness study

Section 5 designates forty areas in National Forests east of the 100th meridian for review and study by the Secretary of Agriculture as to their suitability for preservation as wilderness. The review is to be made in accordance with the procedures specified in section 3(d) of the Wilderness Act of 1964, as amended by the bill. The forty wilderness study areas are as follows:

(1) Belle Starr Cave Wilderness Study Area, approximately 5,700 acres, in the Ouachita National Forest, Arkansas.

(2) Dry Creek Wilderness Study Area, approximately 5,500 acres, in the Ouachita National Forest, Arkansas.

(3) Richland Creek Wilderness Study Area, approximately 2,100 acres, in the Ozark National Forest, Arkansas.

(4) Alexander Springs Wilderness Study Area, approximately 10,000 acres, in the Ocala National Forest, Florida.

(5) Sopchoppy River Wilderness Study Area, approximately 1,100 acres in the Appalachicola National Forest, Florida.

(6) LaRue-Pine Hills Wilderness Study Area, approximately 2,800 acres, in the Shawnee National Forest, Illinois.

(7) Lusk Creek Wilderness Study Area, approximately 15,000 acres, in the Shawnee National Forest, Illinois.

(8) Nebo Ridge Wilderness Study Area, approximately 30,750 acres in the Hoosier National Forest, Indiana.

(9) Kisatchie Hills Wilderness Study Area, approximately 10,000 acres in the Kisatchie National Forest, Louisiana.

(10) Saline Bayou Wilderness Study Area, approximately 5,000 acres in the Kisatchie National Forest, Louisiana.

(11) Caribou-Speckled Mountain Wilderness Study Area, approximately 12,000 acres in the White Mountain National Forest, Maine.

(12) Rock River Canyon Wilderness Study Area, approximately 5,400 acres in the Hiawatha National Forest, Michigan.

(13) Sturgeon River Wilderness Study Area, approximately 13,200 acres in the Ottawa National Forest, Michigan.

(14) Bell Mountain Wilderness Study Area, approximately 7,640 acres in the Clark National Forest, Missouri.

(15) Rockpile Mountain Wilderness Study Area, approximately 6,800 acres in the Clark National Forest, Missouri.

(16) Carr Mountain Wilderness Study Area, approximately 10,000 acres in the White Mountain National Forest, New Hampshire.

(17) Great Gulf Wilderness Extension Study Area, approximately 14,400 acres in the White Mountain National Forest, New Hampshire.

(18) Kilkenny Wilderness Study Area, ap-

proximately 16,000 acres in the White Mountain National Forest, New Hampshire.

(19) Wild River Wilderness Study Area, approximately 20,000 acres in the White Mountain National Forest, New Hampshire.

(20) Craggy Mountain Wilderness Study Area, approximately 1,100 acres in the Pisgah National Forest, North Carolina.

(21) Pocosin Wilderness Study Area, approximately 17,000 acres in the Croatan National Forest, North Carolina.

(22) Archers Fork Wilderness Study Area, approximately 19,000 acres in the Wayne National Forest, Ohio.

(23) Hickory Creek Wilderness Study Area, approximately 11,200 acres in the Allegheny National Forest, Pennsylvania.

(24) Tracy Ridge Wilderness Study Area, approximately 10,000 acres in the Allegheny National Forest, Pennsylvania.

(25) Allegheny Front Wilderness Study Area, approximately 10,000 acres in the Allegheny National Forest, Pennsylvania.

(26) Wambaw Swamp Wilderness Study Area, approximately 1,500 acres in the Francis Marion National Forest, South Carolina.

(27) Big Frog Wilderness Study Area, approximately 4,500 acres in the Cherokee National Forest, Tennessee.

(28) Citico Creek Area, approximately 14,000 acres in the Cherokee National Forest, Tennessee.

(29) Big Slough Wilderness Study Area, approximately 4,000 acres in the Davy Crockett National Forest, Texas.

(30) Chambers Ferry Wilderness Study Area, approximately 4,000 acres in the Sabine National Forest, Texas.

(31) Mill Creek Wilderness Study Area, approximately 4,000 acres in the Jefferson National Forest, Virginia.

(32) Mountain Lake Wilderness Study Area, approximately 8,400 acres in the Jefferson National Forest, Virginia.

(33) Peters Mountain Wilderness Study Area, approximately 5,000 acres in the Jefferson National Forest, Virginia.

(34) Ramsey's Draft Wilderness Study Area, approximately 6,700 acres in the George Washington National Forest, Virginia.

(35) Cranberry Wilderness Study Area, approximately 36,300 acres, in the Monongahela National Forest, West Virginia.

(36) Black Jack Springs Wilderness Study Area, approximately 2,600 acres in the Nicolet National Forest, Wisconsin.

(37) Flynn Lake Wilderness Study Area, approximately 6,300 acres in the Chequamegon National Forest, Wisconsin.

(38) Round Lake Wilderness Study Area, approximately 4,200 acres in the Chequamegon National Forest, Wisconsin.

(39) Whisker Lake Wilderness Study Area, approximately 2,700 acres in the Nicolet National Forest, Wisconsin.

(40) El Cacique Wilderness Study Area, approximately 8,500 acres in the Caribbean National Forest, Puerto Rico.

Subsection (c) provides that the Secretary of Agriculture shall, within five years from the date of enactment of the bill, complete his review of the wilderness study areas. The Secretary is to send his recommendations to the President, and the President is to advise the Congress of his recommendations with respect to the designation of each study area as wilderness. The President's recommendation that a study area be designated as wilderness shall be effective only if so provided by an Act of Congress.

Subsection (d) authorizes the Secretary of Agriculture to designate additional National Forest wilderness study areas in National Forests east of the 100th meridian. However, the authority to designate additional study areas is not to be construed as limiting the Secretary's authority to carry out multiple-use and sustained-yield management on areas *not* designated for review under subsection (d).

Subsection (e) of section 5 provides that each recommendation of the Secretary of Agriculture concerning a wilderness study area designated by or pursuant to the bill shall be accompanied by a report. The report shall include maps and illustrations showing the study area boundaries and a description of the characteristics which make or do not make the area worthy for classification as wilderness, including the area's scenic, natural, and wilderness attraction, its restorability to near natural conditions, the existing and expected land ownership patterns, and the surface and subsurface rights not held or controlled by the public. The report shall identify the foreseeable potential land and water uses enhanced, foreclosed, or curtailed by wilderness designation; the environmental, economic, and social consequences of such designation; and the interrelationship of the designation of a wilderness area to the overall management of the National Forest under applicable multiple-use management plans.

Subsection (f) provides that nothing in the Act shall limit the President in proposing, as part of his recommendations to the Congress, the alteration of existing boundaries of any wilderness study area. The Secretary may, therefore, review a larger area than the one designated for review by Congress, and the President may propose the addition to any study area of any contiguous area predominantly of wilderness value.

Section 6. Filing of maps and descriptions

Section 6 requires that, as soon as practicable after enactment of the bill, maps of the wilderness study areas and maps and legal descriptions of the wilderness areas designated by the bill shall be filed with the House and Senate Interior and Agriculture Committees. The maps and legal description shall have the same force and effect as if included in the bill. However, the Secretary may correct clerical and typographical errors in the maps and legal descriptions. Section 6 also requires that the maps and legal descriptions be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

Section 7. Management of areas

Section 7 contains provisions concerning the management of the wilderness areas and wilderness study areas designated by or pursuant to the bill. Section 7 also contains provisions which affect the management of wilderness areas designated by or pursuant to the Wilderness Act of 1964.

Subsection (a) provides that, except where otherwise provided in the bill, wilderness areas designated by or pursuant to the bill are to be managed by the Secretary of Agriculture in accordance with the provisions of the original Wilderness Act, as amended by the bill. Wilderness study areas designated by or pursuant to the bill are to be managed by the Secretary so as to maintain their potential for inclusion in the National Wilderness Preservation System until Congress determines otherwise, except that this management requirement shall not extend for more than three years from the date the President's recommendations concerning the particular study area are submitted to Congress. Therefore, while a review is proceeding or while Congress is considering the recommendations of the President upon completion of the studies, the Forest Service must protect the wilderness potential of the study area.

Subsection (b) withdraws, subject to valid existing mining or mineral leasing rights, all federally owned land within wilderness areas and wilderness study areas designated by or pursuant to the bill *and* the Wilderness Act of 1964 and all land acquired within such areas from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing. The withdrawal would take effect upon enactment of the bill for wilderness areas designated by the bill or previously designated by or pursuant to the Wilderness Act. For any wilderness study area recommended for inclusion in the National Wilderness Preservation System pursuant to the bill or the Wilderness Act, the withdrawal would take effect upon the date of the President's submission of such recommendation to the Congress.

Subsection (c) authorizes—with restrictions—the Secretary of Agriculture to acquire inholdings in National Forest wilderness areas designated by or pursuant to the bill and the Wilderness Act of 1964.

Paragraph (1) provides for the acquisition of lands, waters, or interests within wilderness areas by means of purchase with donated or appropriated funds, by gift, exchange, condemnation, or otherwise when the Secretary determines such acquisition is necessary or desirable for the purposes of the bill or the Wilderness Act.

Paragraph (2) provides that, when the Secretary exercises the exchange authority, he may accept title to non-Federal property for federally owned property of substantially equal value. If the properties are not of substantially equal value, the value can be equalized by payment of money to the grantor or the Secretary, as the circumstances require.

Paragraphs (3) through (8) circumscribe the condemnation authority of the Secretary of Agriculture so as to respect as much as possible the rights and wishes of inholders.

Paragraph (3) provides that the Secretary may not condemn private land within any wilderness area so long as the owner holds and uses it in the same manner and for the same purpose that it was held and used when the area was designated as wilderness. The Secretary, however, may condemn such private land upon a finding that the use on the date of designation is incompatible with the management of the wilderness. This required finding is, of course, narrower than the general public purpose finding normally required for condemnation purposes. Paragraph (3) further provides that even if a finding of incompatibility is made, the owner of the inholding does not automatically find his inholding condemned. Instead, he enjoys the option of either selecting another use which is compatible with management of a wilderness area or accepting condemnation and payment of full market value for his property.

Paragraphs (4) and (5) insure that change of ownership or use of an inholding does not automatically result in condemnation. These paragraphs provide a notice procedure to alert the Secretary of any change of ownership or use of an inholding so that he may determine if condemnation is necessary and may so advise the owner. The procedure calls for notification of the supervisor of the National Forest by the owner at least sixty days prior to any transfer of the inholding by exchange, sale, or otherwise (except by bequest) or any change of use which will result in any significant new construction or disturbance of land surface or flora or will require the use of motor vehicles and other forms of mechanized transport or motorized equipment (except as otherwise authorized by law for ingress or egress or for existing agricultural activities begun before the date of designation of the wilderness area other than timber cutting). This notice procedure will insure that no action will be taken in relation to an inholding which necessitates condemnation against the de-

sires of both the inholding owner and the Secretary. Instead, it provides a grace period so that both parties may apprise themselves of the likely consequences of the contemplated action of the owner and discuss alternatives before that action becomes irrevocable.

Paragraphs (6), (7), and (8) provide that the owners of property within a wilderness area used for noncommercial residential or agricultural purposes (other than timber cutting) on or before the date of designation of the wilderness area may continue to reside on and use such property, even though acquired by the Secretary, for a certain period of time. This right of occupancy and use is available whether the property is acquired by other than condemnation or whether its use is found to be incompatible with wilderness area management and is thus taken by eminent domain. The right extends for twenty-five years, or a term ending at the death of the owner or his spouse, whichever is later. The owner can elect either term. If he does, he will be paid full market value for the property discounted for the period of continued residence. Or the owner can elect to receive the entire full market value and not retain the right of use and occupancy for the noncommercial residential purpose or the agricultural activity. Property is defined to mean a detached, noncommercial residential dwelling or an existing agricultural activity, other than timber cutting. Construction of the dwelling or the agricultural activity must have begun prior to the date of the designation of the wilderness area. The Secretary may permit occupancy of so much of the land on which the dwelling or agricultural activity is situated as he determines is necessary for noncommercial residential or agricultural purposes.

This right of continued use and occupancy is a modification of the "Cape Cod formula" which the Congress places in most national park legislation. The formula has proved popular with landowners because it allows them to receive money at the time of condemnation and live rent and tax free for an extended period of time thereafter. The modification of the Cape Cod formula is the addition of "agricultural activity" to noncommercial residential purposes as the only uses for which the formula can be invoked.

The only restrictions concerning the right of use and occupancy allowed under this version of the Cape Cod formula is that the owner waives Federal relocation assistance when his term is finally completed and that the right ends if the inholding ceases to be used for the noncommercial residential purpose or agricultural activity. If the right is terminated, the holder of the terminated right receives the fair market value of that portion of the right which remains unexpired on the date of termination.

Section 8. Amendments to the Wilderness Act of 1964

Section 8 contains certain amendments to the Wilderness Act of 1964 which shall be applicable to the management of wilderness areas designated by or pursuant to the bill and the Wilderness Act of 1964.

Subsection (a) amends section 2(c) of the Wilderness Act of 1964 to provide that the term "wilderness" as defined in section 2(c) shall include wilderness area designated by or pursuant to the bill.

Subsection (b) amends section 3(d) of the Wilderness Act of 1964. Section 3(d) requires that, as part of each individual wilderness area study, a public hearing must be held at or near the area in question. There is the additional requirement of thirty days advance notice to the affected State and local governments, including the invitation to testify at the hearing or to submit views. Furthermore, advance notice by publication in local newspapers is required. There is no time limit on the public notice although thirty days advance notice has been provided by the Forest Service to the public as well as to the affected governments. Government officials and citizens alike have voiced the concern that a thirty day period is not sufficient time to apprise themselves of the area concerned, the wilderness qualities or lack thereof, and the implications of wilderness designation. To insure an informative public hearing, subsection (b) of section 8 amends section 3(d)(1)(B) of the Wilderness Act to require a minimum 60 days prior notice of hearings on any wilderness study area. Such notice would be given to the public as well as to the Federal, State, and other political, planning and development, or environmental protection authorities specified in section 3(d)(1)(C) of the Wilderness Act, as amended by subsection (b).

Subsection (c) amends section 4(d) of the Wilderness Act of 1964 by adding a provision to paragraph (1) that no timber stand modification is to occur except in connection with measures necessary to control fire, insects, and disease.

Subsection (c) also amends paragraph (4) of section 4(d) of the Wilderness Act by the addition of two provisos. The authority of the President in section 4(d)(4) of the Wilderness Act to permit—within National Forest wilderness areas designated by or pursuant to the Wilderness Act—the establishment and maintenance of reservoirs, water conservation works, power projects, transmission lines, and other facilities is unchanged. However, by the first proviso, the authority of the President is limited to maintaining *existing* reservoirs, water conservation works, power projects, transmission lines, and other facilities in National Forest wilderness areas designated by or pursuant to the bill. The authority to establish *new* facilities is eliminated for National Forest wilderness areas designated by or pursuant to the bill.

Paragraph (4) is also amended by adding a proviso to the provision that livestock grazing shall be permitted to continue where established prior to the date of the Wilderness Act. The proviso states that the Secretary of Agriculture may permit grazing in any National Forest area designated as wilderness after January 1, 1974, where such use is consistent with the purposes of the Wilderness Act. The Secretary now has authority to subject continued grazing use to reasonable regulations deemed necessary to preserve wilderness values. Under the proviso, the Secretary of Agriculture would be able—in National Forest areas designated as wilderness after January 1, 1974—to continue grazing, eliminate it, or shift a permit to a nonwilderness area depending upon its impact on the preservation of wilderness characteristics.

Subsection (d) amends section 5 of the Wilderness Act of 1964 by repealing paragraph (c). Paragraph (c) of section 5 of the Wilderness Act provides that the Secretary of Agriculture may acquire privately-owned land in National Forest wilderness areas designated by the Wilderness Act of 1964 only if (1) the owner concurs in such acquisition or (2) the acquisition is specifically authorized by Congress. Section 7(c) of the bill authorizes—with restrictions—the Secretary of Agriculture to acquire privately-owned land in National Forest wilderness areas designated by or pursuant to the bill and the Wilderness Act.

Subsection (e) amends the reporting requirements of section 7 of the Wilderness Act of 1964. Instead of reporting at the opening of each session of Congress, the Secretaries of Agriculture and the Interior will jointly report to the President, for transmission to the Congress, at the opening of each Congress. The biennial report will, however, be a more comprehensive one. In addition to the subjects now required in the report, the Secretaries will include descriptions of the wilderness study areas recommended for designation as wilderness and those portions of such areas not recommended for designation, together with the reasons for such recommendations, and the recommendations, if any, made by the National Wilderness Advisory Committee.

Subsection (f) amends the Wilderness Act of 1964 by adding new sections 8 through 12, which, in part, affect both wilderness areas designated by or pursuant to the bill and the Wilderness Act.

The *new section 8* authorizes the Secretary of Agriculture to permit hunting, fishing, and trapping in all National Forest wilderness areas in accordance with applicable Federal and State laws. The Secretary may, through regulations, designate zones where, and establish periods when, no hunting, fishing or trapping will be permitted for reasons of public safety, administration, or public use enjoyment. Such regulations, except in emergency situations, are to be issued only after consultation with appropriate State wildlife agencies.

The *new section 9* requires the preparation of a management plan for each wilderness area and each wilderness study area. A multidisciplinary approach will be used in formulating this plan, including appropriate public involvement.

The *new section 10* provides for a National Wilderness Advisory Committee to be appointed by the President upon the recommendations of the Secretaries of Agriculture and the Interior. The committee, which is to be composed of nine persons knowledgeable of natural resources and their management and use, is to advise, consult with, and make recommendations to the Secretaries concerning the National Wilderness Preservation System. The advisory committee shall be appointed and function in accordance with the Federal Advisory Committee Act.

The *new section 11* authorizes the head of any Federal department or agency having jurisdiction over any lands or interests therein inside wilderness areas and study areas to transfer jurisdiction over such lands to the appropriate Secretary for administration in accordance with the Wilderness Act.

The *new section 12* provides that the Secretaries of Agriculture and the Interior shall cooperate with States and political subdivisions thereof in the administration and protection of wilderness areas and lands within or adjacent to such areas owned or controlled by States or political subdivisions.

Section 9. Regulations

Section 9 authorizes the Secretaries of Agriculture and the Interior to issue such rules and regulations as they deem necessary to carry out the purposes of the bill.

Section 10. Authorization of appropriations

Section 10 authorizes the appropriation of such sums as may be necessary to carry out the provisions of the bill. As provided in section 2(b) of the Wilderness Act of 1964, no appropriation shall be made for the payment of expenses or salaries for the administration of the National Wilderness Preservation System as a separate unit or for additional personnel required solely for the purpose of managing or administering areas solely because they are included within the system.

By Mr. HUGH SCOTT:

S. 3434. A bill to establish university coal research laboratories and to estab-

lish energy resource fellowships, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. HUGH SCOTT. Mr. President, America's most abundant natural domestic energy source is coal. We possess close to one-half of the world's reserves. Even though we have this tremendous resource, it is not the primary energy source used in this country. In fact, coal plays a disproportionately small role in the overall energy picture.

A number of factors have contributed to the underutilization of our coal resources. To a large extent, the relatively easy access to cheaper and cleaner forms of energy like petroleum and natural gas has tended to lead to less reliance on coal. It goes without saying that events of the last 9 months have changed this drastically. Petroleum and natural gas are no longer available in unlimited quantities or at inexpensive rates. This Nation must now return to coal as a major source for our energy demands that continue to grow geometrically.

One of the most interesting aspects of coal is its unknown properties. Although man has used coal for thousands of years, we probably know less about its potential than we do of oil or natural gas. Gasification and liquefaction of coal is slowly, much too slowly, becoming an economic reality. There are essential components in the makeup of coal which scientists still cannot identify or evaluate. Therefore, coal may have valuable uses for our economy which we presently do not understand.

For these reasons, I am today introducing a bill to do two things. First, it would establish coal research laboratories at selected universities for research in coal characterization and development. And second, the bill would provide energy resource graduate fellowships for graduate students to learn skills which will enable them to enter the energy field as experts in the private sector. The fellowship programs would fund study in all areas of the energy field—a field which now lacks manpower with the proper expertise in industry to find practical approaches to the undiminished energy crisis.

I would like to point out that the Congress in the past has encouraged energy research. In my Commonwealth of Pennsylvania for example, there was a federally created and funded Anthracite Research Center at Schuylkill Haven until 1966. For almost 25 years this center did extremely valuable work on development of new uses, markets, and outlets for anthracite coal. Under the authority of the Department of the Interior the center carried out a broad and extensive mandate. The idea was conceived and helped through Congress by former Congressman Ivor D. Fenton of Mahanoy City, Pa. Congressman Fenton realized as early as 1939 that this country must somehow tap our abundant coal reserves. His observations continue to be accurate more than 30 years later. Unfortunately, on the recommendation of former Secretary of the Interior, Stewart Udall, the research center at Schuylkill Haven was discontinued in 1966.

My proposal for coal research laboratories would revitalize and continue the studies of anthracite started by Congressman Fenton. Moreover, it would go much farther by embracing bituminous coal research.

Presently, there is a Government policy encouraging power generation systems now utilizing fuel oil to switch to coal. A basic problem is that much of the coal which might be put to this purpose is not environmentally acceptable under standards set by the Congress and the Environmental Protection Agency. One proposed solution is to decrease these standards so all coal will qualify. This may be satisfactory as a very temporary measure, but it certainly will not meet this country's realistic desire for both clean air standards and adequate energy availability. The coal research laboratories established by this bill would be mandated to develop methods by which high sulfur coal could be made environmentally acceptable.

Mr. President, I ask unanimous consent to place in the RECORD at the end of my remarks a more detailed analysis of this bill. It will specifically outline how the bill would fund five coal research laboratories for in-depth coal research and would establish graduate fellowships to train professionals to work in industry on our general energy problem.

I hope my colleagues from both sides of the aisle will join with me in cosponsoring this bill. If we are truly sincere about our expressed desire for energy self-sufficiency in the near future, then we should enact this bill.

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

FACT SHEET

The bill has two titles. Title I establishes University Coal Research Laboratories, and Title II authorizes Energy Resource Graduate Fellowships.

The Director of the National Science Foundation after consultation will designate five institutions of higher education at which the Laboratories will be established. The bill outlines the steps required for an institution in application for designation. In designating, the Director of the NSF must consider the following criteria: The institution of higher education shall be located in a state with abundant coal reserves, the institution of higher education shall have previous experience in coal research and currently active programs in this area, and the institution must have the capacity and resources to operate a coal laboratory assisted by the bill.

The bill would authorize the Director of the NSF to pay the Federal share of the cost of establishing (including the construction of such facilities as may be necessary) and maintaining a coal laboratory. No institution may receive more than $4,000,000 for construction of its coal laboratory, including initially installed fixed equipment. It would not be allowed more than $1,500,000 for initially installed movable equipment and no more than $500,000 for new program start-up expenses. Each year for a minimum of five years the Federal government would provide no more than $1,500,000 per laboratory for operating expenses. The institution of higher education would have to insure matching amounts each year for operating expenses from non-federal sources.

Under Title I an Advisory Council on Coal Research would be established. Membership is outlined in section 105. The Council would provide advice on the general administration of the laboratories.

Title II outlines the Energy Resource Graduate Fellowships. The fellowships would be awarded by the Director of the NSF for periods designated not to exceed two years. They would be for graduate study and research in those areas of applied science and engineering that are related to the production, conservation and utilization of fuels and energy. To apply for a fellowship an individual must have been accepted by an institute of higher education for graduate study leading to an advanced degree or for a professional degree and the individual must plan a career in the field of energy resources, production or utilization. The Director of the NSF should provide for equitable distribution of such fellowships throughout the nation. However, special attention should be given to research centers, archives, libraries, or institutes of higher education that have a demonstrated capacity for research or courses of study in the fields of energy resources, conservation, conversion and related disciplines.

The fellowships for individuals shall be stipends of $4,000 for each academic year of study plus an additional $500 for each dependent. The institution will be given 100% the amount paid to the fellowship holder less the amount paid on account of such person's dependents, less any amount charged such person for tuition.

The Coal Research Laboratories and the fellowships shall be funded by the legislation for a five year period. The Director of the NSF will be empowered to award up to 1500 fellowships per year.

By Mr. BENTSEN:

S. 3435. A bill to authorize a project for flood protection in and in the vicinity of Baytown, Tex. Referred to the Committee on Public Works.

SUBSIDENCE PROBLEM IN THE BAYTOWN, TEX., AREA

Mr. BENTSEN. Mr. President, I introduce this bill today in an effort to resolve the problem of flooding and general land subsidence which is occurring on the east side of the upper reaches of Galveston Bay, in the area known as the Brownwood addition of Baytown, Tex. The area is a distant suburb of Houston, Tex., and is in the congressional district of Congressman BOB ECKHARDT. Congressman ECKHARDT is introducing this same bill in the House of Representatives, and I am pleased that we will be working in a joint effort to help the citizens of Brownwood.

This problem of the land subsidence is caused by pumping water from the ground in sufficient quantities to permanently lower the water table. The pumping has been conducted by municipal and industrial interests which the people of the Brownwood addition have no control over. In the last 25 years, the water table has dropped more than 200 feet, resulting in land subsidence of up to 7 feet. The affected area can be described as a 65-mile diameter saucer, with one edge east of Baytown and the other edge at Katy, Tex., 35 miles west of Houston. Subsidence is the greatest at the center of the saucer and diminishes towards the edges. This subsidence is not reversible; there is apparently no way to recover the lost elevation.

The subsidence is causing a tragic loss of homes in the Brownwood area. The area is one of many homes and is the

chosen retirement area of many people. Preliminary studies have revealed that 541 residences are affected in the Brownwood addition with the number of people affected reaching 2,000. Mr. President, as a result of this situation, there are actually homes sitting out in the bay because the land has literally sunk below sea level.

The frequent flooding is extensive. Major flooding occurred in 1960 when hurricane Carla caused over $5 million in damage and in 1973 when tropical storm Delia produced high tides causing over $2 million in damages to this small area.

While the flooding has created obvious discomforting and costly problems for the local residents, the Federal Government has had to bear the major portion of the cost through federally subsidized flood insurance. Any additional delay in resolving this problem can only mean more cost to the Federal Government.

Flood retaining structures are engineeringly possible, but I strongly question the financial and ecological feasibility of this option. It is for this reason that I am introducing this bill today which will enable the Corps of Engineers to relocate the homeowners out of the area and claim the area as parkland. I hope that my colleagues will join me in supporting this important effort.

By Mr. BROOKE:

S. 3436. A bill to increase the availability of mortgage credit for residential housing. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. BROOKE. Mr. President, recent economic reports have dramatically confirmed what many have feared for some time: The Nation is moving into a very difficult economic situation, described by popular economists as staglation.

Galloping inflation is, in my opinion, a most serious problem; it could literally bankrupt the country and destroy the lives and security of our citizens. Both the Congress and the President should attach the highest priority to arresting the inflationary spiral.

Compounding the problems created by inflation is a slowdown in economic activity which is likely to become a recession. Some economists believe that after two quarters of downturn, economic activity will pick up in the fall, but others are not so sure. The outlook for increases in the gross national product could best be described as uncertain.

Some Members of Congress have suggested that a tax cut is in order to help stimulate the economy. I am concerned that a tax cut might lead to an overall increase in spending power, which would fuel inflation. It would be better, in my view, to encourage selective expansion in those sectors of the economy where there is unused productive capacity, while using monetary policy to moderate the general tendency toward demand pull inflation.

One area of the economy which clearly needs stimulation is housing production. Reacting to high interest rates, housing starts fell to a 3-year low in December of last year. While the monetary situation eased in the early part of this year, the Federal Reserve Board recently has been forced to tighten the monetary screws to curb inflation. The Fed has raised the discount rate from 7 to 8 percent, the prime rate has jumped to 10½ percent, and good utility bonds are being sold to yield about 9 percent. Needless to say, the outlook for the mortgage market is bleak.

It is commonplace that the housing industry is countercyclical. When the rest of the economy heats up, pushing up interest rates, sales and production of housing necessarily slow down. Housing is, in a sense, the whipping boy of the economy; it is punished for excessive spending in other industries. The result is that those who want to buy or sell their homes are unable to do so.

EMERGENCY HOME FINANCE ACT OF 1974

To ease the mortgage credit crunch which has hampered and will continued to hamper the purchase and sale of homes and to take advantage of the unused capacity in the housing industry, I am today introducing the Emergency Home Finance Act of 1974.

The bill seeks to create a source of mortgage credit which will be available to home buyers in times of tight money. It provides for the creation of a National Housing Trust Fund, which would be funded by loans of up to $5 billion from the U.S. Treasury. The money in this fund could be used by the Secretary of Housing and Urban Development to make FHA-insured loans through FHA-approved seller services, such as savings and loan associations and mutual savings banks. Loans would be made in those areas where the Secretary determines that mortgage credit is not available on reasonable terms at the interest rates prescribed for FHA-insured mortgages.

The National Housing Trust Fund would operate without expense to the taxpayer. While the trust fund would be able to obtain loans from the Treasury at a rate comparable to that paid on Treasury issues, all loans to the trust fund would be repayable with interest. In this regard, the trust fund would have a great advantage over the GNMA tandem plan, which has helped to ease mortgage credit shortages in the past but at a potential cost to the Government of several hundred million dollars. The tandem plan should, however, continue to operate alongside the direct loan program as a subsidy to promote new construction. The trust fund would also have an advantage over Federal Home Loan Bank Board advances in that there would be certainty that the funds would be used for residential mortgage financing rather than for other purposes or relending for market securities.

Funds loaned by the Treasury to the trust fund would not be included in the total budget of the U.S. Government and would be exempt from any limitation on annual expenditure or net lending as are funds borrowed by the Export-Import Bank under the provisions of the Export Expansion Finance Act of 1971.

The proposed bill would not create a new bureaucracy. It would rely upon savings and loan associations, mutual savings banks, and mortgage bankers to process and service mortgage loans, and these seller-services would receive reasonable compensation for their work.

The Emergency Home Finance Act will give assistance to the home buyer, who in most cases is a moderate- to middle-income citizen. At the same time we must not neglect the pressing needs of lower-income families. The Housing and Community Development Act of 1974, which was passed by the Senate in March of this year, provides increased funding for public housing and subsidized housing programs. This bill should be enacted and signed by the President without delay, both to provide additional stimulus to the lagging housing sector of the economy and to meet the urgent need to provide decent, safe, and sanitary housing for low-income families.

By encouraging additional housing production in the ways I have suggested, we can stimulate a sagging economy. At the same time, we can moderate the effect on the housing industry of the restrictive monetary policy which the Federal Reserve Board has been forced to adopt to help curb inflation. I believe the proposals contained in the Emergency Home Finance Act of 1974 would better serve the economy and the national interest than the enactment of a tax cut.

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

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

S. 3436

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Emergency Home Finance Act of 1974".

FINDINGS AND PURPOSES

SEC. 2. The Congress finds and declares that—

(1) in many parts of the Nation, residential mortgage credit is or is likely soon to become prohibitively expensive or unavailable at any price;

(2) the unavailability of mortgage credit severely restricts housing production, causes hardship for those who wish to purchase or sell existing housing, and delays the achievement of the National goal of a decent home for every American family; and

(3) there is an urgent need to provide an alternate source of residential mortgage credit on an emergency basis.

AUTHORITY OF THE SECRETARY

SEC. 3. (a) The Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") is authorized, upon such terms and conditions as he may prescribe, to make, and to enter into commitments to make, mortgage loans under this Act to finance the purchase of housing in geographic areas where he determines, after consultation with the Chairman of the Federal Reserve Board and the Chairman of the Federal Home Loan Bank Board, that mortgage credit is not available on reasonable terms at the interest rate prescribed by him under section 3(a) of the Act entitled "An Act to amend chapter 37 of title 38 of the United States Code with respect to the veterans' home loan program, to amend the National Housing Act with respect to in-

sured mortgages, and for other purposes", approved May 7, 1968.

(b) In determining to what extent mortgage credit assistance under this Act shall be made available in any geographic area, the Secretary shall take into account possible future needs for such assistance in other geographic areas.

(c) The Secretary may not make any loan under this Act unless the mortgage securing the loan meets the requirements of, and is or will be insured under, the National Housing Act.

(d) The Secretary is authorized to establish and charge fees for mortgage loans made under this Act in such amounts as he determines to be necessary to cover costs incurred under section 5.

NATIONAL HOUSING TRUST FUND

SEC. 4. (a) There is established in the Treasury of the United States a trust fund to be known as the "National Housing Trust Fund" (hereinafter in this section referred to as the "fund"). The fund shall consist of—

(1) amounts repaid by mortgagors as principal and interest on loans from the fund;

(2) proceeds credited to the fund under 3(d) or subsection (c) or (e) of this section; and

(3) receipts from any other source.

(b) Amounts in the fund shall be available to the Secretary for the purpose of making direct mortgage loans in accordance with section 3, and for carrying out functions relating to the processing and servicing of such loans.

(c) To carry out the purposes of this section, the Secretary is authorized to issue to the Secretary of the Treasury notes or other obligations in an aggregate amount not to exceed $5,000,000,000, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury to be equal to the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury, acting directly or through the Federal Financing Bank, is authorized and directed to purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

(d) The receipts and disbursements of the fund shall not be included in the total of the Budget of the United States Government and shall be exempt from any limitation on annual expenditure or net lending.

(e) The Secretary is authorized to purchase, sell, and otherwise deal in mortgages held by the fund in order to maintain a sufficient level of funds to carry out the purposes of this Act.

PROCESSING AND SERVICING

SEC. 5. The Secretary is authorized to enter into agreements with qualified mortgagees for purposes of the National Housing Act to provide for the processing and servicing of loans made under this Act. Any such agreement may provide for reasonable compensation for the performance of processing and servicing functions.

ADMINISTRATION

SEC. 6. The Secretary is authorized to enter into contracts with the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or with other Federal agencies to carry out his functions under this Act.

REPORT

SEC. 7. The Secretary shall transmit to the Congress not later than March 15 of each year a report on his activities under this Act, during the preceding year and on any activities he anticipates during the year in which the report is made.

By Mr. NELSON:

S. 3437. A bill to raise needed revenues by gearing the income tax more closely to an individual's ability to pay, and by broadening the income tax base of individuals and corporations. Referred to the Committee on Finance.

Mr. NELSON. Mr. President, both within and outside the Congress, there is considerable discussion of proposals to cut income taxes at this time. The issue will come before the Congress and be disposed of one way or the other. The objective is to put additional purchasing power into the hands of those in the moderate and lower income groups who have seen their real income eroded by inflation. These are the income groups who have suffered the most because inflation has substantially reduced their capacity to purchase those essentials of food, clothing, housing, health insurance, and so forth. This is a loudable and meritorious objective which deserves the support of Congress.

However, it would be politically irresponsible to pass an income tax cut in the middle of this dangerous inflation without replacing these revenue losses by enacting some long overdue tax reforms. It will throw the Federal budget further out of balance, fuel an already rampaging inflation and play a cruel hoax upon the many people it purports to help.

This may be good election year politics, but it is bad economics, bad for the country and bad news for the taxpayer.

Mr. President, the bill I am introducing today will provide a tax cut and at the same time restore the revenue loss by closing certain tax loopholes which contribute to the serious inequities spread through the tax code. A tax cut without tax reform would be fiscal folly and a fraud on the American taxpayer.

Congress should not, in an election year, take the easy course of reducing taxes. Tax relief must be balanced with tax reform, otherwise such reduction will only add to inflation and rob the American taxpayer of the very relief it purports to give. I am offering today a package of tax reform proposals closing some of the most notorious loopholes that have destroyed the equity of our tax system. Closing these loopholes would allow over $7 billion in tax relief for 55,683,000 American taxpayers. A major part of this reform is the $205 credit provided in this bill which would be a deduction from the final tax bill and would be of equal value to all families.

The present $750 exemption is a deduction from adjusted gross income and is of substantially greater value to wealthy families. Consider, for example, a man with a half million dollars of income who is in the 70 percent bracket and a man earning $5,000. If each is married with two children, the wealthy man will save $2,100 because of the personal exemption and the man with $5,000 will save about $470. For a man in the 14 percent bracket the birth of a child provides him with tax relief of $105; for the man in the 50 percent bracket whose income may be over $50,000 the relief is $375 and for the wealthy man in the 70 percent bracket the relief is $525.

Logic would, of course, suggest that if we were to provide this type of relief for family size, the relief should be greater for the low-income individual than for the high-income one, or at least the same amount. Providing for a credit instead of an exemption will make the income tax system far more progressive, and provide a substantial new measure of tax equity for millions of taxpayers. Providing tax relief through tax reform would be real relief for Americans without adding to inflation.

Senator HASKELL is also offering today a bill balancing tax relief with tax reform. We both propose that tax relief for American taxpayers be achieved by enacting a permanent tax credit which would make our tax system much more equitable.

Americans are being plagued by inflation. In the first 3 months of this year, the Consumer Price Index—CPI—rose by 14.5 percent and in the same period, the Wholesale Price Index—WPI—has risen by 24.8 percent. Workers' real income—after adjustment for higher prices and taxes—is lower than a year ago. For the average married worker with three dependents, real earnings have dropped 4.7 percent since last year. That means that the average worker has the spending power now of only $95.30 out of each $100 a year ago. A study by the Joint Economic Committee shows that a family with a budget of $12,614 had to pay an extra $1,168 just to maintain their 1972 living standards. If the American family ever needed help, this is the time. The help, however, must be real and permanent; not illusionary.

Congress is presently considering the advisability and desirability of reducing taxes to stimulate the economy.

This debate has been, I believe, incorrectly characterized, as between liberals supporting a fiscal stimulant, and conservatives in opposition. Concern about adding to inflation, however, does not stop with the Secretary of the Treasury. For example, John Kenneth Galbraith, no one's favorite conservative, has written:

> I am very doubtful about a tax reduction. Inflation is still a major problem. It's a tough fact that tax reduction is the wrong medicine for that.

Other economists who have expressed grave reservations about the wisdom of a tax cut are Gardner Ackley and Otto Eckstein, respectively, a former chairman, and a member of the Council of Economic Advisers during President Johnson's administration, and Robert Nathan, a noted liberal economist. Even

economists supporting a tax cut are concerned about its longrun revenue affects. For example, Joseph Peckman states:

In closing, I should like to add that *I recommend this type of tax action on the assumption* that there will be other tax legislation this year that will recover at least as much or *more revenue* for later years through tax reform. Given the urgent need for improving the Nation's health, education, welfare, and other social programs, it would be unwise to cut the strength of the revenue system over the long run. [Emphasis added.]

Also, Walter Heller states:

To protect the integrity of the revenue-raising system in the longer run, Congress could couple its exemption boost *with a firm pledge* to compensate for the revenue losses by adopting revenue-raising tax reforms to be phased in during 1975 and subsequent years." [Emphasis added.]

In summary, never have the American taxpayer needed a relief more, but relief provided by only tax reduction presents grave and unacceptable risks. This dilemma can be solved by achieving tax relief through tax reform. This would achieve not only tax relief but much greater tax equity.

TAX CREDIT AND TAX RELIEF

This bill provides for a $7,135 billion cut in individual income taxes and replaces the present $750 personal exemption with a permanent $205 tax credit. This change, increasing the progressivity of the Federal tax structure, provides tax reduction for 55,683,000 American taxpayers.

This proposal would result in less tax liability than under present law for all the following categories of taxpayers—assuming deductible personal expenses of 15 percent of adjusted gross income.

Single person	$14,264.71
Married couple with no dependents	20,196.08
Married couple with one dependent	20,882.35
Married couple with two dependents	21,568.63
Married couple with four dependents	22,941.18

In other words, families of four with adjusted gross incomes of $22,941.18 or less would pay less in tax than under the present law.

Mr. President, I ask unanimous consent to have printed in the RECORD at this time, a table estimating the decrease and increase in Federal individual income tax liability resulting from substituting a $205 credit for the personal exemption.

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

ESTIMATED AGGREGATE DECREASE AND INCREASE IN FEDERAL INDIVIDUAL INCOME TAX LIABILITY RESULTING FROM THE SUBSTITUTION OF A $205 NONREFUNDABLE COMPULSORY TAX CREDIT FOR THE $750 PERSONAL EXEMPTION DEDUCTION

[By adjusted gross income class, 1972 income levels]

Adjusted gross income class (thousands)	Returns with tax decrease			Returns with tax increase		
	Total number with tax decrease (thousands)	Number made nontaxable (thousands)	Decrease in tax liability (millions)	Number of returns (thousands)	Increase in tax liability (millions)	Change in tax liability (millions)
0 to $3	3,221	2,275	$171	0	0	—$171
$3 to $5	7,746	2,359	659	0	0	—659
$5 to $7	8,737	1,882	1,045	0	0	—1,045
$7 to $10	12,229	1,034	1,908	(1)	(1)	—1,908
$10 to $15	15,368	241	2,540	227	$5	—2,535
$15 to $20	7,042	33	733	515	15	—718
$20 to $50	1,339	5	79	3,966	577	498
$50 to $100	2	(1)	(1)	447	306	305
$100 and over	(1)	(1)	(1)	102	89	89
Total	55,683	7,829	7,135	5,257	991	6,144

[1] Less than 500 returns or $500,000.

Note: Details will not necessarily add to totals because of rounding.

TAX REFORM

Justice Holmes stated that:

Taxes are the price we pay for civilization.

While few would disagree with his statement, our present tax system must be reformed because it is no longer fair. It is full of loopholes reducing the tax of the wealthy while increasing the tax of the average American. Everytime someone is afforded the opportunuity not to pay, everyone also must pay more. For instance, taxpayers earning between $8,000 and $15,000—26 percent of the population—earning only 20 percent of the Nation's personal income, pay an extraordinary 36 percent of individual income taxes.

Our tax system is becoming a transfer system from those least able to pay to those less in need. This is why, in the words of Prof. Stanley Surrey:

Tax reform is really a moral issue. It is not just a technical exercise to be engaged in by skilled experts. It is an effort to restore fundamental morality to a tax system by ending both its unfairness and the cynical immoral way the tax game is played today by those with money and knowledgeable advisors.

Congress will not be able to achieve this year the massive and comprehensive revision of our tax law so clearly necessary. This should, however, not deter Congress from making a downpayment on its obligation to achieve real reform. Given the will, Congress can achieve substantial tax reform this year by enacting these proposals.

PERCENTAGE DEPLETION ALLOWANCE

The first provision repeals the percentage depletion allowance. This tax preference, costing the American taxpayer over $1.5 billion per year, has failed totally to encourage domestic production, as it was originally intended to do. If it is not eliminated, its cost will skyrocket to $2.2 billion for domestic oil alone, and still not create any increase in production.

Numerous economic studies have questioned the effectiveness of the oil depletion allowance. For example, a 1969 Treasury Department study showed that, although $1.4 billion Federal revenues were then being lost, the allowance had little influence on exploration.

There are many reasons why the percentage depletion is not an effective device to encourage exploration. First and foremost, as the percentage depletion is now written, it is an incentive for oil men to pump from existing wells, rather than an incentive to explore for new sources of petroleum. Second, land owners with oil royalties receive a percentage depletion even though they do no drilling and take no risks. Third, depletion allowances can be claimed for income for producing wells abroad which do not necessarily insure a source of oil for the United States, secure or otherwise. Fourth, percentage depletion, because of the net income limitation, is of doubtful significance to marginal wells, because it is far more valuable to productive rather than marginal wells.

For these reasons, repeal of the percentage depletion is a wise tax and energy policy.

Defenders of percentage depletion should be asked to explain why, since it has existed from 1926 to the present, domestic exploration peaked in 1956 and present domestic supply is inadequate to meet our needs. Also, it would be helpful if they explained how a provision which was necessary when oil was selling for $3.50 or less a barrel is just as necessary when oil is selling for at least $5.25 a barrel and in some cases, around $10.

MINIMUM TAX

Congress in 1969 established a minimum tax providing for a flat 10-percent tax rate on income that had escaped entirely being subject to tax. Congress enacted the minimum tax preference income because, regardless of the individual merit of the provision which established such preferences, it did not want them to be pyramided by wealthy individuals to allow them to escape liability entirely. The minimum tax, however, has not achieved its stated purpose. For example, 402 Americans with 1972 incomes in excess of $100,000 paid no Federal income tax for that year. Of the 402, there were 99 with incomes over $200,000, and 4 with incomes of more than $1 million.

The number of wealthy tax avoiders rose in 1972. The number had been declining in recent years—from 394 with incomes over $100,000 for 1970, to 276 for 1971—but now we are apparently back

on the way to grand-scale tax avoidance. The 402 who paid no taxes at all are "only the tip of the iceberg." Thousands of other wealthy Americans end up paying just a few hundred dollars in taxes on their huge incomes.

This provision would lower the present automatic deduction of $30,000 to $10,000 and eliminate the deduction allowed for taxes paid on nonpreference income.

The basic rationale for the minimum tax is that it is needed because certain taxpayers have amassed certain items of income which are not included in their regular tax base. The minimum tax addresses itself not to individuals who have escaped taxes, but to large sources of preference income. These excluded items stand apart from, and in addition to, the items normally taxed. The reason the taxpayer is subjected to the minimum tax is that his effective tax is too low in relation to his real income due to the amount he received from tax preference items. To give him credit for the tax that he pays on his regular income defeats the purpose of the minimum tax. The tax on "regular" income is simply unrelated to the tax on excluded items of tax preference. It is illogical to establish a tax on the preferred income escaping taxation, and then allow a deduction for taxes paid on regular income.

FOREIGN TAX CREDIT

Under present law, a U.S. taxpayer is allowed to reduce his U.S. tax liability on foreign income by a foreign tax credit. In general, the amount of foreign taxes which a taxpayer may claim as a foreign tax credit is limited to the U.S. tax imposed on the foreign income with respect to which the foreign taxes were paid. There are two alternative formulations of the limitation on the foreign tax credit which may be used by taxpayers: the "per-country" limitation and the "overall" limitation.

The use of the per-country limitation permits a U.S. taxpayer which has losses in a foreign country to obtain what in effect is a double tax benefit. Since the limitation is computed separately for each foreign country, these losses do not have the effect of reducing the credit allowed for foreign taxes paid in other foreign countries from which income was derived. Instead, the losses reduce U.S. tax on domestic income. Second, when the business operations in the loss country become profitable, a credit is allowed for the taxes in that country against what otherwise would be the U.S. tax on the income from that country. In other words, a U.S. taxpayer which has losses from a foreign country and which uses the per country limitation receives one tax benefit when the losses arise—in that they are allowed to reduce U.S. tax on U.S. income—and a second tax benefit when income is derived from that foreign country—in that no U.S. tax is imposed on the income to the extent of the foreign taxes on that income.

This provision provides in effect that a U.S. taxpayer who uses the per country limitation on the foreign tax credit and who reduces his tax on domestic income by reason of a loss from a foreign country, is to have this tax benefit recaptured when income is subsequently derived from that country.

FOREIGN TAX CREDIT—OIL COMPANIES

Congress must also end the singular abuse of the foreign tax credit by international oil companies. The foreign tax credit is a reasonable means of preventing double taxation, but oil companies have been allowed to treat foreign royalties as taxes—unlike domestic royalties—and then to use alleged tax payments to shelter their foreign income in other countries. Treasury statistics indicate that in 1971, because of the foreign tax credit, U.S. oil companies were able to reduce their tax bill from $3.2 billion to $788 million, or more than 75 percent.

There are substantial difficulties of ascertaining whether a payment which is labeled as a tax payment is, in fact, a tax or a royalty. It is inappropriate, however, to allow these "tax payments" to offset U.S. tax which would otherwise be imposed on other foreign income. Accordingly, this provision provides a separate foreign tax credit limitation on foreign taxes paid with respect to income derived from foreign mineral production where the foreign government to which the taxes are paid also holds the rights to, or receives royalties relating to, the minerals with respect to which the income is derived, or where the foreign country imposes a higher effective tax rate on mineral income than on other types of income. Generally, the effect of this separate limitation will be to preclude excess foreign tax credits arising from this source from being used to offset what would be the U.S. tax on other foreign income in the same or other countries.

INTANGIBLE DRILLING COSTS

Cost of labor, materials, and other goods incidental to drilling are considered "intangible costs of drilling" and can be expensed, permitting the immediate recovery of capital investments. By most criteria, exploration and development cost for productive wells are all investment in capital, and would be for other industries subject to a depreciation allowance over the useful life of the capital asset. The basic rationale for this provision is that oil and gas exploration is a high risk business, which will not be undertaken unless there are tax incentives.

Recent international events demonstrate that this rationale cannot apply for foreign exploration and development. From the United States, properties discovered abroad do not necessarily have the same benefits as those discovered domestically. For these reasons, this amendment would repeal the deduction for intangible drilling costs for foreign operations.

TAXATION OF UNDISTRIBUTED PROFITS OF FOREIGN CORPORATIONS

At the present time, American corporations do not have to pay taxes on the earnings of their controlled foreign subsidiaries until these earnings are brought home. Since most earnings retained abroad are reinvested in fixed assets, this virtually amounts to a permanent exemption from U.S. tax. This tax provision therefore gives U.S. corporations an artificial incentive to build plants in foreign countries and export American jobs. In 1961, President Kennedy proposed the repeal of this tax deferral, but his proposal did not pass Congress. This amendment would provide for the taxing of earnings of foreign subsidiaries on a current basis.

DOMESTIC INTERNATIONAL SALES CORPORATION—DISC

DISC, enacted as part of the Revenue Act of 1971, is just a dismal tax loophole for corporations. It allows them, just by establishing a paper corporation and without increasing their exports, to defer indefinitely one-half of their taxes on those exports. This loophole gets bigger with every passing day. Every time the U.S. Government negotiates a new trade or wheat arrangement with Russia, or our currency is devalued, which with a floating exchange rate happens daily, the value of this loophole for large exporters increases.

This provision will repeal DISC. As C. Fred Bergsten, senior fellow at the Brookings Institution, recently testified before the Senate Finance Committee:

> The DISC legislation has apparently done little to spur exports and has significantly reduced government revenues. In addition, there is no need for such selective export subsidies in a world of flexible exchange rates. And, even had it worked as planned, it would have no place in the current inflationary environment."

DISC adds to domestic inflation by draining resources away from our economy.

WESTERN HEMISPHERE TRADE CORPORATION

Corporations which receive 95 percent of their income over a 3-year period from business carried on in the Western Hemisphere are taxed at approximately 34 percent rather than the normal 48 percent corporate rate. This rate preference extends to its beneficiaries an advantage unavailable to corporations deriving their income from domestic sources: that advantage is most valuable to corporations with high incomes and least valuable to those with low incomes; and the provision is unsupported by any factual demonstration of its utility to the United States. In practice, certain large companies in the natural resource industry are major beneficiaries of the preference.

This provision will repeal the 14-percent point tax preference presently afforded Western Hemisphere Trade Corporation. This action would correct a deviation from sound principle of taxation—much like DISC—and end an unjustified tax windfall for some of our largest business enterprises.

ASSETS DEPRECIATION RANGE

The ADR system permits a corporate taxpayer to depreciate capital assets within a range of up to 20-percent faster than the actual useful lives of these assets as defined by Treasury guidelines on useful lives in 1971.

By adopting ADR as a part of the Revenue Act of 1971, we abandoned a concept which had been an integral part of the tax laws for 40 years—namely, that

deductions for depreciation of capital assets must be based on the actual useful life of the asset. Once we depart from this concept and allow tax depreciation to exceed economic depreciation, the owners of property producing taxable income are in effect receiving subsidy payments from the Treasury. There is no mathematical difference between giving an individual or business a direct handout and forgiving him a like amount in taxes due. This amendment would repeal ADR system for calculating the proper amount of deductible depreciation.

During the last Presidential campaign, public concern compelled every major candidate to talk about tax reform. With such public interest, it was generally assumed that the 93d Congress, which began January 3, 1973, would make substantial progress in achieving tax justice. We are now in the second session of this Congress and nothing has been done and the few administrative proposals merely scratch the surface of the problem.

From personal experience, I fully appreciate the difficulty of achieving any tax reform. Tax laws are complex and difficult to understand. Specific tax reforms attempts are met with general public indifference and claims by affected groups that such attempts would have totally undesirable consequences, not just for them, but for the whole country. With such confusion and complexity, the easy course is to give up. However, I believe that the present inequitable tax system is one of the forces eating away at the social cohesiveness and basic fabric of our society. Tax reform is as necessary for this country's health and welfare as education and medical legislation. Congressmen and Senators, as the selected guardians of the Nation's welfare, have a moral obligation to reform the tax structure to achieve tax justice.

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

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

S. 3437

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

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE. This Act may be cited as the "Tax Reform Act of 1974".

(b) AMENDMENT OF 1954 CODE. Except as otherwise expressly provided:

(1) whenever in this Act a reference is made (by way of amendment or repeal or otherwise) to a section, chapter, or other provision, the reference shall be considered to be made to a section, chapter, or other provision of the Internal Revenue Code of 1954; and

(2) terms used in this Act shall have the same meaning as when used in the Internal Revenue Code of 1954.

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

SEC. 2. CREDIT AGAINST TAX FOR PERSONAL EXEMPTIONS.

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

"SEC. 42. PERSONAL EXEMPTIONS.

"There shall be allowed, as a credit against the tax imposed by section 1 or 3, the amount determined under section 151 for personal exemptions. Such credit shall not exceed the tax imposed by section 1 or 3 for the taxable year."

(b) So much of section 151 (relating to deductions for personal exemptions) as precedes subsection (b) is amended to read as follows:

"SEC. 151. CREDIT FOR PERSONAL EXEMPTIONS.

"(a) AMOUNT OF CREDIT.—The amount of the credit allowed by section 42 for the taxable year for personal exemptions shall be 205 for each exemption allowed to the taxpayer under this section for the taxable year."

(c) Section 151 is further amended by striking out "of $750" wherever it appears therein.

(d) Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end thereof the following new section:

"SEC. 84. CERTAIN INCOME OF CHILD CLAIMED AS DEPENDENT

"Income received during a taxable year by a child from a trust created by his parent, and dividends, interest, and royalties received during the taxable year by a child from property given him by his parent, shall be included in the gross income of the parent, and not in the gross income of the child, if the parent is entitled to and claims a credit under section 42 for the exemption allowable under section 151 for such child as a dependent. This section shall not apply if the parent does not claim the credit allowed by section 42 on account of such child or, having claimed such credit, if the parent waives the allowance of the credit in such manner as may be provided in regulations prescribed by the Secretary or his delegate. This section shall have no application to income of a trust which is includable in the gross income of the parent under the provisions of subpart E of part I of subchapter J."

(e) Sections 2(a)(1)(B), 2(a)(1), 141(c)(5), 143(b)(1), 214(b)(3), 874(b), and 931(e) are each amended by striking out the word "deduction" wherever it appears and inserting in lieu thereof the word "credit".

(f) Section 37(a) (relating to retirement income credit) is amended by striking out "section 35 (relating to partially tax-exempt interest)" and inserting in lieu thereof "section 42 (relating to personal exemptions)".

(g) Section 46(a)(3)(B) (relating to the investment credit) is amended to read as follows:

"(B) section 42 (relating to personal exemptions), and".

(h) Section 63(b) (relating to definition of taxable income) is amended by striking out all that follows after the words "adjusted gross income" and inserting in lieu thereof "minus such standard deduction".

(i) Section 72(n)(3) (relating to special computation of taxable income) is amended by striking out subparagraph (A).

(j) Section 170(b)(1)(C) (relating to unlimited charitable deduction) is amended by striking out clause (ii).

(k) Section 172(d)(3) (relating to net operating loss deduction) is amended to read as follows:

"(3) ESTATES AND TRUSTS.—No deduction shall be allowed for the personal exemption allowed on estate or trust under section 642(b)."

(l) Section 214(b)(3) (relating to care of certain dependents) is amended by striking out "deductions" and inserting in lieu thereof "credits".

(m) Section 443(c) (relating to return for short period) is amended by striking out "a deduction under section 151 (and any deduction in lieu thereof)" and inserting in lieu thereof "as a credit under section 151 or a deduction under section 642(b)".

(n) The last sentence of section 642(b) (relating to estates and trusts) is amended to read as follows: "The deductions allowed by this subsection shall be in lieu of the credits allowed under section 42 (relating to credit for personal exemptions."

(o) Section 703(a)(2) (relating to partnership computations) is amended by striking out subparagraph (B).

(p) Paragraph (3) of section 873(b) (relating to nonresident aliens) is amended to read as follows:

"(3) CREDIT FOR PERSONAL EXEMPTION.—Except in the case of a nonresident alien individual who is a resident of a contiguous country, only one credit shall be allowed for exemptions under section 151."

(q) Section 891 (relating to citizens of foreign countries) is amended by striking out "under section 151 and".

(r) Section 933(1) (relating to residents of Puerto Rico) is amended by striking out "(other than the deductions under section 151, relating to personal exemptions)".

(s) Section 1211(b)(3) (relating to deduction of capital losses) is amended by striking out "the deductions provided in section 151 (relating to personal exemptions) or any deduction in lieu thereof" and inserting in lieu thereof "any deduction allowed by section 642(b)".

(t) Section 1402(a) (relating to self-employment income) is amended by striking out paragraph (7).

(u) The amendments made by this section shall apply to taxable years beginning after December 31, 1974.

SEC. 3. REPEAL OF PERCENTAGE DEPLETION RATES ON OIL AND GAS.

Section 613 of the Internal Revenue Code of 1954 (relating to percentage depletion) is amended by adding at the end thereof the following new subsection:

"(e) DISALLOWANCE OF PERCENTAGE DEPLETION FOR OIL AND GAS WELLS AND OIL SHALE AFTER 1973. The allowance for depletion under section 611 for oil and gas wells and for oil shale (except shale described in subsection (b)(5)) shall not be determined under this section for any taxable year ending after December 31, 1973."

SEC. 4. STRENGTHENING THE MINIMUM TAX.

(a) Section 56 of the Internal Revenue Code of 1954 (relating to imposition of minimum tax for tax preferences) is amended:

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) IN GENERAL. In addition to the other taxes imposed by this chapter, there is hereby imposed for each taxable year, with respect to the income of every person, a tax equal to 10 percent of the amount (if any) by which the sum of the items of tax preference exceeds $10,000.";

(2) by striking out "$30,000" in subsection (b)(1)(B) and inserting in lieu thereof "$10,000"; and

(3) by striking out subsection (c).

(b) The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5. FOREIGN TAX CREDIT REDUCTION IN CASE OF FOREIGN LOSSES.

(a) REDUCTION IN FOREIGN TAX CREDIT LIMITATION.—Section 904(a) (relating to limitation on credit) is amended by adding

at the end thereof the following new paragraphs:

"(3) REDUCTION IN LIMITATION.—In the case of a taxpayer who in a prior taxable year sustains a loss in a foreign country or possession of the United States and chooses the limitation provided in paragraph (1) for such prior year, the amount of the taxpayer's taxable income from sources within such country or possession for the taxable year (but not the taxpayer's entire taxable income for the same taxable year) shall, solely for purposes of determining the applicable limitation under paragraph (1) or (2), be determined without regard to section 172 (relating to net operating loss deduction) and be reduced by the lesser of—

"(A) (i) the amount of such loss, decreased by

"(ii) the amount of any reduction previously made under this paragraph with respect to such loss, or

"(B) an amount which is equal to 50 percent of the taxpayer's taxable income for the taxable year (determined without regard to this paragraph and section 172) from sources within such country or possession.

"(4) ALLOCATION OF LOSSES.—In applying paragraph (3) for any taxable year to which subsection (f) or (g) applies, a loss sustained in a foreign country or possession of the United States shall be allocated to the separate limitation (if any) under such subsection pursuant to regulations prescribed by the Secretary or his delegate.

"(5) SPECIAL LIMITATION ON CARRYBACKS AND CARRYOVERS.—For purposes of subsection (d), the amount by which tax paid or accrued to any foreign country or possession of the United States for any taxable year exceeds the applicable limitation under this subsection shall be determined without regard to paragraph (3).

"(6) CERTAIN DISPOSITIONS OF PROPERTY.—

"(A) Under regulations prescribed by the Secretary or his delegate, if during any taxable year property which is used in the trade or business which gives rise to the loss referred to in paragraph (3) is disposed of and such loss exceeds the amount by which the taxpayer's taxable income was reduced under paragraph (3) for such taxable year and preceding taxable years by reason of such loss, an amount equal to such excess shall be included in gross income for such taxable year.

"(B) No amount shall be included in gross income under subparagraph (A) in any case in which—

"(i) the property which is disposed of is not a material factor in the realization of the income (or loss) from the trade or business in which such property is used or is not a substantial portion of the assets used in, or held for use in, the conduct of such trade or business,

"(ii) the property is disposed of on account of its destruction or damage by fire, storm, shipwreck, or other casualty, or by reason of its theft,

"(iii) the property is transferred by reason of death, or

"(iv) the property is transferred in a transaction to which section 381(a) applies."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to losses sustained in taxable years beginning after December 31, 1974.

SEC. 6. SEPARATE LIMITATION ON FOREIGN TAX CREDIT WITH RESPECT TO FOREIGN MINERAL INCOME.

(a) LIMITATION ON AMOUNT OF FOREIGN TAXES TO BE TAKEN INTO ACCOUNT.—Section 904 (relating to limitation on credit) is amended by redesignating subsection (g) as subsection (h), and by inserting after subsection (f) the following new subsection:

"(g) APPLICATION OF SECTION IN CASE OF FOREIGN MINERAL INCOME.—

"(1) IN GENERAL.—If any foreign country or possession of the United States, or any agency or instrumentality of such country or possession—

"(A) requires the payment of any bonus or royalty with respect to property which gives rise to foreign mineral income,

"(B) holds substantial mineral rights with respect to such property, or

"(C) imposes any income, war profits, or excess profits taxes on such income at an effective rate higher than on other income, subsections (a), (c), (d), and (e) of this section shall be applied separately with respect to foreign mineral income from sources within such country or possession.

"(2) FOREIGN MINERAL INCOME DEFINED.—

"(A) GENERAL RULE.—For purposes of paragraph (1), the term 'foreign mineral income' means taxable income from mines, wells, and other natural deposits within any foreign country or possession of the United States, to the extent such taxable income constitutes 'taxable income from the property' within the meaning of section 613. Such term includes, but is not limited to—

"(i) dividends received from a foreign corporation in respect of which taxes are deemed paid under section 902, to the extent such dividends are attributable to foreign mineral income, and

"(ii) that portion of the taxpayer's distributive share of the income of a partnership attributable to foreign mineral income.

"(B) SPECIAL RULES.—

"(i) For purposes of subparagraph (A), if for the taxable year a taxpayer's (or, where a consolidated income tax return is filed, the affiliated group's) foreign mineral income is less than $10,000, no part of the taxable income for such year shall be treated as foreign mineral income.

"(ii) For purposes of clause (i) of subparagraph (A), if less than 30 percent and less than $100,000, of the accumulated profits of the year or years from which dividends are paid, as determined under section 902(c), are attributable to foreign mineral income, no part of the dividends shall be treated as foreign mineral income.

"(3) OVERALL LIMITATION NOT TO APPLY.—The limitation provided by subsection (a)(2) shall not apply with respect to foreign mineral income. The Secretary or his delegate shall by regulations prescribe the manner of application of subsection (e) with respect to cases in which the limitation provided by subsection (a)(2) applies with respect to income other than foreign mineral income.

"(4) TRANSITIONAL RULES FOR CARRYBACKS AND CARRYOVERS.—

"(A) CARRYBACKS TO YEARS BEFORE TAX REFORM ACT OF 1974.—If, after applying subsection (d), taxes paid or accrued to any foreign country or possession of the United States in any taxable year beginning after the date of the enactment of the Tax Reform Act of 1974 are deemed paid or accrued in one or more taxable years beginning on or before such date, then the amount of such taxes deemed paid or accrued in such taxable year or years shall be determined without regard to the provisions of this subsection. To the extent the taxes paid or accrued to a foreign country or possession of the United States in any taxable year beginning after the date of the enactment of such Act are not, after applying the preceding sentence, deemed paid or accrued in any taxable year beginning on or before the date of the enactment of such Act, such taxes shall, for purposes of applying subsection (d), be deemed paid or accrued in a taxable year beginning after the date of the enactment of such Act with respect to foreign mineral income, and with respect to income other than foreign mineral income, in the same ratios as the amount of such taxes paid or accrued with respect to foreign mineral income, and the amount of such taxes paid or accrued with respect to income other than foreign mineral income, respectively, bear to the total amount of such taxes paid or accrued to such foreign country or possession of the United States.

"(B) CARRYOVERS TO YEARS AFTER TAX REFORM ACT OF 1974.—Where under the provisions of subsection (d) taxes paid or accrued to any foreign country or possession of the United States in any taxable year beginning on or before the date of the enactment of the Tax Reform Act of 1974 are deemed paid or accrued in one or more taxable years beginning after such date, the amount of such taxes deemed paid or accrued in any year beginning after such date shall, with respect to foreign mineral income, be an amount which bears the same ratio to the amount of such taxes deemed paid or accrued as the amount of the taxes paid or accrued to such foreign country or possession for such year with respect to foreign mineral income bears to the total amount of taxes paid or accrued to such foreign country or possession for such year; and the amount of such taxes deemed paid or accrued in any year beginning after such date with respect to income other than foreign mineral income shall be an amount which bears the same ratio to the amount of such taxes deemed paid or accrued for such year as the amount of taxes paid or accrued to such foreign country or possession for such year with respect to income other than foreign mineral income bears to the total amount of the taxes paid or accrued to such foreign country or possession for such year."

(b) CONFORMING AMENDMENTS.—Section 904(b) (relating to election of overall limitation) is amended—

(1) by striking out "with the consent of the Secretary or his delegate with respect to any taxable year" in paragraph (1) and inserting in lieu thereof "(A) with the consent of the Secretary or his delegate with respect to any taxable year, or (B) for the taxpayer's first taxable year beginning after the date of the enactment of the Tax Reform Act of 1974", and

(2) by striking out "If a taxpayer" in paragraph (2) and inserting in lieu thereof "Except in a case to which paragraph (1)(B) applies, if the taxpayer".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years beginning after the date of enactment of this Act.

SEC. 7. REPEAL OF INTANGIBLE DRILLING COSTS FOR FOREIGN EXPLORATION.

(a) IN GENERAL.—Section 263(c) (relating to intangible drilling and development costs in the case of oil and gas wells) is amended by adding at the end thereof the following new sentence: "The provisions of this subsection shall not apply to any oil or gas well located outside of the United States and beyond the outer continental shelf (within the meaning of section 2 of the Outer Continental Shelf Lands Act)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to taxable years beginning after December 31, 1974.

SEC. 810. TAXATION OF UNDISTRIBUTED PROFITS OF FOREIGN CORPORATIONS.

(a) Part III of subchapter N of chapter 1 (relating to income from sources without the United States) is amended by adding at the end thereof the following new subpart:

"Subpart J—Undistributed Profits of Controlled Foreign Corporations

"SEC. 985. AMOUNTS INCLUDED IN GROSS INCOME OF UNITED STATES SHAREHOLDERS.

"(a) AMOUNTS INCLUDED.—

"(1) IN GENERAL.—If a foreign corporation is a controlled foreign corporation (as defined in section 957) for an uninterrupted

period of 30 days or more during any taxable year, every person who is a United States shareholder (as defined in section 951(b)) of such corporation who owns (within the meaning of section 958) stock in such corporation on the last day in such year on which such corporation is a controlled foreign corporation shall include in his gross income, for his taxable year in which or with which such taxable year of the corporation ends, his pro rata share of the corporation's earnings and profits for such year.

"(2) PRO RATA SHARE OF EARNINGS AND PROFITS.—A United States shareholder's pro rata share referred to in paragraph (1) is the amount—

"(A) which would have been distributed with respect to the stock which such shareholder owns (within the meaning of section 958) in such corporation if on the last day, in its taxable year, on which the corporation is a controlled foreign corporation it had distributed pro rata to its shareholders an amount (i) which bears the same ratio to its earnings and profits for the taxable year, as (ii) the part of such year during which the corporation is a controlled foreign corporation bears to the entire year, reduced by

"(B) an amount (i) which bears the same ratio to the earnings and profits of such corporation for the taxable year, as (ii) the part of such year described in subparagraph (A)(ii) during which such shareholder did not own (within the meaning of section 958) such stock bears to the entire year.

"(b) EARNINGS AND PROFITS.—For purposes of this subpart, under regulations prescribed by the Secretary or his delegate, the earnings and profits of any foreign corporation, and the deficit in earnings and profits of any foreign corporation, for any taxable year—

"(1) except as provided in section 312(m)(3), shall be determined according to rules substantially similar to those applicable to domestic corporations,

"(2) shall be appropriately adjusted for deficits in earnings and profits of such corporation for any prior taxable year beginning after December 31, 1974,

"(3) shall not include any item of income which is effectively connected with the conduct by such corporation of a trade or business within the United States unless such item is exempt from taxation (or is subject to a reduced rate of tax) pursuant to a treaty obligation of the United States, and

"(4) shall not include any amount of earnings and profits which could not have been distributed by such corporation because of currency or other restrictions or limitations imposed under the laws of any foreign country.

"(c) COORDINATION WITH ELECTION OF A FOREIGN INVESTMENT COMPANY TO DISTRIBUTE INCOME.—A United States shareholder who, for his taxable year, is a qualified shareholder (within the meaning of section 1247(c)) of a foreign investment company with respect to which an election under section 1247 is in effect shall not be required to include in gross income, for such taxable year, any amount under subsection (a) with respect to such company.

"(d) COORDINATION WITH FOREIGN PERSONNEL HOLDING COMPANY PROVISIONS.—In the case of a United States shareholder who, for his taxable year, is subject to tax under section 551(b) (relating to foreign personal holding company income included in gross income of United States shareholders) on income of a controlled foreign corporation, the amount required to be included in gross income by such shareholder under subsection (a) with respect to such company shall be reduced by the amount included in gross income by such shareholder under section 551(b).

"(e) ADJUSTMENTS AND FOREIGN TAX CREDITS.—Under regulations prescribed by the Secretary or his delegate—

"(1) Adjustments to the basis of stock on account of earnings and profits taxed under subsection (a) shall be made in the manner provided in section 961 (relating to increases and reductions in basis on account of the income tax treatment of subpart F income):

"(2) Elimination of double taxation of previously taxed earnings and profits when distributed shall be made in the manner provided in section 959 (relating to exclusion from gross income of previously taxed subpart F income); and

"(3) Corporations shall be deemed to have paid income, war profits, and excess profits taxes paid (or deemed paid) by foreign corporations to a foreign country or possession of the United States in accordance with the special rules set forth in section 960."

(b) Section 951 (relating to taxation of Subpart F income) is amended by adding at the end thereof the following new subsection.

"(e) TAXABLE YEARS ENDING AFTER DECEMBER 31, 1974.—No amount shall be required to be included in the gross income of a United States shareholder under subsection (a) (other than paragraph (1)(A)(ii) of such subsection) with respect to a taxable year of a controlled foreign corporation ending after December 31, 1974."

(c) Section 1248(d)(1) (relating to treatment of gain on sale of stock in certain foreign corporations) is amended by striking out "under section 951" each time it appears and inserting in lieu thereof "under section 951 or 985", and by striking out "under section 959" and inserting in lieu thereof "under section 959 or 985(e)(2)".

(d) The amendments made by this section shall apply with respect to taxable years of foreign corporations ending after December 31, 1974, and to taxable years of United States shareholders within which or with which such taxable years of such foreign corporations end.

SEC. 9. REPEAL OF THE TAX EXEMPTION FOR A DISC.

(a) Section 991 (relating to tax exemption of a DISC) is amended by adding at the end thereof the following: "This section shall not apply to any taxable year beginning after the date of the enactment of the Tax Reform Act of 1974."

(b) Section 992(a) (relating to definition of DISC) is amended by adding at the end thereof the following new paragraph:

"(4) TERMINATION.—No corporation shall be treated as a DISC for any taxable year beginning after the date of the enactment of the Tax Reform Act of 1974."

SEC. 10. REPEAL OF DEDUCTION FOR WESTERN HEMISPHERE TRADE CORPORATIONS.

(a) Part III of subchapter N of chapter 1 (relating to income from sources without the United States) is amended by striking out subpart C (relating to Western Hemisphere trade corporations).

(b) Section 170(b)(2) (relating to charitable deductions for corporations) is amended by striking out subparagraph (D).

(c) Section 172(d) (relating to the net operating loss deduction) is amended by striking out paragraph (5).

(d) Section 1503 (relating to consolidated returns) is amended by striking out subsection (b).

(e) Section 1562(b)(4) (relating to multiple surtax exemptions) is amended by striking out "and 922 (relating to special deduction for Western Hemisphere trade corporations)".

(f) The amendments made by this section shall apply with respect to taxable years beginning after the date of the enactment of this Act.

SEC. 11. REPEAL OF ASSET DEPRECIATION RANGE SYSTEM.

(a) Section 167(m) (relating to the Asset Depreciation Range System) is repealed.

(b) Section 167(a) (relating to a reasonable allowance for depreciation) is amended by adding at the end thereof the following:

"Such reasonable allowance shall be computed, subject to the provisions of Revenue Procedure 62-21 (including the provisions for the reserve ratio test) as in effect on January 1, 1971, on the basis of the expected useful life of property in the hands of the taxpayer."

(c) The amendment made by subsection (a) shall apply to property placed in service after April 30, 1974. The amendment made by subsection (b) shall apply to taxable years ending after April 30, 1974, but it shall not apply to property placed in service by the taxpayer before May 1, 1974 if an election has been made to have the provisions of section 167(m) applicable to such property.

By Mr. MONDALE (for himself, Mr. HUMPHREY, Mr. SCHWEIKER, and Mr. CLARK):

S. 3438. A bill to amend the Regional Rail Reorganization Act of 1973 in order to expand the planning and rail service continuation subsidy authority under such act, and for other purposes. Referred to the Committee on Commerce.

Mr. MONDALE. Mr. President, Senators HUMPHREY, SCHWEIKER, and CLARK, and I are today reintroducing legislation which we offered last December to preserve and upgrade the quality of rail services to rural America.

During the debate on the Rail Services Act of 1973, Senator HUMPHREY and I proposed two amendments, one to mandate a comprehensive study of the impact of branch line abandonments on our Nation's economic, social, and environmental requirements and to provide Federal assistance to continue service along essential lines which would otherwise be discontinued. Our second amendment would have placed a 2 year moritorium on railroad abandonments pending completion of the study and the implementation of State and local programs to effectively utilize Federal rail service continuation grants. These amendments were adopted by the Senate, but unfortunately, they were dropped from the bill during conference committee.

Today, we are introducing our amendments in the form of a clean bill, the Rural Rail Preservation Act of 1974.

The need for such legislation is even more critical today than it was just a few months ago. Since then, 24 new applications for branch line abandonments have been filed with the Interstate Commerce Commission, bringing the total number of cases now pending to 197. If each of these abandonments is ultimately granted by the Commission—and since 1960 the ICC has approved more than 97 percent of the requests they have received—rural America stands to lose more than 3,300 miles of track.

During 1974 our Nation's farmers will be expanding their production of wheat by 15 percent and of corn by 15 percent. Growing world demand for food means

that our agricultural communities will need ever greater quantities of seed, fertilizer, machinery; and they will be shipping unprecedented quantities of grain to market.

Even at somewhat lower production levels in 1973, rural areas throughout the midwest and virtually every other region in the country suffered costly delays and bottlenecks in seeking to move their commodities to market and to bring in supplies of fertilizer for spring planting. These problems are not getting better; they are getting worse, and if we do not find ways to solve them, consumers in the years ahead will also suffer from higher prices for the food they eat.

Incredibly, the administration's solution to this problem is not to provide assistance to rural communities to preserve and improve the quality of transportation services; it is rather to accelerate the pace of branch line abandonments.

Over the past 3 years alone, rail abandonments have resulted in the loss of 7,800 miles of track to rural communities. Now, in an effort to further accelerate the pace of abandonments, the ICC is attempting to expedite abandonments on lines which handle a volume of fewer than 34 carloads per mile each year. According to a study by the Iowa State Government, the new 34-car rule could result in the loss of 19 percent of the State's nearly 7,500 miles of rail line through abandonment. Other States face equal or more severe problems with the 34-car rule.

Instead of hastening the demise of America's rural transportation system, the Federal Government ought to be moving to upgrade that system. Steps should be taken to modernize rail lines that would be profitable if only track and roadbed were restored to an adequate condition.

Beyond the issues of food production and the impact on rural growth and development, there are other major reasons why our policy of accelerating rail abandanoments should be reexamined.

First, there is the question of energy use. Studies show that trains can move each ton of freight for from one-fourth to one-seventh the amount of fuel required by trucks. At a time when our Nation faces an energy crisis, we ought to be encouraging, not abandoning, fuel-efficient methods of transportation.

Second, in terms of environmental quality, trains generate less pollution and require less land than alternative means of transportation.

Third, in terms of our Nation's social goals, I believe we ought to carefully evaluate the effects of a policy which makes it even more difficult for people to earn a decent living in the countryside. We ought to find out the impact of abandonments on employment and business opportunities for rural community residents. We ought to examine the costs to railroad employees and others who are affected.

The bill which Senator HUMPHREY and I introduce today does not argue that all railroad abandonments are wrong. We are not saying that every branch line must be preserved indefinitely. However, we do believe that before our Nation is irrevocably committed to a policy of widespread rail abandonments, we ought to take a careful look at where we are going. Our bill would provide the mechanism to determine the costs, benefits and alternatives to rail abandonments, not just rural America but to our Nation as a whole. If we find that the total costs of abandoning a branch line exceed the benefits, our proposal would enable States and local communities to assure that service will be continued. The Regional Rail Reorganization Act of 1973 provides Federal assistance to State and local governments for up to 70 percent of the cost of keeping essential branch lines in operation if they are located in the Northeast Rail Emergency Region. The bill which Senator HUMPHREY and I introduce today would extend this same program throughout the Nation to help all communities that are threatened by the abandonment of rail service. It would also raise the authorization to carry out the program from $100,000,000 to $200,000,000 per year.

Finally, to provide time for study of our rural transportation network and to enable State and local governments to set up programs to utilize rail service continuation grants, our bill would provide for a temporary 2-year moratorium on rail abandonments. This moratorium could be waived whenever an abandonment request is not opposed by any State, county, or municipality served by the line.

As evidence of the strong State and local support for this measure, I ask unanimous consent that a resolution, adopted by the Minnesota State Legislature on February 25, and an editorial from the St. Paul Pioneer Press be printed in full at this point in the RECORD along with the text of the bill.

WE MUST PRESERVE A SOUND RURAL RAIL SYSTEM

Mr. HUMPHREY. Mr. President, I am delighted to join with Senator MONDALE in reintroducing rail legislation which we introduced last December in the form of two amendments to the Rail Service Act of 1973.

The bill we are introducing today combines the two amendments in the form of a clean bill, the Rural Rail Preservation Act of 1974.

One feature of the bill would require a comprehensive study of the impact of branch line abandonments on our Nation's economic, social, and environmental requirements and provide Federal assistance to continue service along essential lines which would otherwise be discontinued. A second feature of the legislation would place a 2-year moratorium on railroad abandonments pending completion of the study and the implementation of State and local programs to effectively utilize Federal rail service continuation grants.

This legislation is needed today more than ever. An interim report by the U.S. Department of Agriculture, "Transportation in Rural America," which I released earlier, makes it clear that this bill is required if rail transportation in the rural areas is not to deteriorate further. The report concludes:

> There appears to be an immediate need for reexamination of the transportation situation in rural America. The present great concern over the problem of moving people and goods from place to place in rural America suggests that stresses may have reached the crisis stage.

It is about time that the administration and the Congress recognized that rural America faces a transportation crisis. The USDA study clearly supports my contention that the rural transportation crisis in 1973 was real.

We are also facing a crisis in 1974. On March 14 I wrote to Mr. George Stafford, Chairman of the Interstate Commerce Commission, urging that the ICC make an additional 4,000 rail cars available to move fertilizer to farmers for the spring planting. This is hardly what I would consider to be the ideal way to meet our transportation needs.

The situation is not likely to improve, since we have increased our acres planted by about 20 million for this year. In my State of Minnesota, a record acreage will be planted this year with an increase in production of about 100 million bushels in feed grain. Last year our rail system broke down and with this year's sharp increase in production, I fail to see how we will move the crop.

The administration response in the face of this crisis has been to accelerate the pace of abandonment. This approach takes into account the views of the railroads but not that of the communities. The USDA report notes:

> None of the cases that were reviewed considered aggregate impacts of abandonment on communities, but effects on railroads were always considered.

We may wish to draw on the Canadian experience in attempting to rationalize our own rail system. As in our case, grain exports are important to the Canadian economy, and they move grains from the provinces by rail under "Crow's Nest Pass" rates, estimated to be less than 50 percent of total costs.

Beyond these immediate concerns, however, is the fact that wholesale abandonment is a move in the wrong direction. I am not saying that there should be no abandonments, but I do feel that with the present energy crisis we should not be too hasty in phasing down our rail system. We need to take steps to outline a rational transportation policy and begin to upgrade our rural rail system.

We also need to pay greater attention to the long-run impact of our rail policy on the economic life of our rural communities. While rail transportation may be only one factor in the economy of a rural area, it quite clearly is a major ingredient in keeping and attracting industry in rural communities.

The bill we are introducing today would provide the time required to take a thorough and analytical look at this question.

As we consider the problems facing our rural communities today, there is widespread agreement that we need to do more to help these areas not only sur-

vive but receive a fair break. On this basis, the bill makes good sense and should be speedily enacted.

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

S. 3438

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 "Rural Rail Preservation and Improvement Act".

NATIONAL STUDIES AND POLICY

SEC. 2. (a) Section 204 of the Regional Rail Reorganization Act of 1973 is amended to read as follows:

"REPORTS

"SEC. 204. (a) PREPARATION.—(1) Within 30 days after the date of enactment of this Act, the Secretary shall prepare a comprehensive report containing his conclusions and recommendations with respect to the geographic zones within the region at and between which rail service should be provided and the criteria upon which such conclusions and recommendations are based; and (2) within 300 days after the date of enactment of the Rural Rail Preservation and Improvement Act, the Secretary shall prepare a comprehensive report containing his conclusions with respect to essential rail service within the Nation in the area outside the region, and his recommendations as to the geographic zones at and between which rail service should be provided. The Secretary may use as a basis for the identification of such geographic zones the standard metropolitan statistical areas, groups of such areas, counties, or groups of counties having similar economic characteristics such as mining, manufacturing, or farming.

"(b) SUBMISSION.—Upon completion, the Secretary shall submit the reports required by subsection (a) of this section to the Office, the Association, the Governor and Public Utilities Commission of each State studied in the report, local governments, consumer organizations, environmental groups, the public, and the Congress. The Secretary shall further cause a copy of each report to be published in the Federal Register.

"(c) TRANSPORTATION POLICY.—Within 180 days after the date of enactment of the Rural Rail Preservation and Improvement Act, the Secretary shall formulate and submit to Congress a national transportation policy. The Secretary shall consider all relevant factors in formulating this national transportation policy, including the need for coordinated development and improvement of all modes of transportation, and recommendations as to the priority which should be assigned to the development and improvement of each such mode."

(b) Section 205 of such Act is amended by inserting at the end thereof the following:

"(e) OTHER STUDIES.—Within 300 days after the effective date of the final system plan, the Office shall, with the assistance of the Secretary and the Association—

"(1) study, evaluate, and hold public hearings on the Secretary's report on essential rail services within the Nation, which is required under section 204(a)(2) of this title, and the Secretary's formulation for a national transportation policy, which is required under section 204(c) of this title. The Office shall solicit, study, and evaluate comments, with respect to the content of such documents and the subject matter thereof, from the same categories of persons and governments listed in subsection (d)(1) of this section but without any geographical limitations; and

"(2) prepare a detailed information survey and detailed and comprehensive studies with respect to States outside the region covering the same material required to be surveyed and studied by the Association with respect to the region under section 202(b) of this Act, including a comprehensive report to be submitted to the Commission, the Association, the Secretary, and the Congress and to be published in the Federal Register."

REPORT AND PARTIAL MORATORIUM ON ABANDONMENTS

SEC. 3. Section 304 of the Regional Rail Reorganization Act of 1973 is amended by inserting at the end thereof the following:

"(f) Report on Abandonments and Partial Moratorium.—The Commission shall submit to the Congress within 90 days after the date of enactment of the Rural Rail Preservation and Improvement Act a comprehensive report on the anticipated effect, including the environmental impact, of abandonments in States outside the region. No carrier subject to part I of the Interstate Commerce Act shall abandon, during a period of 730 days after the date of enactment of such Act, all or any portion of a line of railroad (or operation thereof) outside the region, the abandonment of which is opposed by any State, county, or municipality served by that line.".

EXPANSION OF RAIL SERVICE CONTINUATION SUBSIDY AND LOAN AUTHORIZATIONS

SEC. 4. (a) Subsection (a) of section 402 of the Regional Rail Reorganization Act of 1973 is amended by inserting after the first sentence the following: "The operation of rail properties with respect to which the Commission has issued a certificate of abandonment within five years prior to the date of enactment of this Act and which remain in condition for rail service shall, subject to the other provisions of this section, be eligible for such subsidies.".

(b) Such section 402 is further amended by striking out "in the region" wherever appearing therein.

(c) Subsection (i) of such section 402 is amended by striking out "$90,000,000" and inserting in lieu thereof "$200,000,000".

A Resolution Memorializing Congress and the President to Stop Railroad Abandonment

Whereas, maintaining adequate, competitive transportation facilities is equally vital to industry, business and all consumers; and

Whereas, railroad service is particularly vital to hundreds of Minnesota communities; and

Whereas, Minnesota's biggest industry, agriculture, is heavily dependent upon the railroads to move its production equipment and supplies, and its millions of tons of farm grains to market; and

Whereas, the loss of rail freight service that has already occurred and the continued loss of freight service that is programmed by the railroads for abandonment of most branch lines and some sections of primary rail arteries has had and will increasingly have a disastrous economic impact upon the State of Minnesota and its citizens; now, therefore, be it

Resolved, that the appropriate federal agencies declare a moratorium on all further railroad abandonments immediately until a study is completed and it is determined if reasonable transportation alternatives are available to the public, be it further

Resolved, that copies of this resolution be forwarded to the Congressional Delegation of this State, to the President of the United States, to the Interstate Commerce Commission, to the Secretary of Transportation, to the Chairmen of the United States House and Senate Committees on Transportation and Commerce, and to the major farm organizations requesting their support for the enactment of this program.

OFF THE MAIN LINE

While America agonizes over related crises in energy, the environment, transportation and food, a resource that should be used to make things run more smoothly is instead being destroyed.

Rails.

The country is criss-crossed with railroad tracks. Study the fine lines on a highway map of Minnesota as the most immediate example. You'll have to look a bit, but they are there: webs of steel rail reaching out from major population and industrial centers to the raw materials that support them

Trouble is, the railroads of America can't seem to wait to get out of the branch line business. They call it abandonment and it is done in the interest of economy. The railroad goes to the government (Interstate Commerce Commission) and says, "Gee, this line doesn't generate enough business to justify operating it any more." All too often, the ICC has bought the argument.

In Minnesota, trackage has been reduced from 8,106 miles in 1964 to 7,675 miles in 1972 (remember this date). There are 10 abandonment proposals pending in the state that involve additional hundreds of miles. The state has consistently fought abandonments, and has rarely won. State and user forces in northwestern Wisconsin are fighting proposed abandonment of some 77 miles of track in the Ashland-Hayward-Bayfield area. The product there is pulpwood.

Opponents of the whole process have protested that often the lack of business cited as justification for abandonment is nothing but a reflection of poor service. Would-be pulpwood shippers in Wisconsin, for example, say the wood is there, by the right-of-way, but there are no cars to carry it.

The railroads' economic arguments for abandoning branch lines have generally prevailed in ICC hearings. In fact, the Nixon Administration is proposing to make things easier on the railroads. A bill is pending in Congress, backed by the Department of Transportation, that would make it possible for railroads to abandon money-losing branches without considering any other factors such as need for the service and the impact of abandonment on farms and industries served by the branch line. These are things now supposedly considered in ICC hearings.

This is going on at a time when truckers, caught up in a fuel-price squeeze, are asking to haul trailer-trains on highways; at a time when America is rethinking its highway building philosophy; at a time when farmers are having difficulty getting products to market; at a time when energy conservation is supposed to be the byword.

As noted, rail users and the states they live in have had little luck fighting abandonment on their own economic grounds, but there's a delightful touch of another current trend here (we saved the good news until last). A federal judge in New York has told the ICC it can't approve any more abandonments without first filing an environmental impact statement.

So the ICC has this bit of paperwork facing it. The judge's ruling is being appealed. The ICC has about 100 abandonment proposals on the shelf, including those in Minnesota and Wisconsin, and won't even hold hearings on them until the air is cleared. Minnesota hasn't had an abandonment since December 1972, when the proposals began piling up.

Let us use this environmental grace period to find a way to put railroads to use instead of finding quicker ways to tear up track.

By Mr. NELSON:

S. 3439. A bill to be cited as "The National Fuel Economy Testing Act of 1974." Referred to the Committee on Commerce.

Mr. NELSON. Mr. President, the National Fuel Economy Testing Act of 1974

formally gives the U.S. Environmental Protection Agency statutory authority to test and publish the fuel economy of new cars and trucks.

This bill amends section 1857f–5(a)(1), title 42, of the United States Code. This particular section of the Clean Air Act gives the Administrator of the EPA authority to test any new motor vehicle that has been submitted by a manufacturer to determine whether the engine conforms with the auto emission limitations established in 1857–1 of this title.

Legislation is needed to formally authorize one department of the Government as the agency responsible for providing the American consumer with valid and useful information on fuel economy.

EPA has been operating an intensive research program since 1972 to answer questions surrounding the relationship between fuel economy and auto emission control systems. In fact, EPA has compiled and used information on fuel performance tests that date back to 1957.

In his energy message of April 18, 1973, the President directed the EPA in cooperation with the Council on Environmental Quality to develop and implement a program to inform the public as to the fuel economy characteristics of their cars and trucks. EPA's first fuel economy report was published in the Federal Register of May 2, 1973, and covered 1973 model cars and trucks. Since that time EPA has tested and published fuel economy data in conjunction with tests they are mandated to perform to determine whether new vehicles meet the air pollution regulations contained within section 202 of the Clean Air Act.

Since there was no statutory basis for requiring automakers to make available to the public reliable fuel economy data on cars available for purchase, EPA launched a voluntary fuel economy labeling program. The groundrules for that program were published in the Federal Register on August 27, 1974.

Under this program, manufacturers were encouraged to place on each car a label that reflected fuel economy data. Two labels were available for use: First, a general label that showed the average fuel economy, and the range of fuel economies, for cars by weight class, together with an indication of the weight class into which the vehicle on which the label is attached falls; and second, a vehicle-specific label with all of the above data plus the specific fuel economy measured for the vehicle on which the label is attached. Although no manufacturer opted for the vehicle-specific label, almost all domestic and foreign manufacturers agreed to post the first label described above. Manufacturers representing about 95 percent of all vehicles sold in the United States agreed to participate.

These labels began to go on cars in the fall of 1973; the only problem with this program has been that, on the voluntary basis on which the labels are affixed to cars, some dealers are removing them. EPA has been unable to take any action against it other than to publicly condemn these removals at every opportunity. The public response to this effort has exceeded EPA's expectations. The requests for more information have been so great that EPA's publications are now out of print, and additional copies have been ordered. Clearly, the kind of information being provided to potential car buyers is of a nature for which there is a great public demand.

The mandatory labeling program proposed for the 1975 model year would carry out the concept for the vehicle-specific label—second label—available but not used in the voluntary labeling program, and would make participation mandatory. It would also prohibit removal of the label by the dealer, and thus would put the label on every car in the showroom.

There is really only one significant criticism that has been levied against the EPA-published fuel economy data. That criticism is that the current EPA test procedure does not represent all types of driving that happen in the real world. This is valid, and is being rectified. The FTP represents city/suburban driving of a type accounting for slightly more than 50 percent of the vehicle miles in the U.S. Fuel economy under relatively steady-state highway driving is normally better, but is not represented by the current EPA data. However, this is in no way a disabling deficiency. The primary purpose of the EPA fuel economy labeling program is to provide reliable data on the relative fuel economy of cars that are available for purchase; there is no technical reason for assuming that the relative fuel economy under highway driving conditions would be markedly different from city/suburban driving. The current city/suburban fuel economy data published by EPA applies to more than half of the vehicle miles, and thus represents a major step forward from the earlier situation in which there were many wholly inconsistent and unexplained data on the fuel economy of individual cars.

EPA with the assistance of the Society of Automotive Engineers—SAE—has developed a technique by which it has added a highway-driving mode to the fuel economy test, as well as by which EPA can make certain minor improvements to its current Federal emission test procedure—FTP—test cycle to better account for such factors as road load and wind resistance of individual cars. EPA has added these refinements to its testing program for the 1975 model year cars.

The energy crisis has made us all acutely aware of how many miles per gallon our cars and trucks get. The mandatory posting of fuel economy will be a helpful tool consumers can use when they are shopping for a new car. Consequently, several other government agencies have expressed an interest in operating the program. The auto industry would like the Department of Commerce to do the testing, the Department of Transportation has expressed an interest in the program, and now the Office of Management and Budget has announced it will decide who is to get the program since there is no statutory basis for the project.

This bill would give the EPA the statutory authority for the program. I believe there are five basic reasons that make EPA the compelling choice as the agency most capable of discharging this responsibility.

First, EPA has a long and distinguished record in the field of auto emission control. It has developed the highest degree of expertise in the field of fuel economy measurement of all the other departments of the Government that are interested in acquiring the program.

Second, the measurement of fuel economy is already an integral part of the tests EPA must perform according to the Clean Air Act. When testing cars for emissions, EPA records the mass of "carbon" monoxide, unburned hydro-"carbon," and "carbon" dioxide that comes from the tailpipe. The word "carbon" is quoted in each of these terms because, in this manner, there is measured the total amount of carbon emitted by the car over a 7.5-mile trip. The only possible source of this carbon in the exhaust stream is the fuel burned by the engine during the trip. Gasoline is a hydrocarbon fuel—the amount of carbon contained in a gallon of gasoline is known. Thus, it is possible by this method to determine the fuel economy of a car while operated on the FTP for the purpose of emission testing.

This carbon-balance measurement technique is at least as accurate as any other method of measuring the amount of fuel used during a trip.

The fuel economy data is computed on the same equipment used for the auto emission testing. It can be performed by the same EPA personnel who perform the car emission tests. And it takes only another 10 minutes. There is almost no additional cost to the American taxpayer when EPA does the testing.

If the program were shifted to another department more equipment would have to be purchased, more people would have to be hired, more tax dollars spent to duplicate something that can be done expertly, and cheaply by the EPA.

Third, a shift of the tests to another agency would incur more costs for the manufacturer if they had to deal with two separate agencies of the Government on the measurement of highly related vehicle parameters.

Fourth, fuel economy can be a tradeoff for emission control; a car that does not meet emission standards cannot be permitted to generate official fuel economy data. Any other agency measuring fuel economy would also have to measure emissions from each car, to assure that it is not testing a specially calibrated car that gives exaggerated fuel economy values.

Fifth, EPA is an independent agency. It has consistently been at the center of some of the more controversial environmental, energy, and fiscal arguments. EPA has resisted special interest pressure on a wide range of issues and has strived to provide the American public with candid unbiased and useful facts.

Mr. President, I ask unanimous consent to have the text of the National Fuel Economy Testing Act of 1974 printed in the RECORD.

There being no objection, the bill was

ordered to be printed in the RECORD, as follows:

S. 3439

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The National Fuel Economy Testing Act of 1974".

SEC. 2. 1857f–5(a)(1), Title 42 of the United States Code is hereby amended by adding after the first sentence the following: "Concurrently with such testing the Administrator shall determine and publish the fuel economy of such vehicles and engines."

By Mr. MATHIAS (for himself, Mr. MANSFIELD, Mr. ERVIN, Mr. JAVITS, Mr. HART, and Mr. PEARSON):

S. 3440. A bill to require in all cases court orders for the interception of communications by electronic and other devices, for the entering of any residence, for the opening of any mail, for the inspection or procurement of certain records, and for other purposes. Referred to the Committee on the Judiciary.

A PROPOSAL TO STRENGTHEN CONSTITUTIONAL PROCESSES

Mr. MATHIAS. Mr. President, we have arrived at a critical turning point in American history. While it is difficult to draw back and look objectively at events of recent years, and while it is difficult to separate the travesty of a political burglary and the subsequent coverup from the larger and more important issues, it is vital for the survival of democracy in the United States that we do so. The revelations of Watergate have included, to our sorrow as well as to our enlightenment, evidence that suggests covert attacks upon constitutional government. The object of these attempts would have been to substitute arbitrary and secretive procedures for the open processes of our constitutional government in the interests of "efficiency," "national security" or emotional calls to patriotism. It has further been revealed that some of our fundamental constitutional guarantees have been abridged and justified by recourse to alleged "higher necessities" such as "national security" or "foreign policy."

The increasing demands of technology and the growing power of bureaucratic structures have proven to be the greatest threat to human freedom and, indeed, to the survival of humanity itself. Watergate is merely another reminder of the great dangers that face not only democracy in the United States but human freedom everywhere. The most pressing dangers are not from our potential enemies but from our own uncontrolled power. The ultimate concern is survival; but the choice is our own. Shall we be ruled by technology and be overwhelmed by nuclear annihilation, or shall we make technology serve the needs of man? We can control the technology of nuclear weapons only by agreements between nations and within nations to remove the scourge of nuclear war and the threat of nuclear annihilation.

No less significant than the overhanging apocalyptic dangers of uncontrolled technology are the dangers posed by the imperatives of efficient bureaucracies and increasingly centralized power. We are witnesses to the fact that some of those in power over the years, here and elsewhere, have used the "needs of state," "national security," or "foreign policy," or similar euphemisms as reasons to set aside rational debate and open inquiry upon national issues so necessary to the effective operation of constitutional processes. Let there be no mistake about it. Watergate is symtomatic of larger threats to our liberties, threats latent in our society for many years.

How the Congress, the courts and the people act in the coming months will determine, in large measure, whether the United States will return to an open, truly democratic Government whose decisions are made upon the basis of full and reasoned debate by all three branches in their several ways, or whether it will make its major decisions outside of prescribed constitutional processes and continue along the path of authoritarian rule. This is the underlying challenge we must face; and this is the challenge to freedom we must overcome.

The particular wrongs revealed by Watergate are in the process of being corrected. The courts are acting upon the investigations and findings of the Special Prosecutor's office. We can expect at the end of 2 or 3 years, as Special Prosecutor Leon Jaworski has recently informed us, that all those implicated in Watergate will be brought before the bar of justice and through trials by their peers will receive judgment.

Congress has already begun to take steps to correct, through legislation, abuses that have been revealed by Watergate. Significant steps have already been made on campaign reform. And other reforms will be made following upon the findings made by the Senate Special Committee on Watergate issues when it issues its final report at the end of this month.

The most important impact of Watergate has been on the public. Through the press, TV, and journals, citizens throughout this land have begun to examine not only the quality of government, but the fundamental purposes of our Government. It is my view that the work of journalists, scholars, and lawyers and people in every profession and walk of life will contribute to the growing concern that safeguards to our constitutional government be strengthened, so that encroachments made by those who would have the United States governed by arbitrary power will not be made again.

The greatest task that faces the Congress is to repair the cracks in the foundations of our constitutional government revealed by Watergate. The most serious of the many Watergate issues that has been revealed are contained in the so-called Huston Plan which, by the President's own admission in his speech of May 22, authorized activities which abridged the guarantees of the fourth amendment.

The fourth amendment of the Bill of Rights provides:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probably cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

It is evident from the various Watergate investigations that protections of individuals under the fourth amendment had been repeatedly violated. It is also evident that it is the duty of the Congress to establish through statute what is meant by "unreasonable searches and seizures."

The Supreme Court in its decision, United States against United States District Court for the Eastern District of Michigan et al. of June 19, 1972, urged the Congress to clarify the issue with regard to so-called national security matters, because no statutory guidelines exist. The Safe Streets Act of 1968 provided guidelines delimiting the activities of our law enforcement officers in the domestic criminal area. Watergate, the Houston Plan, and the many examples of abuse of the fourth amendment revealed by current investigations make it necessary, in my view, to meet the challenges posed by these abuses by remedial statutory action.

The problems raised by Watergate which have threatened the efficacy of the fourth amendment were well understood by Justice Brandeis in his opinion written for the Olmstead case in 1927 (277 U.S. 438) which in a prophetic way foretold many of the problems we have only now come to realize as such threats to our liberties:

> Time works changes, brings into existence new conditions and purposes. Therefore a principle to capable of wider application than the mischief which gave it birth.
>
> This is peculiarly true of constitutions. They are not ephemeral enactments, designed to meet passing occasions. They are, to use the words of Chief Justice Marshall "designed to approach immortality as nearly as human institutions can approach it." The future is their care and provision for events of good and bad tendencies of which no prophecy can be made. In the application of a constitution, therefore, our contemplation cannot be only of what has been but of what may be. Under any other rule a constitution would indeed be as easy as application as it would be deficient in efficacy and power. Its general principles would have little value and be converted by precedent into impotent and lifeless formulas. Rights declared in words might be lost in reality.
>
> When the Fourth and Fifth Amendments were adopted, "the form that evil had theretofore taken," had been necessarily simple. Force and violence were then the only means known to man by which a Government could directly effect self-incrimination. It would compel the individual to testify—a compulsion effected, if need be, by torture.
>
> It could secure possession of his papers and other articles incident to his private life—a seizure effected, if need be, by breaking and entry. Protection against such invasion of "the sanctities of a man's home and the privacies of life" was provided in the Fourth and Fifth Amendment by specific language. Boyd v. United States, 116 U.S. 616, 630. But "time works changes, brings into existence new conditions and purposes," Subtler and more far-reaching means of invading privacy have become available to the Government. Discovery and invention have made it possible for the Government, by means far more effective than stretching upon the rack, to obtain disclosure in court of what is whispered in the closet.

With Justice Brandeis' admonitions in mind, I introduce today (with Mr. MANSFIELD, Mr. ERVIN, Mr. JAVITS, Mr. HART, and Mr. PEARSON) a bill which would strengthen the guarantees of privacy contained in the fourth amendment. The bill, entitled, the Bill of Rights Procedures Act of 1974, would, if enacted, provide firm statutory guidelines for "reasonable searches and seizures," required because there was probable cause that a crime has been or was about to be committed.

In our view, the protections of the fourth amendment should not be limited by any arbitrary action on the part of the executive branch or any of the three branches. Exceptions for any cause, including so-called "national security," should be made only in accord with constitutional processes, in these cases with the requirement of a Federal court order, an accounting of the reasons for the exception, and the disposition of the actions taken under the exception in reports made to the appropriate judicial and congressional bodies who shall in turn be required to protect the privacy of the individuals concerned as provided by the fourth amendment. The record of actions taken would be made available, with appropriate protections for individuals, in order to assure that those in the Congress and the courts who must maintain oversight do not, in turn, abuse the fourth amendment they are under oath to protect.

I know that this bill will receive thorough consideration by the Senate and the House, and that if enacted, would do much to strengthen the freedom guaranteed by the Constitution and the Bill of Rights.

It is, perhaps, only when our freedom has been threatened that we come to an understanding of how precious liberty is to the human spirit. The troubled times which we now live in are a warning that we must act to protect our basic liberties. It is up to us in the Congress, particularly, to take those reasonable steps which the times so passionately call for, and carry out our responsibilities to defend the Constitution by enacting statutory guidelines to assure that the Constitution and Bill of Rights remain secure from the assaults of arbitrary power.

In conclusion, I would like to turn once again to the profound, still relevant and stirring words of the last paragraph of Justice Brandeis' opinion in Olmstead against United States written about 45 years ago:

> Decency, security and liberty alike demand that Government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the Government will be imperiled if it fails to observe the law scrupulously. Our Government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the Government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means—to declare that the Government may commit crimes in order to secure the conviction of a private citizen—would bring terrible retribution. Against that pernicious doctrine this Court should resolutely set its face.

In my view, it is necessary that the Congress also must resolutely set its face against criminal actions taken by the Government under the guise of "National security" or some such vagaries which amount to little more than the ends justifying the means.

We have had clear and unmistakable warning, and it is time to act to remove these encroachments upon our cherished freedoms.

In introducing this bill today, we do so with the full recognition that in the process of hearings and debate and study, that changes in particular detail will be required. We introduce this bill with the hope that through rational discourse and the consideration of the issue by as many of our colleagues as possible, that we can arrive at a just and effective legislative solution to a very serious fundamental constitutional problem that now confronts us.

My colleagues are aware that the Joint Subcommittee of the Constitutional Rights Subcommittee and Administrative Practices Subcommittee of the Judiciary Committee and a Special Subcommittee of the Foreign Relations Committee have been working together over the past 6 months under the able and dedicated joint chairmanship of Senators ERVIN, KENNEDY, and MUSKIE respectively, to deal with the problems created by the absence of adequate constitutional processes in areas such as those that have been revealed in recent wiretap cases. This bill is, in large measure, a result of the fruits of 6 months of inquiry, study, and consideration by the joint subcommittees.

We invite the comments and suggestions of our colleagues and the opinions and views and suggestions of those agencies in the executive branch, in the State governments and in bar associations and universities throughout the country, so that we might come up with the best possible solution to this problem. But we believe that it is essential that we begin to take steps to meet this challenge to constitutional processes, and the bill we introduce today is submitted in the spirit of seeking a solution.

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

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

S. 3440

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 "Bill of Rights Procedures Act of 1974".

FINDINGS AND PURPOSES

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

(1) the rights of the people of the United States under the Constitution of the United States are endangered by interception of communications, other electronic surveillance, the entry of dwellings, opening mail, and the inspection of and procuring of the records of telephone, bank, credit, medical, or other business or private transactions of any individual when undertaken by officials, agents, or employees of the United States without a court order issued upon probable cause that a crime has been or is about to be committed, supported by oath or affirmation and particularly describing the place to be searched, and the persons or things to be seized.

(2) the constitutional duty of the Congress to make the laws and to provide for the common defense, and the constitutional duty of the President to execute the laws and to command the Armed Forces and other security forces according to rules and regulations made by the Congress, would not be impeded by requiring court orders for any interception of communications, other electronic surveillance, the entry of dwellings, opening mail, or the inspection of and procuring of the records of telephone, bank, credit, medical, or other business or private transactions of any individual;

(3) the constitutional duty of the Congress to make laws to protect the national security of the United States and the constitutional duty of the President to execute such laws should not limit the rights of individuals under the Constitution of the United States. Any interception of communications, other than electronic surveillance, the entry of dwellings, opening mail, or the inspection of and procuring of the records of telephone, bank, credit, medical, or other business or private transactions of any individual which is undertaken on any grounds, including but not limited to, national security or foreign policy, without a court order issued upon probable cause that a crime has been or is about to be committed, supported by oath or affirmation and particularly describing the place to be searched and the persons or things to be seized, constitutes "an unreasonable search and seizure" within the meaning of the fourth amendment to the Constitution of the United States.

(b) It is therefore the purpose of this Act to prohibit any interception of communication, other electronic surveillance, surreptitious entry, mail opening, or the inspection of and procuring of the record of telephone, bank, credit, medical or other business or private transaction of any individual without a court order issued upon probable cause that a crime has been or is about to be committed supported by oath or affirmation and particularly describing the place to be searched and the persons or things to be seized.

SEARCHES AND SEIZURES

SEC. 3. Section 2236 of title 18, United States Code, is amended to read as follows:

"§ 2236. Searches without warrant

"(a) Whoever, being an officer, agent, or employee of the United States or any department or agency thereof willfully—

"(1) searches any private dwelling used and occupied as a dwelling without a warrant directing such search or maliciously and without reasonable cause searches any other building or property without a search warrant;

"(2) procures or inspects the records of telephone calls, bank, credit, medical or other business or private transactions of any individual without a search warrant or the consent of the individual;

"(3) opens any foreign or domestic mail not directed to him without a search warrant directing such opening or without the consent of the sender or addressee of such mail in violation of section 3623(d) of title 39; or

"(4) intercepts, endeavors to intercept, procures any other person to intercept any wire or oral communication except as authorized under chapter 119;

shall be fined not more than $10,000 or imprisoned not more than one year, or both.

"(b)(1) The provisions of section (a)(1) shall not apply to any person—

"(A) serving a warrant of arrest;

"(B) arresting or attempting to arrest a person committing or attempting to commit an offense in his presence, or who has committed or is suspected on reasonable grounds of having committed a felony; or

"(C) making a search at the request or invitation or with the consent of the occupant of the premises.

"(2) For purposes of subsection (a) the terms 'wire communication', 'oral communication', and 'intercept' shall have the same meaning as given to such terms under chapter 119."

INTERCEPTION OF WIRE OR ORAL COMMUNICATIONS

SEC. 4. (a) Section 2511(1) of such title 18 is amended by striking out "Except as otherwise specifically provided in this chapter" and inserting in lieu thereof "Except as specifically provided in this chapter, and except as specifically provided in chapter 109 in the case of any officer, agent or employee of the United States,".

(b) Sections 2511(3), 2518(7), 2518(d), and the last sentence of section 2520 of such title 18 are repealed.

REPORTING OF INTERCEPTED COMMUNICATIONS

SEC. 5. (a) Section 2519 of such title 18 is amended to read as follows:

"§ 2519. Reports concerning intercepted wire, oral, and other communications.

"(a) Within thirty days after the date of an order authorizing or approving the interception of a wire or oral communication (or each extension thereof) entered under section 2518, or the denial of an order approving an interception, the person seeking such order shall report to the Administrative Office of the United States Courts and to the Committees on the Judiciary of the Senate and House of Representatives—

"(1) the fact that an order or extension was applied for;

"(2) the kind of order or extension applied for;

"(3) the fact that the order or extension was granted as applied for, was modified, or was denied;

"(4) the period of interceptions authorized by the order, and the number and duration of any extensions of the order;

"(5) the names of all parties to the intercepted communications;

"(6) the offense specified in the order or application, or extension of an order;

"(7) the identity of the investigative or law enforcement officer and agency making the application and the person authorizing the application to be made;

"(8) a copy of the court order authorizing, approving, or denying such interception;

"(9) the nature of the facilities from which or the place where communications were intercepted.

"(b) Within 60 days after the date of an order authorizing or approving the interception of a wire or oral communication (or extension thereof) entered under section 2518, or the denial of an order approving an interception, the judge hearing the application for such order shall transmit to the Committees on the Judiciary of the Senate and House of Representatives a complete transcript of the proceedings.

"(c) Within 90 days after the date of an order authorizing or approving the interception of a wire or oral communication (or each extension thereof) entered under section 2518, and within 60 days after the termination of any such interception, the person authorized to make such interception shall report to the Administrative Office of the United States Courts and to the Committees on the Judiciary of the Senate and House of Representatives the disposition of all records (including any logs or summaries of any such interception) of any such interception and the identity of and action taken by all individuals who had access to any such interception."

(b)(1) Any information transmitted or submitted, pursuant to section 2519(a)(5) of title 18, United States Code (as added by subsection (a) of this section), to the Congress or to any standing, special, or select committee of either House of Congress or to any joint committee of the two Houses of Congress, shall be treated as a confidential communication and kept secret.

(2) Paragraph (1) of this subsection is enacted by the Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such shall be considered as a part of the rules of each House, respectively, or of that House to which it specifically applies, and such rule shall supersede other rules only to the extent that they are inconsistent therewith, and

(B) with full recognition of the constitutional right of either House to change such rule (so far as it relates to the procedure in such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

REPORTING AUTHORIZATIONS TO OPEN MAIL

SEC. 6. Chapter 205 of such title 18, is amended by adding at the end thereof the following new section:

"§ 3117. Reporting requirements in the case of warrants issued authorizing the opening of mail

"(a) Within 30 days after the date of issuance of a warrant to open any mail or the denial of such a warrant the person seeking such warrant shall report to the Administrative Office of the United States Courts and to the Committee on the Judiciary of the Senate and House of Representatives—

"(1) the fact that a warrant was applied for;

"(2) the fact that the warrant was issued as applied for, was modified, or was denied;

"(3) the offense specified in the warrant;

"(4) the identity of the investigative or law enforcement officer and the agency making the application and the person authorizing the application to be made;

"(5) the names of the sender and addressee of all mail opened pursuant to such warrant;

"(6) a copy of the approved warrant;

"(7) the nature of the facilities from which or the place where any such mail was opened; and

"(8) the disposition of all records (including any log, copy, or summary) of any such mail or the contents of such mail and the identity of and action taken by all individuals who had access to any such mail.

"(b) Within 60 days after the date of any warrant authorizing the opening of any mail, or the denial of any such warrant, the judge hearing the application for such warrant shall transmit to the Committee on the Judiciary of the Senate and House of Representatives a complete transcript of the proceeding."

TECHNICAL AMENDMENT

SEC. 7. The analysis of chapter 205 of such title 18 is amended by adding at the end thereof the following new item:

"3117. Reporting authorizations to open mail."

BILL OF RIGHTS PROCEDURES ACT OF 1974

Mr. HART. Mr. President, I am pleased to join the Senator from Maryland, (Mr. MATHIAS) and several other colleagues in sponsoring the Bill of Rights Procedures Act of 1974. It is my hope this will mark an important turning point in the exercise of Congress responsibility to insure compliance with the spirit and the letter of the Bill of Rights.

Several weeks ago, in a statement on the variety of threats to our privacy posed by Government abuse of its powers, I noted the dangers of Government officials eavesdropping on the private conversations of political opponents or of those who opposed particular policies:

Many of these actions by our government have been defended on grounds of "national security," but we have come to understand that there is a wide range of constitutional abuses a determined political operative can seek to have excused under that mantle. And, indeed, the American people realize that.

A recent poll, for example, showed that 75 percent of those interviewed considered "wiretapping and spying under the excuse of 'national security' as a serious threat to people's privacy."

Among the steps I urged to combat this danger was an immediate Presidential order that no wiretapping, bugging or breaking and entering be carried out without authority of an independent court order. And I suggested that the President and Congress should together pass permanent legislation codifying that safeguard.

It now appears that we may be able to enact legislation sooner than we might obtain favorable support from the administration. As Senator MATHIAS noted, this bill is the result of many months of research, consideration and consultation with legal experts on the problems of balancing national security interests against the purpose of the fourth amendment.

Those joining in sponsorship of the bill today may not be in complete agreement on every one of its details. For example, the committee hearings on it will have to consider any further modification necessary to accommodate Government surveillance of foreign diplomatic personnel where such surveillance would not unreasonably threaten the privacy of American citizens.

Also, the sections dealing with the requirement of a warrant based on probable cause for Government inspection of bank records or other personal records may have to be refined to make clear that certain regulatory functions will not be hindered.

But the basic structure of the proposal is a reasonable and thoughtfully drawn approach and the requirement of a warrant based on probable cause to believe a crime has been committed before any electronic surveillance is undertaken is the crux of the effort.

To those who say it would unduly hamper legitimate efforts to prevent sabotage or espionage, we can suggest they examine more closely the present Federal criminal code. The variety of statutes covering such crimes, combined with the several statutes making any attempt or conspiracy in regard to such offenses a crime as well, cover even the formative stages of any serious threat to our national security. At the point when activities by Americans present a real danger, I believe, the Government should be able to establish before a magistrate, on the basis of other kinds of investigation and surveillance, that there is probable cause to believe a crime has been or is about to be committed.

To permit a broader authority for wiretapping—whether warrantless taps

authorized by the Attorney General, or taps authorized by a warrant issued on a lesser standard than probable cause of a crime—would emasculate the vital protection of the fourth amendment.

The basic design of the fourth amendment, the simple commonsense of the Founding Fathers, was to interpose a neutral independent magistrate between Government officials and unpopular citizens or political critics. That is the safeguard this bill would insure.

In the weeks ahead, additional comments can be made on the significance of this measure.

For now, I wish to commend especially the Senator from Maryland (Mr. MATHIAS), and the other Senators who have taken the lead on this problem: the Senator from North Carolina (Mr. ERVIN); the Senator from Maine (Mr. MUSKIE); and the Senator from Massachusetts (Mr. KENNEDY) and their subcommittees whose joint hearings have been very illuminating. We should also acknowledge the groundbreaking effort of Senator NELSON's earlier bill along similar lines.

Mr. President, for too many years, the magic incantation "national security—stay away" has sufficed to deter the Congress from examining with a truly critical eye many practices which threaten our basic liberties. Are these practices essential to preserve our Nation's freedom? Or are they really a threat to our freedoms because of their subversive effect on the guarantees of the Bill of Rights?

I suspect that in a great many of these areas, Mr. President, we may well find that the Emperor really has no clothes after all. In the case of warrantless wiretaps of American citizens, conducted in the name of national security, I have concluded that the potential for abuse and infringement of constitutional rights, far outweighs any incremental advantage for legitimate law enforcement.

I hope this bill will be carefully considered and supported by our colleagues.

By Mr. MONTOYA (for himself, Mr. BENTSEN, Mr. CRANSTON, Mr. FULBRIGHT, Mr. KENNEDY, Mr. MONDALE, and Mr. TUNNEY):

S.J. Res. 209. Joint resolution to authorize and request the President to issue a proclamation designating May 12–18, 1974, as "National Migrant Education Week". Referred to the Committee on the Judiciary.

Mr. MONTOYA. Mr. President, I am today introducing a joint resolution to declare May 12 through 18, 1974, as "National Migrant Education Week." I do this in the interest of insuring better continuous education for migrant children and in recognition of the work to be performed at the Seventh National Conference on Migrant Education.

The Nation's most valuable asset, without question, is her children. They carry with them hopes for the future—building tomorrow's realities from today's dreams. Our record, as a nation, has been one of ever increasing effort to meet the needs of children, and we can be justly proud of what we have done for most American children.

However, the migrant child is truly America's most disinherited child. He treks from State to State, traveling thousands of miles with his parents. His living conditions are inhuman. He is overfed and undernourished. He is exposed to deadly pesticides, with inadequate labor safety protection and inadequate health care.

Migrant children must receive an equal chance to receive an education. Yet, statistics show that 90 percent of all migrant children never finish high school. They average only a fourth or fifth grade education.

Slowly, progress is being made in expanding educational opportunities for these migrant children. The passage of Public Law 89–750 amended the Elementary and Secondary Education Act of 1965 to include migrants under the sections of title I concerning aid to disadvantaged children.

The suggestion that we recognize the educational needs of migrant children by the Seventh National Conference on Migrant Education is a valid one. But the declaration is merely an empty gesture if we do not request the President and Federal agencies affecting migrant education to conscientiously participate in these activities. We know that national observance weeks in the past have demonstrated that attention can be brought to pressing problems.

Our declaration of a National Migrant Education Week will certainly demonstrate support to future educational programs to free these children from economic and educational inequalities.

I urge your support for this resolution which will help us to alert others to the educational needs of these migrant children.

REREFERRAL OF A BILL

Mr. EAGLETON. Mr. President, I ask unanimous consent that S. 3417, a bill to amend title 5 of the United States Code—relating to Government organization and employees—to assist Federal employees in meeting their tax obligations under city ordinances, be rereferred to the Committee on Post Office and Civil Service.

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

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 411

At the request of Mr. MCGEE, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 411, to amend title 39, United States Code, relating to the Postal Service, and for other purposes.

S. 764

At the request of Mr. Moss, the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 764, to amend title VII of the Public Health Service Act to provide for the making of grants to schools of medicine and assist them in the establishment and operation of departments of geriatrics.

S. 2220

At the request of Mr. FONG, the Senator from Kentucky (Mr. COOK), the Senator from Kansas (Mr. DOLE), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 2220 to repeal the "cooly trade" laws.

S. 2363

At the request of Mr. CRANSTON, the Senator from Idaho (Mr. MCCLURE) was added as a cosponsor of S. 2363, a bill to amend chapter 39 of title 38, United States Code, relating to automobiles and adaptive equipment for certain disabled veterans and members of the Armed Forces.

S. 2782

At the request of Mr. JACKSON, the Senator from Colorado (Mr. HASKELL) was added as a cosponsor of S. 2782, the Energy Information Act.

S. 2901

At the reguest of Mr. ALLEN, the Senator from West Virginia (Mr. ROBERT C. BYRD) was added as a cosponsor of S. 2901, to change the date of Veterans Day from the fourth Monday in October to November 11th.

S. 2938

At the request of Mr. JACKSON, the Senator from New Mexico (Mr. MONTOYA) was added as a cosponsor of S. 2938, the Indian Health Care Improvement Act.

S. 3209

At the request of Mr. NELSON, the Senator from Nevada (Mr. BIBLE), the Senator from Maine (Mr. HATHAWAY), the Senator from Utah (Mr. Moss), the Senator from Rhode Island (Mr. PELL), the Senator from Kentucky (Mr. Cook), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Minnesota (Mr. HUMPHREY) were added as cosponsors of S. 3209, to establish a National Resource Information System.

S. 3234

At the request of Mr. HUMPHREY the Senator from South Dakota (Mr. MCGOVERN) was added as a cosponsor to S. 3234, a bill to authorize a vigorous Federal program of research and development to assure the utilization of solar energy as a major source for our national energy needs, to provide for the development of suitable incentives for rapid commercial use of solar technology and to establish an Office of Solar Energy Research in the U.S. Government.

S. 3277

At the request of Mr. DOMENICI, the Senator from Rhode Island (Mr. PELL) was added as cosponsor to S. 3277, a bill to amend the Solid Waste Disposal Act, to encourage full recovery of energy and resources from solid waste, to protect health and the environment from the adverse effects of solid waste disposal, and for other purposes.

S. 3316

At the request of Mr. Moss, the Senator from Utah (Mr. BENNETT) and the Senator from Iowa (Mr. HUGHES), were added as cosponsors of S. 3316, to establish National Historic Trails as a new category of trails within the National Trails System, and for other purposes.

S. 3330

At the request of Mr. HARTKE, the Senator from New Mexico (Mr. DOMENICI),

the Senator from Minnesota (Mr. MONDALE), the Senator from Nevada (Mr. CANNON), and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 3330, to amend title 10, United States Code, regarding severance pay for noncommissioned officers.

S. 3334

At the request of Mr. MONDALE, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 3334, a bill to amend the Interstate Commerce Act in order to improve service in the transportation of household goods by motor common carriers.

S. 3339

At the request of Mr. HUMPHREY, the Senator from South Dakota (Mr. McGOVERN) was added as a cosponsor of S. 3339 a bill to amend the program of supplemental security income for the aged, blind, and disabled—established by title XVI of the Social Security Act—to provide for cost-of-living increases in the benefits provided thereunder.

S. 3383

At the request of Mr. ROBERT C. BYRD, the Senator from Arkansas (Mr. FULBRIGHT) was added as a cosponsor of S. 3383, to amend title 38 of the United States Code in order to provide service pension to certain veterans of World War I and pension to the widows of such veterans.

S. 3403

At the request of Mr. DOLE, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 3403, to amend the act of August 31, 1922, to prevent the introduction and spread of diseases and parasites harmful to honeybees.

SENATE JOINT RESOLUTION 137

At the request of Mr. FONG, the Senator from Indiana (Mr. BAYH), the Senator from Kansas (Mr. DOLE), and the Senator from Montana (Mr. METCALF) were added as cosponsors of Senate Joint Resolution 137 to amend article II, section 1, clause 5 of the Constitution of the United States so as to make eligible for the office of the President and Vice President all citizens over the age of 35 years with a residence of a total of 14 years in the United States.

SENATE RESOLUTION 313—SUBMISSION OF A RESOLUTION AUTHORIZING PRINTING OF ANNUAL REPORT OF THE NATIONAL FOREST RESERVATION COMMISSION

(Referred to the Committee on Rules and Administration.)

Mr. TALMADGE submitted the following resolution:

SENATE RESOLUTION 313

Resolved, That the annual report of the National Forest Reservation Commission for the fiscal year ended June 30, 1973, be printed with an illustration as a Senate document.

ADDITIONAL COSPONSOR OF A CONCURRENT RESOLUTION

SENATE CONCURRENT RESOLUTION 79

At the request of Mr. GOLDWATER, the Senator from New Jersey (Mr. WILLIAMS) was added as a cosponsor of Senate Concurrent Resolution 79, expressing the sense of the Congress with respect to the celebration of the 100th anniversary of the birth of Herbert Hoover.

EXEMPTION FROM DUTY CERTAIN EQUIPMENT AND REPAIRS FOR VESSELS—AMENDMENT

AMENDMENT NO. 1247

(Ordered to be printed, and to lie on the table.)

AN INCOME TAX REALLOCATION AMENDMENT

Mr. HASKELL. Mr. President, there has been much discussion recently about the advisability of a substantial income tax cut. Today, I am submitting for myself and the Senator from Florida (Mr. CHILES) tax relief—tax reform amendment that we shall propose when H.R. 8217 is before the Senate. Senator NELSON is also introducing a tax relief—tax reform bill today. I applaud his efforts and look forward to supporting him as we pursue the goal of tax fairness.

I am convinced that some form of relief or cutback is an essential element of much needed tax reform. But we must be cautious of the manner in which such relief is provided.

Some form of reallocation of the Federal income tax burden is a wise and desirable manner in which to help millions of inflation-pressed American families to cope with the extraordinary economic situation in which we now find ourselves. I believe, though, that we should achieve this goal without even arguably jeopardizing the economic position of the American people as a whole.

I further believe that we have before us a unique opportunity to not only provide economic relief to the vast majority of American taxpayers, but also to do so in a way that provides them a significant measure of fair play in the operation of their Federal tax system. We should, in my judgment, seize this opportunity to reallocate, on the principle of fairness, some of the overall income tax burden.

I would like first to explain my concern over the proposals that have been made by some of a blanket tax cut without any offsetting revenue raising features. Although many things about the present state of our economy are unclear, Mr. President, there are some things that should be abundantly obvious to all of us.

One is that inflation has not been halted.

Another is that inflation has hit hardest those Americans with middle and lower incomes. Americans are today trapped in the vise of higher prices, concurrently shrinking real wages and the unrelenting pressure of Federal taxes. It is sensible to propose that they should have the pressure of that vise loosened by having less of their wages withheld through the Federal tax system.

But taxes are not the only important variable in any income-enhancing plan. Inflation, which affects middle- and low-income taxpayers the most, also plays a decisive role in income distribution and growth Therefore, it seems that any tax proposal must in reality have twin objective. The first should be to place the burden of such a tax proposal more squarely on the shoulders of those who can pay; the second, to minimize any adverse price effects on the economy.

A brief perusal of recent economic reports quickly underlines the serious strains already being placed on the average American. Statistics just released by the Labor Department reveal that while the net income of the average American worker increased by 5.2 percent in the first quarter of 1974, real compensation declined by almost 5.6 percent at an annual rate. Inflation has simply more than offset any surface increase in income.

At the same time as the rate of inflation approached 14.5 percent computed annually, something quite unorthodox by traditional economic standards occurred. Both total output of goods and services in the private sector and productivity declined at annual rates of more than 5.5 percent. Such behavior is normally characteristic of economies undergoing periods of low inflation.

This anomalous behavior seems to indicate that the output recession is finding its origins not in decreasing demand at all—as has traditionally been the case—but rather in shortages of supply. Conversely, increases in inflation appear to be originating in the attempts of producers to compensate for falling production due to raw materials shortages—especially energy—by raising prices.

This rapid escalation of inflation concomitant with productivity and output "recession" presents a difficult dilemma, for forces normally working against one another to restore equilibrium now appear to be acting temporarily in concert. Thus, strategies designed to decrease inflationary pressure are likely to further aggravate high unemployment and lower output, while strategies designed to spur growth in productivity and output and lower unemployment are likely to encourage higher rates of inflation.

It is in this context of "stagflation" that we must view any tax cut proposal. If we agree that any such cut should be designed to improve the plight of those Americans most seriously affected by inflation—the lower- and middle-income groups—then any such cut must be judged by reference to the income effects it will have on these individuals.

In the case of any tax cut, there is an immediate and obvious income effect: that is to increase the amount of money readily available to any wage earner. But, any such increase in the amount of money available for immediate expenditure by consumers eventually translates itself through the demand mechanism into increased inflation. Thus, one must subtract the decline in real income lost to inflation as a result of the tax cut from the addition to earnings accruing from the tax cut to determine the true income effects.

For example, if a family's income was $10,000 and the increase in inflation due to the tax cut was 2 percent, then the family's income in real terms suffered a loss of over $200. Therefore, any tax cut, to make sense, must increase this family's income by more than $200. If it does not, the tax cut is self-defeating, and any income gains are quickly erased by price losses—that is, growing inflation.

With the economy already undergoing severe strain from inflation, induced by shortages of supply, a simple tax cut is very likely to result in even higher rates of inflation, and hence, less real value to the average consumer. This is particularly true when the cut is considered in light of a deficit in the Federal budget of $5.4 billion this year and an anticipated deficit of almost $10 billion in fiscal year 1975. Any tax cut would only further aggravate fiscal problems by cutting Federal revenues in the face of increasing Federal expenditures. The logical result of this would seem to be a further erosion in the buying power of the average consumer—an effect quite opposite to that intended by the proposal to simply cut taxes.

As Prof. Otto Eskstein of Harvard University, stated in testimony before the Senate Finance Committee in March:

> My feeling against a tax cut is mainly based on the longer term needs for resources by the Federal government. We have cut taxes too much in the last four years, and we will need the tax base to meet the future social goals.

Profs. John Kenneth Galbraith and Murray Wiedenbaum echoed this concern when they also concluded, respectively:

> I am very doubtful about a tax reduction. Inflation is still a major problem. It's a tough fact that tax reduction is the wrong medicine for that, and I am concerned that the $6.5 billion estimated revenue loss (to the Federal government) would add to inflationary pressures which remain so very strong.

Thus, for many reasons, Mr. President, I am opposed to a simple tax cut. I believe the best way to accomplish the twin objectives of tax reform and price stability is to couple any tax cut with reforms designed to offset any losses of Federal revenue, thereby minimizing the danger of added inflation.

With this in mind I have proposed an amendment to H.R. 8217. I firmly believe that our proposal will provide the much-needed tax relief without posing the threat to middle- and lower-income persons of having that relief eaten away by yet more exaggerated rates of inflation. At the same time, it addresses itself to several of the most inequitable, unjustifiable, and unnecessary tax breaks presently built into the Internal Revenue Code.

Our amendment will propose to—

First, replace the present personal exemption in the form of a deduction with a nonoptional tax credit of $200.

Second, repeal the code provision allowing the deferral of certain export income—DISC; terminate, with an exception, the investment tax credit; and eliminate the asset depreciation range system.

Step No. 1 in our proposal will provide tax relief for nearly 55 million taxpayers. This represents nearly 90 percent of all the tax returns that are filed each year. The bulk of this relief will go to taxpayers with annual income of $20,000 per year and less.

Step No. 2 of our proposal is designed to offset the loss in tax revenues caused by step No. 1—about 6.1 billion—by repealing some of the least justifiable tax breaks presently in the code.

First, the so-called DISC provisions of the code would be repealed. These provisions allow certain businesses engaged in exporting to defer half of their overseas income and, in the end, this deferral can be so extended as to amount to the equivalent of an initial exemption from taxation for the part of the exporter's income.

A Treasury report released just last week informs the Congress that DISC cost the Federal Government 2½ times as much as was anticipated in 1972. When enacted, the Congress was told that DISC would mean a loss of about $100 million in Federal revenues. Instead, DISC has meant a subsidization of the exporting business to the tune of $250 million. Moreover, the report states that—

> On balance, it seems likely that the 1973 income figures, and hence revenue loss, will exceed the estimated 1972 loss.

There are two disturbing elements of the tax subsidization of exporters. One is the high uncertainty of the need for the DISC provisions. We just do not know how much of the increased exporting activity in 1972 would have occurred without the help of DISC.

We know, for example, that devaluation and other general economic influences have inevitably spurred on exporting: we know, hence, that, to some extent DISC has been an utter, unjustified waste.

The other disturbing element of DISC is the fact that its incentive features all too often may result in American manufacturers exporting items that American consumers find they are unable to obtain here at home. This is an unnecessary business incentive and an unnatural tax policy. Repeal of this provision will result in a revenue gain of $250 million.

The second part of this amendment that will bring in new revenue will be a termination of the investment tax credit, subject to a limited exception. We propose to limit the credit to assets with a cost basis of $100,000 or less. The credit would be fully applicable up to a cost basis of $50,000, and would then be incrementally phased out from $50,000 to $100,000.

I seriously doubt, Mr. President, that this investment tax credit is much of a stimulus to the economy at all. If the board of directors of a corporation is convinced of the profitability of further investment, then marginal benefits accruing from a tax credit will play a very small role in their decision to invest. If the venture is inherently nonprofitable, then it should not be further subsidized by an investment tax credit. The credit is, in my opinion, a classic example of the use of the tax system to induce certain economic behavior, whether that behavior needs to be induced or not.

The effect of the tax credit is very nearly to completely offset the interest costs an investor must pay to borrow the funds to be invested. Thus, borrowing is largely at the expense, not of the investor, but of taxpayers in general. The extraction of those dollars from the average taxpayer in order to subsidize the borrowing of corporate investors ought to require a showing of compelling need if it is to be justified at all. Such a showing has not, to my satisfaction, been made. Thus, the burden ought to be shifted back to those presently benefiting to come to the Congress and demonstrate their individual need for economic subsidization by the Federal Government. The Joint Committee on Internal Revenue Taxation estimates that the change proposed by Senator CHILES and me will yield from $3.5 to $4 billion in additional Federal revenues.

The third revenue-raising element of our proposal is a repeal of the asset depreciation range system. ADR allows rapid tax depreciation of machinery and equipment, and is defended as an incentive for the purchase of new assets, much like the investment tax credit. The system is essentially a fiction, since financial accounting in shareholders' and creditors' reports uses far less rapid depreciation methods. Rapid depreciation amounts to a deferral of taxes: this deferral is a highly valuable tax reduction device. Like the investment credit, we have been shown no current evidence of the need for this tax preference. Fifty percent of the benefits of ADR, it is estimated, go to the largest 103 corporations. Eighty percent of the benefits will go to the largest 2,500 corporations—just one-twentieth of 1 percent of all U.S. businesses. What ADR, in reality, means, is that the Federal Government, at the taxpayers' expense provides these corporate giants interest-free loans of taxes otherwise due each year.

Senator CHILES and I propose to eliminate the ADR concept—a move I view as one more step in the direction of eliminating Federal Government interference through the tax system in the decision-making processes of the free-enterprise system. This repeal will net the Treasury approximately $1.5 billion.

The new revenue raised by my proposals is to be used to finance tax relief for nearly 90 percent of all Federal income taxpayers. The method by which this is to be accomplished is replacement of the deduction for personal exemptions with a tax credit for those exemptions. The credit will not be on an optional basis, although I acknowledge the attractiveness of the option, that feature would simply be unfair.

Tax reform, if to be true to the implication of equity inherent in that appealing phase must face a fundamental reality: we cannot reform the tax system by giving something to everyone. Tax relief for the many must come from those presently paying less than their fair share. The American people recognize this fact of life. So, too, should the Senate. Moreover, equity knows no qualification. True equity should not mean that some are to be treated "more fairly" than others or that some taxpayers are "more equal" than others under the law.

The present personal exemption system is backward simply because it provides tax assistance to taxpayers in proportion to their marginal tax bracket.

Thus, for the very wealthiest of taxpayers, the $750 exemption means that $750 of their income will not be taxed at the otherwise applicable 70 percent tax rate. For the wealthiest taxpayer, then, the exemption is worth about $525 in real dollars saved. For the lowest marginal bracket taxpayers, however, the exemption is worth only about $105—this notwithstanding the fact that their basic living expenses for the minimum essentials of life do not cost them less simply because they are less affluent than other taxpayers. For a family of four with an income of $15,000 a year, the exemption is worth about $185.

But, since the exemption is designed to provide tax recognition to the expenses that one incurs for the basic essentials of life, it should not be valuable to a taxpayer only in so far as he is wealthy. Thus, in my opinion, the credit that is available in lieu of a deduction for personal exemptions should not be provided on an optional basis. It would be available to all taxpayers, rich, poor, or in the middle, on an equal basis.

In the end, Mr. President, one thing must be always kept in mind regarding our tax system: every time one taxpayer does not have to pay some or all of his taxes, the rest of the American people must take up the slack.

It is the presence in the Federal tax "budget" of some $65 or $70 billion of tax subsidization like those I propose we repeal which has for years stood in the way of any meaningful tax relief. Many of these items sharply distort the progressiveness of the tax system.

Thus, there exists this independent justification for our amendment: it is never too soon to close off the most unjustifiable of the tax loopholes. And that is precisely what we propose.

I hope that my colleagues on both sides of the aisle will be able to join in proposing tax relief for millions of the hardest pressed American taxpayers, and a noninflationary reallocation of the Federal tax burden to some who have for too long not been paying their fair share of Federal taxes.

EDUCATION AMENDMENTS OF 1974—AMENDMENTS

AMENDMENT NO. 1248

(Ordered to be printed, and to lie on the table.)

Mr. HANSEN (for himself and Mr. McGEE) submitted amendments, intended to be proposed by them jointly to the bill (S. 1539) to amend and extend certain acts relating to elementary and secondary education programs, and for other purposes.

AMENDMENT NO. 1249

(Ordered to be printed, and to lie on the table.)

LOAN GUARANTEES FOR SCHOOL FACILITIES IMPROVEMENTS

Mr. HUMPHREY. Mr. President, I am submitting an amendment to S. 1539, the Education Amendments of 1974, which provides a positive solution to the problem of sorely needed up-to-date school facilities in our country. It makes funds for necessary building available to school districts at the time when they need the facilities, and yet it costs the Federal Government very little. This amendment, originally title II of S. 1817, the National Education Investment Act, which I introduced on May 15, 1973, uses loan guarantees and interest subsidies to tap major private investment resources to assist school districts that have increasingly experienced high debt service costs, or voter turndowns of bond referendums for vitally needed school construction, due to resulting increased local taxes.

There are three points which need to be emphasized about this proposal. First, the proposal is economically sound. Large funds are made available, but they are available primarily as guarantees, and they remain within the Federal Government accruing interest. Costs to individual school districts are reduced in several ways. They can plan more effectively, knowing that loans will be available through private sources, and that they can plan long-term graduate expenditures to cover immediate needs, rather than requiring sudden immense expenditures which must be covered by the levying of large local bond issues. At the same time, while schools are able to obtain loans, they need not suffer under the burden of unwieldy interest levels. The Federal funds may be used to pay for 3 percent of the interest due annually on the principal borrowed. Thus, at minimal cost to the Federal Government, the net cost of facilities to the educational system is reduced.

Second, the method employed by this measure has precedents in similar proposals approved by Congress. Guaranteed loans are already used for financing the construction of facilities for higher education. And when the Congress decided to encourage the development of innovation in the provision of medical care by assisting the growth of health maintenance organizations, this was one method chosen (Public Law 93-222). I think it is equally appropriate that the Federal Government assist in encouraging the modernization of educational facilities for our primary and secondary schools.

Third, there is a real need to be met in the modernization of our school facilities, and it is precisely those school systems which can least afford the initial costs of modernization that are in most need of its benefits. This loan guarantee program would aid in the removal of one more of the barriers preventing the achievement of quality education in all sectors of our country.

This measure offers an innovative means for addressing a major national problem. It addresses itself to the need for rational planning which is so desperately required for intelligent growth, and it leaves the planning for local problems and fiscal management at the local level. But it unties the hands of those who wish to plan for rational development of local educational facilities by providing them with the means.

Mr. President, I ask unanimous consent that the following items be printed at this point in the RECORD: First, a summary of this title prepared by my office; and second, the text of the amendment.

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

TITLE IX

Establishes a program of Federal loan guarantees and interest subsidies for construction and acquisition of facilities for elementary and secondary schools. Authorization period: January 1, 1975 through June 30, 1978. Amount of authorizations: $2.5 billion in fiscal year 1976, and for the succeeding fiscal year. Establishes in the Treasury an Elementary and Secondary School Facility Construction and Acquisition Loan Guarantee and Interest Subsidy Fund to be made available to the Commissioner of Education for the purpose of guaranteeing loans and making interest subsidy payments, on behalf of State and local educational agency applicants, to non-Federal lenders making loans to such agencies. Stipulates interest-differential for reduction of borrowing costs borne by such agencies, and sets forth criteria and limitations for assistance under this title to enable such agencies to meet capital outlay obligations. Provides for appropriate measures to protect the financial interests of the United States, and to assure that the control of funds provided under this title, and title to property derived therefrom, shall be in a public agency. Labor standards and nondiscrimination provisions are stipulated. In addition to regular reporting requirements, provides for a consolidated report to be made by the Commissioner to the Congress, on assistance authorized under this title, not later than January 1, 1978.

AMENDMENT NO. 1249

At the end of the bill add the following new title:

TITLE IX—LOAN GUARANTEES AND INTEREST SUBSIDIES FOR CONSTRUCTION AND ACQUISITION OF FACILITIES FOR ELEMENTARY AND SECONDARY SCHOOLS

PROGRAM AUTHORIZATION

SEC. 901. (a) In order to assist State and local educational agencies to carry out acquisition and construction of facilities for elementary and secondary schools, the Commissioner of Education, during the period beginning January 1, 1975, and ending at midnight on June 30, 1978, may, in accordance with the provisions of this title—

(1) guarantee to non-Federal lenders making loans to such State and local educational agencies for such purposes, payment of principal of and interest on such loans which are approved under this title; and

(2) pay to the holder of such loans (and for and on behalf of the State or local educational agency which received such loan) amounts sufficient (not to exceed 3 per centum per annum) to reduce the net effective interest rate otherwise payable on such loan.

(b) No loan guarantee or interest subsidy under this title may, except under such special circumstances and under such conditions as are prescribed by the Commissioner, apply to or be made for an amount which, when added to any grant or other loan under this or any other law of the United States, is in excess of 90 per centum of the cost of acquisition or construction of the facility for which such guarantee or loan subsidy payment is sought. No such loan guarantee may apply to more than 90 per centum of the loss of principal and interest on the loan.

(c) No loan guarantee or interest subsidy payment under this title shall be made unless the Commissioner finds that—

(1) the State or local educational agency applicant is unable to secure the amount of such loan from other sources upon terms and conditions equally as favorable as the terms and conditions applicable to loans which are guaranteed or with respect to which interest subsidy payments are made under this title;

(2) the construction will be undertaken in an economical manner and will not be of elaborate or extravagant design or materials;

(3) with respect to a loan for which a guarantee or an interest subsidy payment is sought, the terms, conditions, maturity, security (if any), and schedule and amounts of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable and in accord with regulations, and that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Commissioner determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States; and

(4) the term of a loan for which a guarantee or interest subsidy payment is sought does not exceed forty years.

(d) Guarantees of loans and interest subsidy payments under this title shall be subject to such further terms and conditions as the Commissioner determines to be necessary to assure that the purposes of this title will be achieved, and, to the extent permitted by subsection (c), any of such terms and conditions may be modified by the Commissioner to the extent he determines it to be consistent with the financial interests of the United States.

(e) In the case of any loan guaranteed under this title, the United States shall be entitled to recover from the State or local educational agency applicant the amount of any payments made pursuant to such guarantee unless the Commissioner, for good cause, waives his right of recovery, and, upon making such payment, the United States shall be subrogated to all of the rights of the recipients of the payments with respect to which the guarantee was made.

(f) Any guarantee of a loan under this title shall be incontestable in the hands of a State or local educational agency applicant on whose behalf such guarantee is made, and as to any person who makes or contracts to make a loan to such applicant in reliance thereon, except for fraud or misrepresentation on the part of such applicant or such other person, or except where such applicant is in substantial noncompliance with any material provision of this title. The Commissioner shall have the authority after a hearing on the record to terminate or cancel any loan guarantee on behalf of a State or local educational agency where he makes a finding of fact, supported by substantial evidence, that such fraud or misrepresentation or substantial noncompliance with any material provision of this title has occurred.

(g) The Commissioner is authorized to establish and collect such fees from State and local educational agencies for guarantees made under this title as he considers reasonable.

(h)(1) There is established in the Treasury an Elementary and Secondary School Facility Construction and Acquisition Loan Guarantee and Interest Subsidy Fund (hereinafter in this title referred to as the "fund") which shall be available to the Commissioner without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts (A) to enable him to discharge his responsibilities under guarantees issued by him under this title, and (B) for interest subsidy payments authorized by this title. There are authorized to be appropriated from time to time such amounts as may be necessary to provide the sums required by the fund. To the extent authorized from time to time in appropriation Acts there shall be deposited in the fund amounts received by the Commissioner as interest payments or repayments of principal on loan and any other moneys, property, or assets derived by him from his operations under this title, including any moneys derived from the sale of assets, and fees collected for guarantees made under this title.

(2) If at any time the moneys in the fund are insufficient to enable the Commissioner to discharge his responsibilities under this title to meet the obligations under guarantees of loans under subsection (a) or to make interest subsidy payments on such loans, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Commission with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Commissioner from such fund.

(i)(1) The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued under this title may not exceed such limitations as may be specified in appropriation Acts.

(2) In any fiscal year no loan guarantee or agreements to make interest subsidy payments may be entered into under this title if the making of such guarantee or the entering into of such agreement would cause the cumulative total of—

(A) the principal of the loans guaranteed under this title in such fiscal year, and

(B) the principal of the loans for which no guarantee has been made under this title but with respect to which an agreement to make interest subsidy payments is entered into under this title in such fiscal year,

to exceed the amount of funds obligated under this title in such fiscal year.

(j) Not more than 12½ per centum of the funds obligated under this title for the principal of loans guaranteed and interest subsidy payments made in any one fiscal year may be used within any one State.

(k) The total amount of interest subsidy payments made under agreements entered into under this title in any one fiscal year shall not exceed $300,000,000 in such fiscal year.

APPLICATION

SEC. 902. (a) No loan guarantee or interest subsidy may be made under this title unless an application therefor has been submitted to and approved by the Commissioner. Each such application shall be in such form, submitted in such manner, contain such information, and be consistent with such basic criteria established under section 903, as the Commissioner may require. Each such application shall provide—

(1) that the State or local educational agency has provided satisfactory assurance that the control of funds provided under this title, and title to property derived therefrom, shall be in a public agency for the uses and purposes provided in this title, and that a public agency will administer such funds and property;

(2) that such projects are not inconsistent with overall State plans for the construction and acquisition of school facilities and that the requirements of section 906 will be complied with on all such projects;

(3) that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper accounting for payments made with respect to loans guaranteed and interest subsidy payments made under this title;

(4) that the State or local educational agency is authorized to make such application for assistance under this title under the appropriate State law;

(5) that the State or local educational agency will make an annual report and such other necessary reports to the Commissioner, in such form and containing such information, as may be necessary to enable the Commissioner to perform his duties under this title, and will keep such records and afford such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports;

(6) that such information as may be required shall include satisfactory specification of the existing or anticipated (A) population group or groups to be served by the existing or proposed elementary or secondary school facility; (B) organizational and financial arrangements for providing educational services; (C) facilities available for and additional capital investments and sources of financing therefor, required to provide the level and scope of services proposed; and (D) measures to assure that the location and operation of elementary and secondary school facilities constructed or acquired through assistance provided under this title are in compliance with the requirements of section 907.

(b) The Commissioner shall not approve an application which meets the requirements of subsection (a) of this section unless such application in the case of a local educational agency has been submitted to the appropriate State educational agency for comment.

(c) The Commissioner shall not finally disapprove in whole or in part any application for assistance under this title without first according the educational agency submitting the application reasonable notice and opportunity for a hearing.

BASIC CRITERIA

SEC. 903. As soon as practicable after the enactment of this title, the Commissioner shall by regulation prescribe basic criteria for applications submitted under section 902. In addition to other matters, such basic criteria shall include a priority for projects which provide for the replacement or restoration of hazardous or unsafe facilities, the consolidation of school facilities where the existing facilities do not provide separate classrooms for each grade, the modernization or replacement of facilities which are antiquated or functionally obsolescent, or the modernization or replacement of facilities to provide innovative facilities or equipment.

LIMITATIONS

SEC. 904. (a) No assistance shall be provided under this title for any fiscal year to a State which has taken into consideration non-Federal loans guaranteed and interest subsidy payments under this title in determining the eligibility of any local educational agency in that State for State aid, or the amount of that aid, with respect to the free public education of children during that year or the preceding fiscal year.

(b) No assistance shall be provided under this title to any local educational agency for any fiscal year unless the State educational agency finds that the combined fiscal effort (as determined in accordance with

regulations of the Commissioner) of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was at least equal to such combined effort for the fiscal year ending June 30, 1973.

JUDICIAL REVIEW

SEC. 905. (a) If any State or local educational agency is dissatisfied with the Commissioner's final action with respect to the approval of its application under the provisions of this title or with his final action under section 901(e), such State or local educational agency may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which the State or local educational agency is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(b) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) The court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

LABOR STANDARDS

SEC. 906. All laborers and mechanics employed by contractors on all construction projects under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5). The Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (14 F.R. 3176; 5 U.S.C. 133z–15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 265c).

NONDISCRIMINATION PROVISION

SEC. 907. No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity in a facility assisted in whole or in part by any guaranteed loan or interest subsidy payment made under this title.

PROHIBITION ON USE AS MATCHING FUNDS

SEC. 908. No State or unit of local government may use, directly or indirectly, any part of the funds it receives under this title as a contribution for the purpose of obtaining Federal funds under any law of the United States which requires matching funds as a condition to the receipt of Federal funds.

DEFINITIONS

SEC. 909. (a) As used in this title, the terms—

(1) "Commissioner";
(2) "construction";
(3) "elementary school";
(4) "secondary school";
(5) "local educational agency"; and
(6) "State educational agency",

have the same meanings as prescribed in section 400 of the General Education Provisions Act.

(b) As used in this title—

(1) The term "school facilities" includes classrooms and related facilities; and initial equipment, machinery, and utilities necessary or appropriate for school purposes. Such term does not include athletic stadiums, or structures or facilities intended primarily for athletic exhibitions, contests, or games or other events for which admission is to be charged to the general public.

(2) The term "State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands and the Trust Territory of the Pacific Islands.

EVALUATION REPORT

SEC. 910. Upon completion of elementary or secondary school facility acquisition or construction projects, or both, under assistance provided under this title, the State or local educational agency recipient of assistance shall make a full and complete report to the Commissioner, in such manner as he may by regulation prescribe, and which shall include descriptions and evaluations of the educational services resulting from such school facility improvements. The Commissioner shall provide a consolidated report to the Congress, with such recommendations, on assistance authorized under this title, as he deems appropriate, not later than January 1, 1978.

APPROPRIATIONS AUTHORIZED

SEC. 911. There are authorized to be appropriated to the fund, not to exceed $2,500,000,000 for the fiscal year ending June 30, 1975, and not to exceed $2,500,000,000 for the fiscal year ending June 3, 1976. Funds appropriated pursuant to this section shall be deposited in the fund and shall remain available for obligation and expenditure until expended.

On page 124 in the Table of Contents after item "Sec. 806.", insert the following:

TITLE IX—LOAN GUARANTEES AND INTEREST SUBSIDIES FOR CONSTRUCTION AND ACQUISITION OF FACILITIES FOR ELEMENTARY AND SECONDARY SCHOOLS

Sec. 901. Program authorized.
Sec. 902. Application.
Sec. 903. Basic criteria.
Sec. 904. Limitations.
Sec. 905. Judicial review.
Sec. 906. Labor standards.
Sec. 907. Nondiscrimination provision.
Sec. 908. Prohibition on use as matching funds.
Sec. 909. Definitions.
Sec. 910. Evaluation report.
Sec. 911. Appropriations authorized.

AMENDMENT NO. 1250

(Ordered to be printed, and to lie on the table.)

PRESCHOOL READING IMPROVEMENT

Mr. HUMPHREY. Mr. President, I am submitting an amendment to title VII of S. 1539 which will make a valuable addition to an excellent proposal. Problems in reading have long been identified as among the principal causes of failure for the children in our schools. The national reading improvement program in title VII is a major effort to address this problem, by providing for major experimental and demonstration programs in reading with children in the elementary schools, and coordinating this with extensive investigation of reading problems under the aegis of the National Institute of Education. The intention is to find a way to help children to get off to a good start in reading, and it is a long-due and worthwhile proposal.

What my amendment would do is to provide for demonstration programs to test the feasibility of further extending the benefits of this proposal to children before they enter the elementary schools. It is generally agreed that the experiences children have with reading or reading-related activities in the preelementary years have a significant impact on their ability to learn quickly in the elementary grades. There have, of course, been experimental programs carried out with these younger children, and there have even been some rudimentary programs integrated into child care, nursery, or kindergarten programs. The problem has been that more often than not the children have left these programs only to enter an elementary school which takes no account of the type of learning experience they have already had. The benefits of the preelementary school experience are thus too often lost through lack of any continuity or, worse still, the child is confused by the malange of methods and experiences which lack any coordination.

The national reading improvement program offers us a major opportunity to find out how to make the best use of these early experiences in reading. The amendment I am proposing authorizes the establishment of demonstration programs in reading in qualified child care centers, nursery schools, or kindergartens for children in the 2 years before entering the first grade. It requires that such demonstration programs be coordinated with programs in the schools which the children will subsequently be entering. For the first time we will have an opportunity to see the impact of a continuous effort to reach preschool children with training to improve their abilities in language skills and comprehension.

Little coordinated effort has been put into such preschool training in language skills, and virtually no effort has gone into establishing continuity between the reading, training of preschool agencies and the schools. Through authorizing the demonstration projects which I propose, we can do some investigating and evaluating to find out what structural arrangements provide the greatest continuity and benefits for the child's development of reading skills.

I am suggesting a very moderate level of funding—$7 million in the first fiscal year. This will give us time to get some projects running and to find out which are most effective.

We must not lose this opportunity to devise comprehensive reading training, and training in reading-related skills, for our children at the earliest point at which it may be beneficial to them. Title VII is a major positive innovation in Federal aid to education, and it gets to the children in the way and at the time that can do the most good. What I propose is that we make a moderate but valuable addition to the program which will help to fulfill its purpose and promise.

Mr. President, I ask unanimous consent that the text of the 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. 1250

On page 368, line 21, strike out the word "and".

On page 368, line 24, strike out the period and insert in lieu thereof a semicolon and the word "and".

On page 368 after line 24, insert the following:

"(4) to develop the capacity of preelementary school children for reading, and to establish and improve preelementary school programs in language arts and reading.".

On page 369, line 2, after "(a)" insert "(1)".

On page 369, between lines 9 and 10, insert the following new paragraph:

(2) The Commissioner is further authorized to contract with either State educational agencies, local educational agencies, or both, or with nonprofit educational or child care institutions, for the carrying out by such agencies and institutions, in areas where such schools are located, of such demonstration projects, for preelementary school children. Such demonstration projects are to be instituted in kindergartens, nursery schools, or other preschool institutions.

On page 369, line 16, after the word "identify" insert the following: "pre-elementary and".

On page 369, line 23, after the word "for" insert the following: "elementary school".

On page 370, line 17, after the word "testing" insert the following: "in programs for elementary school children".

On page 370, line 18, insert before the semicolon a comma and the following: "and for programs for pre-elementary school children a test of reading proficiency at the conclusion, minimally, of the first-grade program into which the nursery and kindergarten programs are integrated".

On page 371, line 11, strike out the word "and".

On page 371, line 18, strike out the period and insert in lieu thereof a semicolon.

On page 371, between lines 18 and 19, insert the following new paragraphs:

"(14) coordination and continuity for preelementary programs with respect to subsequent programs, so that a nursery school language arts and reading program shall be shown to lead into a kindergarten program which is integrally related to the nursery school program, and a kindergarten language arts and reading program shall be shown to lead into a first-grade program which is integrally related to the kindergarten program; and

"(15) assessment, evaluation, and collection of information on individual children by teachers during each year of the pre-elementary program, to be made available for teachers in the subsequent year, in order that continuity for the individual child not be lost.".

On page 371, line 25, strike out the word "and".

On page 372, line 4, strike out the period and insert in lieu thereof a semicolon and the word "and".

On page 372, between lines 4 and 5, insert the following new paragraphs:

"(3) whenever appropriate, sufficient measures will be taken to coordinate each preelementary reading program with the reading program of the educational agencies or institutions which such pre-elementary school children will be next in attendance; and

"(4) the pre-elementary reading and language arts program will be carried out as part of a general learning environment.".

On page 372, line 6, after the word "section", insert the following: "or other agency or institution making an application under paragraph (2) of section 702(a)".

On page 373, line 4, after the word "subsection", insert the following: "or an applicant under paragraph (2) of section 702 (a)".

On page 382, line 12, strike out "$75,000,000" and insert in lieu thereof "$82,000,000".

On page 382, line 13, strike out "$80,000,000" and insert in lieu thereof "$88,000,000".

On pace 382, line 14, strike out "$85,000,000" and insert in lieu thereof "$93,000,000".

On page 382, line 16, after the period insert the following: "Of the sums authorized to be appropriated under this subsection, not less than $7,000,000 in the fiscal year ending June 30, 1975, and not less than $8,000,000 in each of the fiscal years ending June 30, 1976 and June 30, 1977 shall be available to carry out programs authorized under paragraph (2) of section 702(a).

AMENDMENTS NOS. 1251 THROUGH 1256

(Ordered to be printed, and lie on the table.)

Mr. DOMINICK submitted six amendments, intended to be proposed by him, to Senate bill 1539, supra.

NOTICE OF MOTION TO SUSPEND THE RULE—AMENDMENT TO SUPPLEMENTAL APPROPRIATIONS BILL

AMENDMENT NO. 1257

(Ordered to be printed, and to lie on the table.)

Mr. PASTORE submitted the following notice in writing:

In accordance with rule XL of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend paragraph 4 of rule XVI for the purpose of proposing to the bill (H.R. 14013) Making supplemental appropriations for the fiscal year ending June 30, 1974, and for other purposes, the following amendment, namely:

Following the word "project" at the end of section 204(b)(3) of the Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, insert the following: ", except that, in the case of an industrial firm that would face extreme economic hardship, and, as determined by the Administrator of the Economic Development Administration, would thereby be unable to continue in business in the applicant's community due to the necessity of paying its proportionate share of the Federal cost of construction of such works, the grantee, if its application for a grant had been received and accepted for processing by the Environmental Protection Agency and found to be in conformity with regulations in existence on the date of acceptance by the Environmental Protection Agency and prior to March 2, 1973, may waive for the industry any payment due. The Administrator of the Economic Development Administration shall redetermine the industry's eligibility for such waiver on an annual basis.".

Mr. PASTORE also submitted an amendment, intended to be proposed by him, to House bill 14013, making supplemental appropriations for the fiscal year ending June 30, 1974, and for other purposes.

(For text of amendment referred to, see the foregoing notice.)

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 1215

At the request of Mr. DOMINICK, the Senator from Tennessee (Mr. BAKER), the Senator from Kansas (Mr. DOLE), and the Senator from Florida (Mr. GURNEY) were added as cosponsors of amendment No. 1215 to S. 3203.

AMENDMENT NO. 1236

At the request of Mr. HUMPHREY, the Senator from Tennessee (Mr. BAKER), the Senator from Tennessee (Mr. BROCK), the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. HART), the Senator from Utah (Mr. Moss), the Senator from Illinois (Mr. STEVENSON), and the Senator from California (Mr. TUNNEY) were added as cosponsors of amendment No. 1236 to S. 1539, the Education Amendments of 1974.

NOTICE OF HEARING ON ENERGY SUPPLY ACT OF 1974

Mr. JACKSON. Mr. President, on April 2, I announced that the Committee on Interior and Insular Affairs would be holding hearings on S. 3221, the Energy Supply Act of 1974 and other bills before the Congress which would amend the Outer Continental Shelf Lands Act of 1953. Because of the intense interest in these hearings, they will be held on 4 days—May 6, 7, 8, and 10—rather than 3 days as originally announced. Furthermore, the hearings will include S. 3346, introduced by Senator ROTH in addition to the bills referred to in my April 2 announcement. Hearings will begin at 10 a.m., in room 3110, Dirksen Senate Office Building on each day.

NOTICE WITH RESPECT TO CONSIDERATION OF S. 1566 BY COMMITTEE ON LABOR AND PUBLIC WELFARE

Mr. WILLIAMS. Mr. President, on April 24, 1974, S. 1566, which was reported on that day by the Committee on Commerce without recommendation, was referred for 40 days to the Committee on Labor and Public Welfare. This bill, introduced by Senator INOUYE, for himself and Senator FONG, on April 12, 1973, provides that no strike or lockout in the longshore or maritime industries of the west coast shall be permitted to interrupt normal shipping between any west coast port and Hawaii or any U.S. Pacific island for a period of 160 days following the beginning of such strike or lockout.

Prior to reporting out this measure without recommendation, the Committee on Commerce held a hearing and compiled a record which included the views of interested persons in Hawaii and the Pacific Islands, as well as those of affected labor and management organizations. In view of the short period of time it has been given to consider this measure, the Committee on Labor and Public Welfare does not intend to hold additional hearings, but will consider the hearing record of the Committee on Commerce, together with such additional written statements as interested persons

may wish to submit. Such statements should be forwarded to the Committee on Labor and Public Welfare, room 4230, Dirksen Senate Office Building, by May 23, 1974.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

John T. Pierpont, Jr., of Missouri, to be U.S. marshal for the western district of Missouri for the term of 4 years (reappointment).

David G. Trager, of New York, to be U.S. attorney for the eastern district of New York for the term of 4 years, vice Robert A. Morse, deceased.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Thursday, May 9, 1974, any representations or objections they may wish to present concerning the above nominations, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

ADDITIONAL STATEMENTS

THE MARCH 21 TAPE

Mr. McGOVERN. Today's Wall Street Journal, May 2, 1974, contains a thoughtful editorial as well as pertinent excerpts based on Mr. Nixon's much discussed meeting of March 21, 1973, with John Dean, relative to the Watergate coverup.

I ask unanimous consent that this editorial and the related excerpts be printed in the RECORD.

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

THE MARCH 21 TAPE

Frankly we have not finished reading, let alone digesting, the 1,308 pages of documents released by the White House. But we think it well worth while to offer a few preliminary observations on the March 21 tape, when John Dean first laid the Watergate cover-up on the table before the President.

A number of indications—our own sampling of the rest of the transcripts, the initial stories on the documents, the emphasis in the President's own brief—suggest that this was the most significant meeting, though perhaps the least typical one. Most of the other transcripts we have sampled do succeed, at least at first reading, in the exculpatory effect intended by the White House. There is a definite impression of a President only gradually over a few weeks comprehending the dimensions of the cover-up. As it looks so far, the March 21 tape does most of the damage to the President.

The meeting is subject to various constructions, and the reader is invited to judge for himself from the lengthy abstracts printed alongside. One construction is that the President decided to pay hush-money to convicted Watergate defendant E. Howard Hunt, and is thus deeply implicated in the cover-up plot. Another construction is that in the end the President rejected this course, deciding instead on a grand jury investigation extending to members of the White House staff. Our own interpretation is as follows:

1. The only firm decision reached at the meeting was to convene another meeting among the President, Mr. Dean, H. R. Haldeman, John Mitchell and John Ehrlichman. The purpose of the subsequent meeting would be to decide among three courses: paying off the jailed defendants indefinitely for silence, or refusing further payoffs and allowing the whole story to "hang out" or convening a grand jury as a more constrained forum for investigation.

2. Among these three courses, indefinite payoffs were rejected because they could not be followed up with clemency to insure silence. By the end of the meeting, the President was leaning heavily toward the grand jury course as the permanent response.

3. However, there is a strong inference that the President wanted Mr. Hunt's immediate demands met in order to buy time for the ultimate decision. There was no explicit decision to pay the $120,000, but the President specifically suggested this course of action at several points. One could argue that these remarks were intended to elicit Mr. Dean's opinion. Or one could argue that the President's final remarks on the subject—"my point is, do you ever have any choice on Hunt"—coupled rejection of immediate payoffs with rejection of ultimate ones. But these defenses are strained, while the President's suggestions are perfectly clear.

Now, in reacting to all of this it helps to separate two questions. The first, and not an unimportant one, is a judgment of the whole conversation. The dominant question at this meeting, and for that matter at many of the others as well, was not, what is the right thing to do? It was, what can we get away with? The President of the United States was at least willing to contemplate raising a million dollars to buy silence from convicts, and rejected clemency merely on expedient grounds. Naturally much of the initial reaction to the new disclosures has been one of distaste for the unsavory tone of the discussion.

As public debate continues, however, inevitably it will have to return to the second question—was an impeachable offense committed? We doubt that very many people will want to impeach a President for considering and rejecting an immoral course of action. But even by far more exacting standards the March 21 tape raises real questions. The Rodino committee has had this particular tape for some time now and no doubt has been wrestling with its ambiguities. We begin to appreciate the urgency of its requests for more information.

To put the worst face on it, assume the President did sanction a payment to meet Mr. Hunt's immediate demands. There have been allegations that the last in a series of payments intended for Mr. Hunt was made on the evening of March 21. If you assume this date of the final $75,000 payment is correct, you can start to build connections that implicate Mr. Nixon in a criminal charge of obstructing justice. At least for that day, the argument would go, he was part of the coverup.

This connection would at this point seem tenuous. The President may or may not have meant to sanction the payoff. The date of the final payment has also been reported as March 20. In any event, it apparently was set in motion before the key meeting, and approved by Mr. Mitchell, who did not attend it. Even if Mr. Nixon supported a payment in his mind it may have been, as subsequent tapes in fact suggest, intended as a legitimate legal support. Still, on the basis of what we can see so far, these are the important questions to explore.

Thus it seems likely that Tuesday's disclosures will at least serve to focus the question, especially as the initial reaction subsides. Indeed, it now seems likely that the nation will eventually have a pretty good idea of how deeply the President was involved, though the answer to that question may or may not turn out to correspond with our first reaction on an incomplete reading of the transcripts.

But if the nation should conclude that the President was not involved in the cover-up before March, and cleaned house when he did learn of its dimensions, the final decision may turn on the definition of an impeachable offense. What would a President have to do in one such meeting to merit impeachment?

A CONCISE VERSION OF THE KEY TAPE

NOTE.—Following are extracts from the most quoted and discussed single conversation among the edited transcripts released by the White House Tuesday—the March 21, 1973 meeting among President Nixon, John Dean and H. R. Haldeman.

(The extracts amount to perhaps 20% of the total conversation, and extensive editing was required to reduce the White House transcript to this length. The deletions were chosen with the intention of preserving the essence of the conversation, at the expense of producing an impression of coherence not present in the original.)

D. The reason that I thought we ought to talk this morning is because in our conversations, I have the impression that you don't know everything I know and it makes it very difficult for you to make judgments that only you can make on some of these things . . . I think that there is no doubt about the seriousness of the problem we've got. We have a cancer within, close to the presidency, that is growing. It is growing daily. It's compounded, growing geometrically now, because it compounds itself. That will be clear if I, you know, explain some of the details of why it is. Basically, it is because (1) we are being blackmailed; (2) people are going to start perjuring themselves very quickly that have not had to perjure themselves to protect other people in the line. And there is no assurance—P. That that won't bust? D. That that won't bust. . . .

D. Alright. Now post-June 17th; Liddy said if they all got counsel instantly and said we will ride this thing out. Alright, then they started making demands. "We have to have attorneys' fees. We don't have any money ourselves, and you are asking us to take this through the election." Alright, so arrangements were made through Mitchell, initiating it. And I was present in discussions where these guys had to be taken care of. Their attorneys' fees had to be done. Kalmbach raised some cash.

D. That's the most troublesome post thing because (1) Bob is involved in that; (2) John is involved in that; (3) I am involved in that; (4) Mitchell is involved in that. And that is an obstruction of justice. . . .

D. Here is what is happening right now. What sort of brings matters to the (unintelligible). One, this is going to be a continual blackmail operation by Hunt and Liddy and the Cubans. No doubt about it . . . Hunt now is demanding another $72,000 for his own personal expenses; another $50,000 to pay attorneys' fees; $120,000. Some (1) he wanted it as of the close of business yesterday. He said, "I am going to be sentenced on Friday, and I've got to get my financial affairs in order." . . . Hunt has now made a direct threat against Ehrlichman. As a result of this, this is his blackmail. He says, "I will bring John Ehrlichman down to his knees and put him in jail. I have done enough seamy things for he and Krogh, they'll never survive it."

P. Was he talking about Ellsberg? D. Ellsberg, and apparently some other things. I don't know the full extent of it. P. I don't know about anything else. D. I don't know either, and I hate to learn some of these things. So that is the situation. Now, where are the soft points? How many people

know about this? Well, let me go one step further in this whole thing. The Cubans that were used in the Watergate were also the same Cubans that Hunt and Liddy used for this California Ellsberg thing, for the break-in out there. So they are aware of that. How high their knowledge is, is something else. Hunt and Liddy, of course, are totally aware of it, of the fact that it is right out of the White House.

P. I don't know what the hell we did that for! D. I don't know either. . . .

D. There is the problem of the continued blackmail which will not only go on now, but it will go on while these people are in prison, and it will compound the obstruction of justice situation. It will cost money. It is dangerous. People around here are not pros at this sort of thing. This is the sort of thing Mafia people can do: washing money, getting clean money, and things like that. We just don't know about those things, because we are not criminals and not used to dealing in that business. P. That's right. D. It is a tough thing to know how to do.

P. Maybe it takes a gang to do that. D. That's right. There is a real problem as to whether we could even do it. Plus there is a real problem in raising money. Mitchell has been working on raising some money. He is one of the ones with the most to lose. But there is no denying the fact that the White House, in Ehrlichman, Haldeman and Dean are involved in some of the early money decisions.

P. How much money do you need? D. I would say these people are going to cost a million dollars over the next two years. P. We could get that. On the money, if you need the money you could get that. You could get a million dollars. You could get it in cash. I know where it could be gotten. It is not easy, but it could be done. But the question is who the hell would handle it? Any ideas on that?

D. That's right. Well, I think that is something that Mitchell ought to be charged with. P. I would think so too. D. And get some pros to help him. . .

P. Just looking at the immediate problem, don't you think you have to handle Hunt's financial situation damn soon? D. I think that is—I talked with Mitchell about that last night and—P. It seems to me we have to keep the cap on the bottle that much, or we don't have any options. D. That's right. P. Either that or it all blows right now? D. That's the question. . . .

D. What really bothers me is this growing situation. As I say, it is growing because of the continued need to provide support for the Watergate people who are going to hold us up for everthing we've got, and the need for some people to perjure themselves as they go down the road here. If this thing ever blows, then we are in a cover-up situation. I think it would be extremely damaging to you and the— P. Sure. The whole concept of administration justice. Which we cannot have!

D. That is what really troubles me. For example, what happens if it starts breaking, and they do find a criminal case against a Haldeman, a Dean, a Mitchell, an Ehrlichman? That is— P. If it really comes down to that, we would have to (unintelligible) some of the men.

D. That's right. I am coming down to what I really think, is that Bob and John and John Mitchell and I can sit down and spend a day, or however long, to figure out one, how this can be carved away from you, so that it does not damage you or the presidency. It just can't! You are not involved in it and it is something you shouldn't— P. That is true!

P. Let's come back to this problem. What are your feelings yourself, John? You know what they are all saying. What are your feelings about the chances? D. I am not confident that we can ride through this. I think there are soft spots.

P. So what you really come to is what we do. Let's suppose that you and Haldeman and Ehrlichman and Mitchell say we can't hold this? What then are you going to say? What are you going to put out after it? Complete disclosure, isn't that the best way to do it— D. Well, one way to do it is— P. That would be my view.

D. One way to do it is for you to tell the Attorney General that you finally know. Really, this is the first time you are getting all the pieces together. P. Ask for another Grand Jury? D. Ask for another Grand Jury. The way it should be done though, is a way—for example, I think that we can avoid criminal liability for countless people and the ones that did get it could be minimal. P. How? D. Well, I think by just thinking it all through first as to how. You know, some people could be granted immunity. . . .

P. No. Talking about your obstruction of justice, though, I don't see it. D. Well, I have been a conduit for information on taking care of people out there who are guilty of crimes. P. Oh, you mean like the blackmailers? D. The blackmailers. Right.

P. Well, I wonder if that part of it can't be—I wonder if that doesn't—let me put it frankly: I wonder if that doesn't have to be continued? Let me put it this way: let us suppose that you get the million bucks, and you get the proper way to handle it. You could hold that side? D. Uh, huh.

P. It would seem to me that would be worthwhile. D. Well, that's one problem. P. I know you have a problem here. You have the problem with Hunt and his clemency.

D. That's right. And you are going to have a clemency problem with the others. They all are going to expect to be out and that may put you in a position that is just untenable at some point. You know, the Watergate Hearings just over, Hunt now demanding clemency or he is going to blow. And politically, it's impossible for you to do it. You know, after everybody— P. That's right! D. I am not sure that you will ever be able to deliver on the clemency. It may be just too hot.

P. You can't do it politically until after the '74 elections, that's for sure. Your point is that even then you couldn't do it. D. That's right. It may further involve you in a way you should not be involved in this. P. No—it is wrong that's for sure. . . .

D. What I am coming in today with is: I don't have a plan on how to solve it right now, but I think it is at the juncture that we should begin to think in terms of how to cut the losses; how to minimize the further growth of this thing, rather than further compound it by, you know, ultimately paying these guys forever. I think we've got to look—

P. But at the moment. don't you agree it is better to get the Hunt thing that's where that—D. That is worth buying time on. P. That is buying time. I agree. . . .

P. Suppose the worst—that Bob is indicted and Ehrlichman is indicted. And I must say, we just better then try to tough it through. You get the point. D. That's right.

P. If they, for example, say let's cut our losses and you say we are going to go down the road to see if we can cut our losses and no more blackmail and all the rest. And then the thing blows cutting Bob and the rest to pieces. You would never recover from that, John. D. That's right.

P. It is better to fight it out. Then you see that's the other thing. It's better to fight it out and not let people testify, and so forth. And now, on the other hand, we realize that we have these weaknesses—that we have these weaknesses—in terms of blackmail. . . .

P. I think the most difficult problem are the guys who are going to jail. I think you are right about that. D. I agree. P. Now. And also the fact that we are not going to be able to give them clemency. D. That's right. How long will they take? How long will they sit there? I don't know. We don't know what they will be sentenced to. There's always a chance—

P. When could you have this meeting with these fellows as I think time is of the essence. Could you do it this afternoon?

D. Well, Mitchell isn't here. It might be worth it to have him come down. I think that Bob and John did not want to talk to John Mitchell about this, and I don't believe they have had any conversation with him about it. P. Well, I will get Haldeman in here now. . . .

(Haldeman enters the room)

P. I was talking to John about this whole situation and he said if we can get away from the bits and pieces that have broken out. He is right in recommending that there be a meeting at the very first possible time. . . . You can't do it today, can you?

D. I don't think so. I was suggesting a meeting with Mitchell. P. Mitchell, Ehrlichman, yourself and Bob, that is all. Now, Mitchell has to be there because he is seriously involved and we are trying to keep him with us. We have to see how we handle it from here on. We are in the process of having to determine which way to go, and John has thought it through as well as he can. . . .

P. What really has to happen is for you to sit down with those three and for you to tell them exactly what you told me. D. Uh, huh.

P. It may take him about 35 or 40 minutes. In other words he knows, John knows, about everything and also what all the potential criminal liabilities are, whether it is—like that thing—what, about obstruction? D. Obstruction of justice. Right. P. So forth and so on. I think that's best. Then we have to see what the line is. Whether the line is one of continuing to run a kind of stone wall, and take the heat from that, having in mind the fact that there are vulnerable points there;—the vulnerable points being, the first vulnerable points would be obvious. That would be one of the defendants, either Hunt, because he is most vulnerable in my opinion, might blow the whistle and his price is pretty high, but at least we can buy the time on that as I pointed out to John. . . .

P. The point is this, that it is now time, though, that Mitchell has got to sit down, and know where the hell all this thing stands, too. You see, John is concerned, as you know, about the Ehrlichman situation. It worries him a great deal because, and this is why the Hunt problem is so serious, because it had nothing to do with the campaign. It has to do with the Ellsberg case. I don't know what the hell the—(unintelligible). . . .

D. He is playing hard ball. He wouldn't play hard ball unless he was pretty confident that he could cause an awful lot of grief. H. Right.

P. He is playing hard ball with regard to Ehrlichman for example, and that sort of thing. He knows what he's got. H. What's he planning on, money? D. Money and—H. Really?

P. It's about $120,000. That's what, Bob. That would be easy. It is not easy to deliver, but it is easy to get. Now, H. If the case is just that way, then the thing to do if the thing cranks out.

P. If, for example, you say look we are not going to continue to—let's say, frankly, on the assumption that if we continue to cut our losses, we are not going to win. But in the end, we are going to be bled to death. And in the end, it is all going to come out anyway.

Then you get the worst of both worlds. We are going to lose, and people are going to—H. and look like dopes!

P. And in effect, look like a cover-up. So that we can't do. Now the other line, however, if you take that line, that we are not going to continue to cut our losses, that means then we have to look square in the eye as to what the hell those losses are, and see which people can—so we can avoid criminal liability. Right?

D. Right.

P. And that means keeping it off you. Herb has started this Justice thing. We've got to keep it off Herb. You have to keep it, naturally, off of Bob, off Chapin, if possible, Strachan, right? D. Uh, huh. P. And Mitchell. Right? D. Uh, huh.

H. And Magruder, if you can. P. John Dean's point is that if Magruder goes down, he will pull everybody with him. . . .

P. Another way to do it then Bob, and John realizes this, is to continue to try to cut our losses. Now we have to take a look at that course of action. First it is going to require approximately a million dollars to take care of the jackasses who are in jail. That can be arranged. That could be arranged. But you realize that after we are gone, and assuming we can expend this money, then they are going to crack and it would be an unseemly story. Frankly, all the people aren't going to care that much. D. That's right.

P. People won't care, but people are going to be talking about it, there is no question. And the second thing is, we are not going to be able to deliver on any of a clemency thing. . . .

P. Now let me tell you. We would get the money. There is no problem in that. We can't provide the clemency. Money could be provided. Mitchell could provide the way to deliver it. That could be done. See what I mean? . . .

P. Well, it sounds like a lot of money, a million dollars. Let me say that I think we could get that. I know money is hard to raise. But the point is, what we do on that—Let's look at the hard problem—

D. That has been, thus far, the most difficult problem. That is why these fellows have been on and off the reservation all the way along.

P. So the hard place is this. Your feeling at the present time is the hell with the million dollars. I would just say to these fellows I am sorry it is all off and let them talk. Alright? D. Well, —

P. That's the way to do it isn't it, if you want to do it clean?

H. That's the way. We can live with it, because the problem with the blackmailing, that is the thing we kept raising with you when you said there was a money problem. When you said we need $20,000, or $100,000, or something. We said yeah, that is what you need today. But what do you need tomorrow or next year or five years from now? . . .

D. One of the things that I think we all need to discuss is, is there some way that we can get our story before a Grand Jury, so that they can really have investigated the White House on this. I must say that I have not really thought through that alternative. We have been so busy on the other containment situation.

P. John Ehrlichman, of course, has raised the point of another Grand Jury. I just don't know how you could do it. On what basis. I could call for it, but I — D. That would be out of the question.

P. I hate to leave with differences in view of all this stripped land. I could understand this, but I think I want another Grand Jury proceeding and we will have the White House appear before them. Is that right John? D. Uh, huh.

P. That is the point, see. Of course! That would make the difference. I want everybody in the White House called. And that gives you a reason not to have to go before the Ervin and Baker committee. It puts it in an Executive session, in a sense. H. Right. D. That's right.

H. And there would be some rules of evidence, aren't there? D. There are rules of evidence.

P. Rules of evidence and you have lawyers. H. You are in a hell of a lot better position than you are up there.

D. No, you can't have a lawyer before the Grand Jury. P. Oh, no. That's right.

H. But you do have rules of evidence. You can refuse to talk.

D. You can take the 5th Amendment.

P. That's right.

H. You can say you have forgotten, too, can't you? D. Sure but you are chancing a very high risk for perjury situation.

P. But you can say I don't remember. You can say I can't recall. I can't give any answer to that that I can recall.

H. You have the same perjury thing on the Hill don't you? D. That's right. P. Oh hell, yes.

H. And the Ervin committee is a hell of a lot worse to deal with. D. That's right.

P. Suppose we have a Grand Jury thing. What would that do to the Ervin committee? Would it go right ahead? D. Probably. Probably. . . .

D. No. Well, that is one possibility. But also when these people go back before the Grand Jury here, they are going to pull all these criminal defendants back before the Grand Jury and immunize them. P. Who will do this? D. The U.S. Attorney's Office will. P. To do what?

D. To let them talk about anything further they want to talk about. P. But what do they gain out of it? D. Nothing.

P. To hell with it!

D. They're going to stonewall it, as it now stands. Excepting Hunt. That's why his threat. H. It's Hunt opportunity.

P. That's why for your immediate things you have no choice but to come up with the $120,000, or whatever it is. Right? D. That's right.

P. Would you agree that that's the prime thing that you damn well better get that done?

P. Could I suggest this though: let me go back around — H. Be careful —

P. The Grand Jury thing has a feel. Right? It says we are cooperating well with the Grand Jury.

D. Once we start down any route that involves the criminal justice system, we've got to have full appreciation that there is really no control over that. . . .

P. But you see the Grand Jury proceeding achieves this thing. If we go down that road—(unintelligible). We would be cooperating. We would be cooperating through a Grand Jury. Everybody would be behind us. That is the proper way to do this. It should be done in the Grand Jury, not up there under the kleig lights of the committee. Nobody questions a Grand Jury. And then we would insist on Executive Privilege before the committee, flat out say, "No we won't do that. It is a matter before the Grand Jury, and so on, and that's that." . . .

P. Now, the other possibility is not to go to the Grand Jury. We have three things. (1) You just say the hell with it, we can't raise the money, sorry Hunt you can say what you want, and so on. He blows the whistle. Right? D. Right.

P. If that happens, that raises some possibilities about some criminal liabilities, because he is likely to say a hell of a lot of things and will certainly get Magruder in on it. D. It will get Magruder. It will start the whole FBI investigation going again. . . .

P. Seems we're going around the track. You have no choice on Hunt but to try to keep—D. Right now, we have no choice.

P. But my point is, do you ever have any choice on Hunt? That is the point. No matter what we do here now, John, whatever he wants if he doesn't get it—immunity, etc., he is going to blow the whistle.

D. What I have been trying to conceive of is how we could lay out everything we know in a way that we have told the Grand Jury or somebody else, so that if a Hunt blows, so what's new? It's already been told to a Grand Jury and they found no criminal liability and they investigated it in full. . . .

P. But here is the point, John. Let's go the other angle, is to decide if you open up the Grand Jury: first, it won't be any good, it won't be believed. And then you will have two things going: the Grand Jury and the other things, committee, etc. The Grand Jury appeals to me from the standpoint, the President makes the move. All these charges being bandied about, etc., the best thing to do is that I have asked the Grand Jury to look into any further charges. All charges have been raised. That is the place to do it, and not before a committee of the Congress. Right? D. Yeah.

P. Then, however, we may say, (expletive deleted), we can't risk that, or she'll break loose there. That leaves you to your third thing. D. Hunker down and fight it.

P. Hunker down and fight it and what happens? Your view is that is not really a viable option. D. It is a high risk. It is a very high risk.

P. Your view is that what will happen on it, that it's going to come out. That something is going to break loose, and—D. Something is going to break and—P. It will look like the President—D. is covering up. . . .

P. The other alternative is—D. Yes, the other choices. P. As a matter of fact, your middle ground of Grand Jury. . . .

P. If we said that the reason we had delayed this is until after the sentencing—You see that the point is that the reason, time is of the essence, we can't play around on this. If they are going to sentence on Friday, we are going to have to move on the (expletive deleted) thing pretty fast. See what I mean? D. That's right.

P. So we really have a time problem.

D. The other thing is that the Attorney General could call Sirica, and say that, "The government has some major developments that it is considering. Would you hold sentencing for two weeks?" If we set ourselves on a course of action. P. Yep, yep. . . .

P. You could recommend it and he could come over and I would say, "Now Petersen, we want you to get to the bottom of the damn thing. Call another Grand Jury or anything else. Correct? Well, now you gotta know whether Kleindienst can get Sirica to hold off. Right? Second, you have to get Mitchell down here. And you and Erlichman and Mitchell by tomorrow.

P. Alright. Fine. And my point is that I think it is good, frankly, to reconsider; think it is good, frankly, to consider these various options. . . . The erosion is inevitably going to come here, apart from anything and all the people saying well the Watergate isn't a major issue. It isn't. But it will be. It's bound to. (Unintelligible) has to go out. Delaying is the great danger to the White House area. We don't, I say that the White House can't do it. Right?

D. Yes, Sir.

THE BICENTENNIAL

Mr. COOK. Mr. President, during the past year, I have been following the evolution of what has now become to be known as the American Revolution Bicentennial Administration—ARBA. I think we all realize this organization had some growing pains, but I am encouraged by the program that is now being proposed. We now have come to a point in time when we, in the Congress, must de-

cide if we are serious about having a Bicentennial celebration. This decision is manifested in the vote to be taken in the upcoming supplemental appropriations bill which I understand the Appropriations Committee has ordered reported out later today or tomorrow. This supplemental appropriation of $12.375 million in grants to the States will give these community projects throughout the Nation the boost they need and so richly deserve. The House has already acted in providing a similar amount and I would hope the Senate would act swiftly. The funds would provide for $200,000 in matching grants for each State and territory to foster Bicentennial projects approved by the ARBA. In addition, an annual fund of $25,000 is provided to assist each of these States and territories in their operating expenses.

I am especially proud that the State of Kentucky has taken an early lead in Bicentennial planning. We have many Bicentennial events now on the drawing boards in the blueprint stages. Fulton and Scott Counties and Hickman, Ky., have already been designated National Bicentennial Communities. I am particularly pleased that the plans and activities of the East Kentucky Health Services Clinic in Knott County have been singled out by the National Bicentennial Administration as exemplary of the "Horizons '76" theme of the Bicentennial to improve the quality of life in America. The good work of the men and women at the clinic is being depicted in a national Bicentennial film which will be ready soon for viewing throughout America.

I would like to note that it is not necessary for us to wait another year for these celebrations to begin. This year marks the 200th anniversary of the founding of Fort Harrod, Ky., which was the first permanent settling west of the Alleghenies. In addition, on Saturday the 100th running of the Kentucky Derby is being featured as a Bicentennial event, and it is one of the first in the country. I think it is necessary that we move ahead with our Bicentennial plans, and I am confident that in the time remaining before the Bicentennial date arrives we can rally the interests and aspirations of America's 200 million people in a grassroots celebration of which we can all be proud.

As Mr. John Warner, the newly designated administrator of ARBA, stated in his swearing-in ceremony—

The type of celebration we have will be directly related to the amount of involvement by all groups of Americans.

THE ATS–F SATELLITE

Mr. MOSS. Mr. President, the public's knowledge of our Nation's space program is often limited to the more spectacular efforts of NASA—such as the manned lunar landings. This, unfortunately, creates a distorted picture of the program, thus giving rise to doubts and questions.

The goal of NASA's space activities is "to pursue the peaceful uses of space for the benefit of all mankind." This goal is being achieved by numerous important but not as well-known projects which apply the knowledge and technology gained from space exploration to people-oriented services. As these community service projects come to have a greater effect on our lives, I believe that we will better understand the space program in its entirety.

One such project is the applications technology satellite—ATS—series. The last of the series, the ATS–F, scheduled to be launched in June of this year, is replete with services. Probably the most important service is the satellite's two-way communication capability. This will allow the spacecraft to relay health information and experimental educational programs directly to inexpensive television receivers in remote regions of the Rocky Mountain States, Appalachia, and Alaska. Heretofore, it has been impractical or too expensive to develop land lines for similar communications in these areas because of their scattered population and rugged terrain.

Mr. President, I ask unanimous consent that a recent article on this subject be printed in the RECORD. It is an article from the April 6, 1974, issue of Science News, and it appropriately describes the ATS–F satellite and its benefits to man.

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

A PEOPLE SATELLITE

(By Jonathan Eberhart)

In Fredonia, N.Y., a teacher-trainee asks for clarification of a chart on an easel at the University of Kentucky. A doctor in Tanana, Alaska, examines a patient 130 miles away in the tiny village of Galena (pop. 425). Village farmers in rural India gather in a hut to study irrigation techniques being demonstrated hundreds of miles away in Ahmadabad.

These are all among the jobs planned for ATS–F, the closest thing yet to a community service satellite.

Set for an early June launching, it will be the sixth in NASA's Applications Technology Satellite series, a program of orbiting testbeds for trying out ideas for the future. Although only two of the series have been completely successful (numbers two and four suffered launch vehicle failures; number five got into the wrong orbit), they have proven the feasibility of a wide variety of techniques and devices. The "spin-scan" camera tested for weather photography on ATS–1 led to the imaging photopolarimeter that gave earthlings their first close look at Jupiter from Pioneer 10 last December (including the SCIENCE NEWS Photo of the Year). The electric rocket engine, or resistojet, that made tiny corrections to Keep ATS–5 facing the right direction will lead to future engines that can maintain a small thrust for years on unmanned flights to others planets.

ATS–F (NASA doesn't like to number its satellites until they're safely in orbit), by contrast, is aimed much closer to home. It has its space-oriented experiments too, such as a refined electric rocket engine, but the emphasis is on a group of programs that could have major impact on education, health care and rural development. NASA's role is strictly technological, but a long list of Federal, state, local and foreign agencies have been working for years to plan the best use of what will be an unusually people-oriented satellite.

Most of the activity within the United States will be concentrated in three areas—Appalachia, the Rockey Mountain states and Alaska. Several kinds of programs are planned for each. The organizations involved all stress that they will just be test projects, preliminary trials and so on, but many will last a full year and involve tens of thousands of people. The basic tool is two-way, live television, an idea that has been around for so long that it almost seems old hat, yet this will be the first time that it has been used on a large scale. The satellite's contribution is primarily the avoidance of the time, expense and difficulty of setting up land lines among such a diversiy of often hard-to-reach places.

The Appalachian Regional Commission for example, in 1971 asked 32,000 public school teachers from New York to Alabama simply what they felt they needed in their work. As a result, this summer the University of Kentucky plans graduate courses for elementary school teachers in both career training and the teaching of remedial reading. In each of five states—New York, Maryland, Virginia, Tennessee and Alabama—there will be a two-way satellite link in one city and a receive-only link (joined by two-way land lines with the main installation) in two others. There will be the usual pre-taped lessons and programmed instruction, but the teachers will also be able to have live seminars and discussions, just as though they were in the same room—a glorified, and far more flexible, TV conference call.

This and other summer programs may have to start in something of a rush, however. The satellite was supposed to have been launched in April, and has been delayed twice in recent weeks by technical difficulties. "Everybody'll get in all right," says an ATS official at NASA, "but we're having some rescheduling to do."

A larger training program in career education will run throughout the regular 1974–75 high-school year. This one will consist almost entirely of two-way seminars, broadcast after school hours. There are even plans to enable individual discussions between a teacher and the University of Kentucky on the problems of particular children.

A more diverse use of the two-way capability will be the key to another Appalachian program, a medical service to be tried out in 10 Veterans Administration hospitals in Pennsylvania, Virginia, West Virginia, North Carolina, Tennessee and Georgia. Although the ground stations in the hospitals will be able only to receive from the new satellite, they will use audio channels on ATS–3, launched in 1967 and still working, to complete the circuit.

Besides live seminars originating at the National Medical Audiovisual Center in Atlanta, there will be computer-assisted instruction (the satellites also handle computer data), "tele-consultation," allowing the VA doctors to consult with specialists at teaching institutions, and even full patient-case presentations and diagnosis. Stationary visual data such as X-rays and slides will be sent by slow-scan television, which is much less expensive than conventional wide-band TV, again using land lines for responses.

Students themselves will get a crack at the people satellite in a program developed by the Federation of Rocky Mountain States. Twenty-four junior high schools in rural communities with populations as small as 100 will be able to see and talk to one another and to the program's center in Denver. Another 32 schools will have receive-only terminals, as will a dozen TV stations in the Public Broadcasting Service.

A unique part of the Rocky Mountain experiment ought to be the envy of every teacher who has ever had to wait three months or more for a requisitioned movie or film strip. Called the Materials Distribution Service, it will provide catalogs of about 300 videotaped programs on a variety of subjects such as history and mathematics. The teacher has only to tell the catalog number of the desired tape to the Denver center, and it will be transmitted through ATS–F to a videotape recorder in the school.

One-way communications are still important, since the satellite will be there anyway, and once a month the center will broadcast community-oriented programs on topics such as drugs, aging and health care to all 56 schools.

An important part of the Rocky Mountain test, and of the others as well, is to find out whether the people using it will accept it. Officials are almost uniformly optimistic, but there is the possibility that some of the users, particularly in rural areas, may resent the presence of so much overt technology in what is otherwise a people-to-people educational system. NASA has received letters, for example, from people who firmly believe that the Apollo moon landings never happened, that they were an elaborate hoax perpetrated through the technological flash of the Government and the media. An executive of IBM admits that "we still have employees who won't stay alone in a room with a big computer." Another factor is the very visibility of the two-way TV system, which is a constant reminder that both it and the satellite, sophisticated technology for most schools, cost money.

In Alaska, the way has already been partly paved by ATS–1, which handles voice communications between the Public Health Service hospital in Tanana and native "health aides" in 26 villages (SN: 7/8/72, p. 22). At the end of its first year, the program had already produced a 400 percent increase in the number of physician-health aide contacts, compared with the radio system which was sometimes out of contact for more than a week at a time due to terrain and climate.

ATS–F ground terminals will bring two-way video to four Alaskan sites (with video reception at a fifth) for consultations and diagnoses. For the sake of privacy both video and audio will be scrambled during the consultations. There will also be a variety of medical-training programs involving Alaska and the University of Washington in Seattle. A television series called "Alaska Native Magazine," covering areas of concern such as land claims and the impact of the Trans-Alaska Pipeline, will be broadcast in several native languages and English simultaneously, with built-in pauses for discussion and questions. The satellite will further be used to speed up the dissemination of news by relaying commercial TV network evening news programs, which at present are delayed from four to thirty hours in Alaska after they are broadcast in the contiguous states.

After ATS–F has been in orbit for a year, its motors will be reignited to move it from its position at 94 degrees west longitude over the equator to 35 degrees east longitude—a journey, at its 22,300-mile altitude, of more than 50,000 miles—within reach of India. There it will relay video and voice signals to a sprawling network of some 3,000 inexpensive community receivers in remote, rural areas throughout India. Programs will deal with food production, family planning, health, teacher training and occupational skills.

Besides all this television, ATS–F will explore a variety of other areas. One experiment is a precursor to future Atlantic air-traffic-control satellites. Aircraft flying the North Atlantic are at present assigned to a corridor 120 miles wide, and must follow at least 15 minutes apart. The future goal is a 30-mile corridor, with planes allowed to fly at mere five-minute intervals. In another test, ATS–F will track and relay data from a Nimbus weather satellite, working toward NASA's planned Tracking and Data Relay Satellite System (SN: 2/23/74, p. 125) which will do away with several earth-based tracking stations. Four experiments will explore different aspects of sending radio waves through the atmosphere, including the expansion of the unstable communications band up to 30 gigahertz, while a high-resolution camera will continue the ATS series' role as advanced weather-watchers.

ATS–F, like its predecessors, is technically a pathfinder for engineers. Beyond that, however, beyond the testing of new gadgets and the developing of new techniques, it stands to add a personal dimension to the communications satellite's formerly background role in bringing people closer together.

CLARE BOOTHE LUCE

Mr. PERCY. Mr. President, I remember that a character in John Steinbeck's book, "The Grapes of Wrath," speculates that:

"Up ahead there's a thousand lives we might lead, but when it comes, it'll only be one."

That is true for most of us; we choose a profession or a lifestyle and stick to it all our lives. Most of us simply are not versatile enough or adventurous enough to try more than one or two things.

Clare Boothe Luce has defied the law of gravity that holds most mortals to a given course and encompassed in her lifetime a variety of careers that can only leave others breathless and awestruck. Mrs. Luce has seized every opportunity to make her life full and purposeful, and in doing so has been an inspiration and pep tonic for those of us privileged to know her.

Clare Luce was a liberated woman before anyone knew what the term meant. She was an adoring mother and for 32 years she was the loving wife of one of the most successful, dynamic men in American life. But those roles complimented her personality; they did not encompass it. Her own sense of self-worth, her own capabilities and her generosity enabled her to achieve great success in her own right in a number of fascinating careers.

At various times in her life, Clare has been a successful playwright, an actress, a foreign correspondent, an editor, the American Ambassador to Italy, and a Congresswoman. She modestly ascribes all that achievement to keeping her options open. But all of us here know that while keeping one's options open is certainly an important ingredient in shaping such a life, there is a great deal more to it. One has to have the spirit to try new things and to be willing to fail at them. It is one of life's great ironies that those people who are willing to try new adventures, whatever they may be, rarely do fail at them.

Mr. President, I am privileged in my life to have had the friendship of both Clare and Harry Luce. Both their lives have been an inspiration to me.

On April 21, Parade magazine ran an insightful story about Mrs. Luce in which she reminisced about her extraordinary life and commented on today's political and social scenes. In light of her vast experience and her abiding concern for her Nation, I think we would benefit from reading her assessment of the current American scene.

Mr. President, I ask unanimous consent that the Parade magazine story on Clare Boothe Luce be printed in the RECORD.

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

CLARE BOOTHE LUCE—OBSERVATIONS ON LIFE AND LOVE

(By Cobey Black)

HONOLULU, HAWAII.—At age 71 Clare Boothe Luce is one of the most versatile, beautiful, accomplished, and outspoken women in the nation.

What other woman do we have on the American scene who has been an actress, writer, editor, war correspondent, playwright, Congresswoman, Ambassador to Italy and is currently a member of President Nixon's Foreign Intelligence Advisory Board?

What other woman has experienced more of life than this widow of Henry Robinson Luce, the journalistic titan who founded the Time-Life-Fortune empire? And even more important, what other woman can so eloquently and opinionatedly discuss her life and loves and is willing to do so?

Clare Boothe Luce is unique. She settles herself among the pillows of a sofa on the porch of her exquisite, memento-laden mansion here and in that characteristically vibrant, authoritative voice of hers gives tongue to thought born of deep and active participation in her time.

"I think," she declares, "the world at the moment is suffering from terrible neuroses, expressing themselves in the forms of hostility, feelings of persecution and aggressiveness which, unmotivated, is called terrorism. The world is pretty sick. . . .

"Our press has become so neurotic that we pick up each day's paper with dread, and its neurosis fortifies ours. The newspapers give us a daily false view of life. Anyone looking about him can see that the American world is not a place of unalleviated crime, riots, misery and pollution. We might well think America is living in a perpetual hell."

PRAISES WOMEN'S PAGES

"The only sane parts of the papers are the women's pages, showing that someone still cares for children, enjoys a family, a garden, or watching a soufflé rise in the oven—creative activities."

Mrs. Luce, a lifelong Republican married for 32 years to the most powerful of Republican kingmakers, is asked what she would do if some magical fate should suddenly make her President of the United States. "Ask for a recount," she quickly and smilingly responds.

Then she explains seriously: "The Founding Fathers never wanted the President to be a strong man, in their parlance a king, in ours a dictator. The U.S. Constitution makes the people the ruler. The people want prosperity, which in American terms is a constantly rising standard of living. That's what they want the President to produce."

LIFE IN A "JUNGLE"

"No American President in the present conditions of the world can give the people what they want. We live in a jungle of equally sovereign nations, some more equal than others. The climate of the world of sovereign nations is one of hot or cold war, a foul climate and getting fouler by the minute. You cannot clear the air without clearing the international climate. Our problems are not simply American, but problems of every nation: finite natural resources, overpopulation, pollution, urban disorders, terrorism, violence—we are all experiencing these neurotic symptoms of hate and death.

"If I were President, I would try to explain to the American people the growth of these problems, and tell them the sacrifices they would have to make to cope with them. I would tell them, if they're still able to hear it, that the only way that we can save ourselves is to work together as a family would

in a crisis. There is no longer room for everyone to live his own life as though no one else existed. That would make me the most unpopular President ever to cross the White House threshold.

"It is hard to challenge a nation to live a sane and loving life in a lunatic world. I'm sure we have the material and intellectual resources to survive. I'm not sure America has the spiritual and moral resources for a renaissance. Watergate is the great liberal illusion that you can have public virtue without private morality. It's sheer nonsense that integrity can be restored by removing one man. When the moral consensus, based on religion, collapses among the people, it is not surprising that it also collapses at the top.

"We're in a downbeat period of history; how do we get out? We look to the prophets. In Russia, we see one man, Alexander Solzhenitsyn, who managed to defy the demonic aspect of communism. There is also something stirring in the young people, for a return to the realities of life, which are loving and living—together.

"We are all members of one body, all children of one family, and that spirit is working among our youth, questioning values of my generation and its insatiable allure of wealth, profit and materialism. Young America is giving fresh meaning to love. I'm not without hope."

LOVE AND LATIN

What has been the role of love in the life of Clare Boothe Luce?

"A child's knowledge of love begins with the mother," she says. "My childhood was happy in this sense; I didn't want for love. I was unaware of my father's love because my parents were divorced when I was 6. My mother remarried a very nice stepfather, Dr. Albert E. Austin, who had been a professor of Latin before he became a doctor; he taught me Latin with the patience of love.

"Other things, however, were absent. In my case, money. Because my mother was beautiful, she was determined I'd never find myself in her situation, depending on sheer physical beauty which was not enough to protect against the misfortune of an unhappy marriage and no money. She was determined I was to have a good education. In the place of dolls and pretty dresses, she gave me books, the greatest gift she could have given me."

IMPORTANT VOYAGE

At 18, a precocious and ethereal beauty, Clare Boothe took a decisive voyage. "I came back from Berlin on a boat with a cast of characters who were to change my life. Max Reinhardt, genius of the German theater, offered me a leading role of the nun in his spectacle The Miracle, to be produced on Broadway by Otto Kahn. Mrs. O. H. P. Belmont, an enormously wealthy socialite, wished to groom me as the glamorous character of her movement. Elsa Maxwell taught me to play bridge and over the card table agreed with Mrs. Belmont that "Clare's a girl who could make a great future for herself if it were not wasted by marrying a nice young commuter from Greenwich." Another social couple, the James Stewart Cushmans, wished me to join a circle interested in the science-versus-religion debate than raging with the Scopes trial.

"I exercised Mrs. Belmont's option by working in the Women's National Movement headquarters, marching in parades and scattering pamphlets over Rochester from a World War I Jenny. One Sunday, however, the Cushmans took me to hear the Rev. Henry Sloan Coffin expound on the current debate, and a nice-looking gentleman, old enough to be my father, slipped into the pew beside us. His mind was obviously not on either religion or science.

"I exercised a fourth option and accepted the proposal of George Brokaw, the most eligible bachelor in New York, 25 years my senior, thereby lowering the social prestige of the Brokaws by several degrees. Thus at 20, I found myself married to a socialite in a Fifth Avenue mansion with 14 servants, a house in Newport, another on Long Island, and jewels galore. He was very proud of me. I had six years of his alcoholism and divorced him. But during that marriage, I had a beautiful, lovely, only child whom I adored, my daughter Ann."

Among Clare Brokaw's socialite friends was Condé Nast, publisher of *Vogue* who flatly refused her a job, saying she'd be married and off to Europe in six months. "Instead he went to Europe, and I walked into the *Vogue* offices and occupied an unoccupied desk, writing fashion copy without pay."

MANAGING EDITOR

Nast was so impressed by her presumption and talent that he sent her next door to *Vanity Fair* where there was a vacancy for an associate editor. "Frank Crowninshield, the editor, took one look at me and asked me to go home and think of 100 editorial ideas by Monday. 'My God,' he said when I returned with them, 'You must have a man under your bed.' A year and a half later, I was managing editor of a magazine that was the intellectual focus of the era, and arbiter of arts and letters, a job I held until *Vanity Fair* fell victim to the Depression. . . . I decided to write a play.

"During its writing, Elsa Maxwell invited me to a ball. That evening a man whom I'd met casually only twice before asked me to dance. We talked and sipped champagne. During the conversation, he said, 'Meet me in the lobby. I want to ask you a question, possibly the most important question I shall ever ask and you will ever answer.' His question was: 'How does it feel to be told you're the one woman of a man's life?'

"My answer was less romantic: 'Perhaps we've had too much champagne, Mr. Luce.' Now I had a new option, and so I married Harry. My play opened on our wedding night and we attended it, a most inauspicious way to start a marriage. The play was called *Abide With Me* and abode with no one.

"We went off on our honeymoon and a child was conceived—a child called *Life* magazine. I'd had the original idea of a picture magazine, but as things turned out, the editors voted against man and a wife on the same staff, a decision that aroused my fiercest anger. So I went back to my first love and wrote another play, *The Women*, which is still being played 38 years later.

"Harry and I attended the London production. Rather I went to see *The Women* and Harry went to see about the office of Time, Inc., then also opening in London. During that visit I fulfilled a childhood dream and met George Bernard Shaw. We enjoyed a delightful lunch together at his home, and the next day at Claridge's, I received a postal card from him, which I placed on the mantle:

'My Dear Clare Boothe,

" 'In the delirious pleasure of our visit yesterday, I quite forgot to inquire if there was anything I could do to make your stay, and Mr. Boothe's, more pleasant.

G.B.S.'

"Harry's face fell. And that was the first and last time in my life I met anyone of importance who didn't know who my husband was."

Clare Luce has written seven plays, five of them hits. In collecting material for a political book in 1940, *Europe in the Spring*, she visited the U.S. Embassy in Rome.

"The most beautiful in Europe. 'How I'd love to be ambassador here,' I thought. When the war broke out, *Life* gave me a job as war correspondent. My greatest scoop, and I had several, was a cover story of MacArthur in the Dec. 6, 1941, issue. Most of my scoops I owed to Henry Luce, not that I didn't fight and write as hard as anyone else on all the fronts and behind the lines in Burma and Germany, but the introduction as Mrs. Luce was an advantage."

STEPFATHER ELECTED

"Then Harry decided I'd been away too long, so I came home and wrote another play, *Love Is a Verb*. While it was on the road, a surprising thing happened: My stepfather was elected Congressman from Connecticut."

When he ran again and was defeated, Clare Luce threw in her bonnet. "To no one's greater amazement than mine, I won. Foremost among the things that stood me in good stead was my really deep interest in getting women a square break. It was said I won because I charmed the men. It was nothing of the sort. You cannot plumb the dislike men have for women in politics, because government work is one field in which women cannot be discriminated against in salary.

"I made the Congress and did that for four years, serving on the House Military Affairs Committee. Then my daughter was killed in an automobile accident in 1944. She was really the shining light of my life. Curiously, before her death, just prior to her 21st birthday and graduation from Stanford, she told me she'd decided to go into the Foreign Service. I was very proud of her. I built a small chapel to her memory at Stanford and many young couples marry there, some even naming their daughters Ann. So I have a host of lovely young women who are my daughters.

"Her death set me back. When I was offered a seat in the Senate, I said no. My heart was heavy and on top of that my mother was killed in a train wreck, my brother in a plane crash. These three violent deaths made it terribly difficult for me to continue public life. So I retired and wrote another play. It was not the hit to which I was accustomed."

Clare then wrote several screenplays, one of them very much a hit. *Come to the Stable* was nominated for an Academy Award and is still shown at Christmas.

TURNS CATHOLIC

"I became a Catholic," she says, "during this period—one of the better decisions of my life. It permitted me to love and be loved. Never having had a father, it was a great joy to discover I had the greatest of them all. So this was a happy time and a great affirmation that God is love, which brings me back to love as the creative principle of my life.

"It's always been a source of wonder to me how the same threads appear and reappear in life's tapestry. But when President Eisenhower called me to his office and told me he wanted a woman and a Catholic in his Administration and had chosen me as Secretary of Labor I confessed to the appearance of a totally alien thread. I knew nothing of Labor, refusing the job. Ike broke into his famous grin and said 'I always knew you were a smart woman.' He suggested I become Ambassador to Italy. I accepted with pleasure and only one reservation.

"I told the President that I would have to ask my husband. Harry was in Djakarta, doing what I don't know—he was always up to something somewhere—so I sent a wire: 'If you'll commute to Italy, I'll take the job of ambassador. But only if you say so and on these conditions.'

"Harry wired in return: 'You must, darling, keep your rendezvous with destiny.' It would be difficult to assess Harry's influence on my life—it was my life. Oh sure, I would have been a writer, but not a concerned writer. I cannot imagine how my life would have been

without him. He was a wonderful companion, intellectually and spiritually.

"The years in Italy turned out to be the most interesting five years of my life, and I didn't disgrace my sex in the least. The Dag Hammarskjold Medal for diplomacy can attest to that."

That was Clare Boothe Luce's last public office. She now devotes each morning to writing, gives three or four speeches a month, makes frequent television appearances and is a member of two dozen boards and committees. She spends most of the year in Hawaii, but commutes often to Washington, where she has an apartment in the Watergate.

ACQUISITION OF THE AIRCRAFT CARRIER YORKTOWN

Mr. HOLLINGS. Mr. President, on behalf of Senator THURMOND and myself, I would like to bring to the attention of my colleagues in the Senate a resolution passed by the South Carolina State Legislature supporting the acquisition of the aircraft carrier *Yorktown* by the Patriot's Point Development Authority for permanent display and public viewing at the National Naval Museum in Charleston, S.C.

I ask unanimous consent that this resolution be printed in the RECORD.

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

A CONCURRENT RESOLUTION

Supporting the acquisition of the aircraft carrier *Yorktown* by the Patriot's Point Development Authority, a body politic created by the South Carolina General Assembly, for permanent display and public viewing at the National Naval Museum in Charleston, South Carolina

Whereas, the State of South Carolina has a long and proud air, naval and maritime heritage; and

Whereas, the South Carolina General Assembly created a study committee to study the feasibility of establishing a national naval museum in the State; and

Whereas, the report of the study committee recommended the creating of the Patriot's Point Development Authority to implement a National Naval Museum in historic Charleston Harbor; and

Whereas, the authority was created by Act 116 of 1973 and signed by the Governor June 30, 1973; and

Whereas, the National Naval Museum will provide a unique recreational and educational experience for all citizens who visit the museum and will inspire a feeling of pride and patriotism; and

Whereas, Patriot's Point Development Authority is presently submitting its request and necessary application to the United States Navy to donate the *Yorktown* to the museum. Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

That the General Assembly of the State of South Carolina representing its citizens requests the United States Navy, and all who might be concerned, to donate the great aircraft carrier *Yorktown* to the National Naval Museum at Charleston, South Carolina, and make it possible for generations present and future to come visit this unique shrine.

Be it further resolved that copies of this resolution be forwarded to the President of the United States, to the Vice President of the United States, to the Secretary of Defense, to the Secretary of the Navy, to each United States Senator from South Carolina, and to each Member of the House of Representatives of Congress from South Carolina.

WILLIAM SIMON, SECRETARY OF THE TREASURY

Mr. FANNIN. Mr. President, Tuesday the Senate confirmed the nomination of William Simon as Secretary of the Treasury. I wanted to take this opportunity to express my strong support for this excellent appointment.

Secretary Simon is one of the most capable administrators in our Nation, and we are indeed fortunate that he is serving in this important post at this time when we face serious economic challenges.

As Administrator of the Federal Energy Office, Secretary Simon did an outstanding job under most difficult circumstances. It was my privilege as ranking Republican on the Senate Interior Committee to work with Secretary Simon on proposals and programs to alleviate the energy crisis. He is a strong but fair leader who demonstrated great wisdom and tenacity in guiding our country through this most difficult, energy-short winter.

Secretary Simon is a man who quickly masters difficult subjects and who cuts to the heart of a problem immediately. This is a rare quality, especially in politics and government.

I know that Mr. Simon will be superb as our Secretary of the Treasury. He has my best wishes and fullest confidence.

ALL OUR TOMORROWS

Mr. PELL. Mr. President, several times in the past I have commended to my colleagues the work of the Club of Rome and its distinguished founder and leader, Dr. Aurelio Peccei.

Dr. Peccei, a prominent Italian industrialist and economist, has taken a leading role in advocating a global, rather than a narrow, national approach to solving the increasingly complex problems that plague our planet. In addition, he and the Club of Rome, of which I am pleased to be a member, have encouraged and supported a series of research projects which take this global approach.

One of these studies has been published as The Limits to Growth and has attracted increasing attention and comment in the few years since its publication. Other studies are now under way.

I am pleased, Mr. President, that Dr. Peccei will be visiting Washington next Monday and will be meeting with a number of my colleagues to further explain his views and those of the Club of Rome.

It is a happy coincidence that just prior to his visit the New York Times printed a brief essay by Dr. Peccei this morning on the page opposite the editorial page. This concise and lucid essay states far better than I can do in summary the urgent need for enlightened, coordinated, global action on the problems that face us. As Dr. Peccei states:

The future will depend on what we do or do not do in this decade.

Mr. President, I commend this essay to the attention of my colleagues and ask unanimous consent that it be printed in the RECORD.

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

[From the New York Times, May 2, 1974]

ALL OUR TOMORROWS

(By Aurelio Peccei)

ROME—The complex and baffling problems of our time are not just a bigger and somewhat modernized version of old ones. Sweeping quantitative and qualitative changes are transforming everything. The manmade world has spread all over the planet, displacing and subjugating the natural world that has produced our species and nurtured it.

To complicate matters, this human system has become so intricate that our institutions and art of governing, designed for simpler tasks, are no longer able to cope with it. Thus the more we change reality, the more we lose contact with it. To rely on past experience is misleading. Altogether new ways and means and probably a different philosophy of life must be devised.

A consensus is forming that the first requirement is to understand what is actually happening in ecology and society. What is less easily perceived is how little time we have to grasp the gist of the situation and organize our response.

The dynamics of the problems do not give us breathing space. However, in the face of a swelling stream of confusing events, nothing will worsen mankind's lot so much as disorderly, frantic reactions. The future will depend on what we do or do not do in this decade. This is therefore the time for a responsible assessment of alternatives and for responsible decisions.

Let us imagine scenarios in the world system, given the tensions and difficulties building up. The first is the outcome to be expected by the continuation, hence exacerbation, of present trends. Things would get out of hand, with all sorts of crises piling up, and with a furious scramble among nations for space and resources, and with unemployment, inflation, violence and social turmoil rampant everywhere.

In another scenario, a number of powerful human groups take it upon themselves jointly or severally to assume responsibility for stemming this adverse tide. This intervention would lead to sacrifice of other groups. It would likely develop into a battle for the earth, opening up a new phase of colonization in society, if not Hitler-like solutions. To forestall these alternatives, paths to a different future must be plotted, based on comprehension and reason. Restraint and new forms of solidarity and cooperation must inspire all groups.

To undertake this new course, we must understand the distinctive character of this, technological, age: the exorbitant power acquired by man. This shift of the power balance from nature to man is backfiring because of the tremendous mismatch between man's newly acquired might and his capacity or willingness to control it. Only a profound change of values and norms matching the scientific, technological and industrial revolutions can re-establish man's inner balance and set society on a sane course.

Another peculiarity is the snowballing mass of changing, intertwining problems. Their interplay is so basic and critical that it is impossible to isolate any major issue or to deal with economic, demographic, ecological, educational or political problems separately. Moreover, the global dimensions of some of them, and their long cycles and delayed effects, make it necessary to cope with this change on a worldwide, long-term basis.

Research on the changed human condition is needed. A Club of Rome study on the limits to growth opened many unwilling eyes to the fact that our globe cannot offer unlimited resources to meet demands. In other Club studies under way, the implications of the increasing interdependence of all nations

and peoples is being analyzed, as is the feasibility of an egalitarian society in which every citizen is entitled by birthright to a minimum standard of life—food, shelter, education, medical care, information—modulated by climate, culture, and other conditions.

If the moment of truth is indeed approaching, world society is not totally unprepared, as it was a few years ago. Creditable research of global scope is being carried out in many places by different groups of scientists and scholars. Ordinary citizens on all continents feel that something fundamental must be changed, and there are various movements for these ends.

POLISH CONSTITUTION DAY

Mr. PERCY. Mr. President, on Polish Constitution Day, it is always my pleasure to greet Americans of Polish descent and to speak in the U.S. Senate about the stunning event of May 3, 1791, when Poland adopted a great and liberal constitution which is commemorated to this very day.

The Third of May constitution stated that—

> All power in civil society should be derived from the will of the people, its end and object being the preservation and integrity of the state, the civil liberty and the good order of society, on an equal scale and on a lasting foundation.

This assention of democratic ideals placed Poland in the front rank of European liberalism, just 2 years after the United States had adopted a constitution.

This year, instead of recounting history to mark this anniversary, I want to draw attention to certain discriminations which are grossly unfair to our people of Polish descent, particularly in view of their strong record of constructive citizenship and responsibility.

I am particularly concerned about discrimination in employment, defamation of the community by stereotypes projected in movies and broadcasts, and the irksome, demeaning jokes which are no laughing matter. Such practices are unbecoming to a democratic and pluralistic society, but we cannot eliminate these practices by ignoring them. The only way to alleviate such practices is to focus public attention on them and to encourage respected citizens to speak out against them.

I am a strong and firm supporter of the work of the Polish-American Congress in ending discrimination and in taking action to assist our Polish-American communities along the whole range of social and economic problems. The leadership of Aloysius A. Mazewski, President of the Polish-American Congress, is recognized and appreciated throughout Polonia.

As we commemorate Polish Constitution Day, let us resolve to make our own contributions to ending discrimination in this country, for Polish-Americans and for all ethnic and minority groups.

SUPPLEMENTAL APPROPRIATIONS FOR BILINGUAL EDUCATION

Mr. MONDALE. Mr. President, I am most pleased that the Committee on Appropriations has included in H.R. 14013, the supplemental appropriations bill, the request submitted by myself and the Senator from New Jersey (Mr. CASE), together with 16 cosponsors, for a $20 million increase in the bilingual education program conducted under title VII of the Elementary and Secondary Education Act.

I wish to express my special thanks to the Senators who joined in this effort—Mr. BENTSEN, Mr. CRANSTON, Mr. DOLE, Mr. DOMENICI, Mr. GRAVEL, Mr. HUMPHREY, Mr. INOUYE, Mr. JAVITS, Mr. KENNEDY, Mr. MCGOVERN, Mr. METCALF, Mr. STAFFORD, Mr. STEVENSON, Mr. TOWER, Mr. TUNNEY, and Mr. WILLIAMS.

The HEW-Labor appropriation enacted into law for fiscal year 1974 increased funding for bilingual education from $35 to $50 million. Yet this amount continues to fall tragically short of the national need.

In fiscal year 1973—the current 1973–74 school year—the title VII program serves only 129,480 students of an estimated 5.4 million children of school age from families where a language other than English is spoken in the home. Even with the additional funds made available in the appropriation for fiscal year 1975, only an estimated 140,000 children will be served.

Because of the limited amount of funding available, HEW has received fewer applications than expected. And it is probably too late in the year to solicit additional applications for next fall. Even so, however, with currently available funds the Department expects to reject outright 86—nearly 25 percent—of the 348 applications which they have received.

And although school districts have already trimmed their applications severely because of the limited funds available, even those which are funded will fall far below the requested level—since the total request, in pending school district applications, for next school year—this fiscal year—amounts to $251,252,000.

The impact of inadequate attention to the needs of language minority children is tragic. A recent report by the U.S. Commission on Civil Rights found that 40 percent of Mexican-American first grade students in the United States drop out of school before graduation, and that those who do graduate will average far less than their English-speaking counterparts in all measures of achievement. And the report of the Senate Select Committee on Educational Opportunity, issued in January of 1973, reflects other equally startling statistics.

Chicago's Puerto Rican children average 4 years behind in reading; in Boston, the Puerto Rican dropout rate approaches 90 percent.

As many as half the American Indian students enrolled in school today will not graduate from high school.

And children from Portuguese, Asian, Cuban, and other backgrounds are equally affected.

In January of this year, the Supreme Court, in the landmark decision Lau against Nichols held that school systems with substantial numbers or proportions of students with language-related problems are legally required under the Civil Rights Act of 1964 to provide those children with services addressed to their needs.

Thanks to the foundation laid to the title VII program over the last 6 years, the Federal Government can provide assistance to States and local school districts in meeting the tremendous challenge of the Lau decision.

But we must increase our efforts—and we strongly believe that this year is the time to begin.

Mr. President, the $20 million increase approved by the Committee on Appropriations will be a major step toward adequate funding of those applications which have been submitted for next fall.

This is a time to build on the knowledge and the expertise which we have gained over the past 8 years, a time to build the title VII program into a full national commitment to the educational opportunities of children from bilingual families.

I wish to thank the distinguished manager of the bill, the Senator from Washington (Mr. MAGNUSON) for his efforts and leadership. And I am hopeful that the increase approved by the committee will be accepted by the House and sent to the President for signature into law.

ENERGY PROBLEMS

Mr. HANSEN. Mr. President, as a participant in the national fuels and energy study since its inception in 1971 and as a member of the Interior and Finance Committees, I have had both the pleasure and the burden of dealing with matters affecting the energy policy of the United States. This involvement has taken the form of participation in hearings since 1971 related to the national fuels and energy study and participation in the legislative process from the hearing stage through floor debates, responsibilities on conference committees and further floor action following the completion of the several House-Senate conferences on energy legislation.

Throughout this extensive and continuing involvement I have come to be painfully aware of two major problems. The first is the woeful lack of understanding on the part of many Members of the Congress about the real-world economics of energy. The second problem has been the energy producing industry's and the energy consuming industry's lack of understanding about the politics of energy.

Until this communications gap is bridged, the prospects for constructive legislation in the energy field will not be very bright.

Many of my colleagues read the tea leaves regarding the public disenchantment with the energy producing industry and respond by introducing and actively supporting legislation which, if enacted, would create adverse impacts not only on the energy producing, but additionally on the energy consuming industry. In the past year and a half there seems to have been a far greater zeal on the part of many Members of Congress to impose punitive legislation on the energy producing industry than concern for the real-world economic conse-

quences of such legislation. By that I mean much of the legislation being proposed these days would not only tend to cripple the energy producing industry and in turn result in a lessening of the supply of domestically produced energy so sorely needed by the Nation, but additionally would set precedent for similar punitive legislation to be directed against the energy consuming industry.

At the same time, by failing to understand the inherently political style of many Members of Congress and its failing to adequately communicate such an understanding to members of the energy consuming industries in the United States, the energy-producing industry has done itself somewhat of a disservice.

Two of my most esteemed colleagues and dearest friends have recently articulated these themes in addresses they have made to groups representing the energy-consuming industries of the United States. I am referring first to the remarks before the energy users group of the businessmen's roundtable of the ranking minority member of the Senate Interior Committee, a highly respected leader in energy matters, PAUL FANNIN. Second, I am making reference to the address made by my dear colleague, JIM BUCKLEY, before the U.S. Chamber of Commerce.

Both Senators, it should be noted, represent energy-consuming States. Neither Arizona nor New York are graced with the abundant petroleum resources of my State and other significant producing States such as Texas, Louisiana, and Oklahoma. Thus, in their speeches they are annunciating policy objectives which, in their opinion, are the most desirable for the citizens of the energy-consuming States of this country.

In their remarks to the energy-consuming industries they point out the direct dangers to the energy-consuming industries which would flow from a number of legislative proposals being considered by this body.

I have never before seen such a direct, frank, and eloquent presentation of the dire consequences to the Nation as a whole which would accrue from such legislative proposals were they to be enacted into law. I highly commend to my colleagues the wise remarks of PAUL FANNIN and JIM BUCKLEY and ask unanimous consent that they be printed in the RECORD.

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

SPEECH BY SENATOR PAUL FANNIN, ENERGY USERS TASK FORCE, WASHINGTON, D.C., MAY 1, 1974

The purpose of my talk today is to warn you about what the Congress has been doing to the energy industry and the consequences for the American economic system. If only a small fraction of the legislation introduced in this Congress to punish the energy industry is enacted into law, it not only will have an immense direct adverse impact on energy producers—and in turn the supply of energy—but it will establish precedents for the emasculation of your own industries.

If you do not involve yourselves to assist the energy industry in its battle on Capitol Hill, you may find yourselves the next victim. By that I mean not only will you be far more short of energy, but the same policies adopted to cripple the energy industry could be applied to your industry next.

To demonstrate the intensity of effort directed against the energy industry one only need contrast the quantity and quality of the energy-related legislation introduced in the 92nd Congress to that of the current 93rd Congress.

The content and purpose of energy-related legislation introduced in the 92nd Congress included the following:

Twenty-five bills providing for the Federal reorganization to deal with energy matters.

Thirty-seven bills regulating the surface mining of coal.

Forty-five bills related to siting of electric powerplants.

Of the measures concerning petroleum:

Seven bills were proposed to repeal the Connally Hot Oil Act.

Ten to terminate the Mandatory Oil Import Program.

Eighteen to declare a mortatorium on drilling in Santa Barbara Channel.

Sixteen to address the issue of the trans-Alaska pipeline.

Three to halt export of domestic petroleum and petroleum products.

Relatively few of the bills in the 92nd Congress were punitive, and of those which might be considered punitive, most related to environmental strictures. Of the tax legislation introduced, 7 bills provided incentives for exploration and production of energy resources and for coal conversion, while only two proposed elimination or reduction of the oil depletion allowance. Only 6 measures began to address the issue of competition in the energy industry. Antienergy industry activity in the 92nd Congress was limited primarily.

As the 93rd Congress began in January of 1973, however, punitive legislation began to intensify. For instance, a number of the 21 anti-trust bills relating to the energy industry deal with divestiture of integrated oil companies—a subject not even addressed by the 92nd Congress. The Senate Interior Committee, on which I serve, has held 10 days of hearings on one such bill.

The 93rd Congress has brought an avalanche of tax proposals. At least 35 bills introduced during this Congress recommend limiting or abolishing the oil depletion allowance, and such legislation is about to be reported out of committee in the House. Foreign tax credits are attacked in at least 20 bills, and excess profits taxes are proposed in approximately 15 bills.

The imposition of price controls is called for in more than 30 pieces of legislation. One such bill actually passed the Congress. It might be well to spend a few minutes discussing that bill: The Energy Emergency Act.

In December the Conference Committee reported out a version of the Energy Emergency Act which literally invited massive nationwide lawsuits by any purchaser of any petroleum product against the seller. Under this bill, the buyer would have been entitled to a rebate from the seller equivalent to what a federal renegotiation board would find to be the difference between ordinary profit and windfall profit.

Can you imagine the chaos?

That bill would have provided for a separate cause of action for all sales of petroleum at all levels between wellhead and gas pump by each buyer and against each seller for each sale. Fortunately, it was sent back to conference by the Senate.

And what did the conferees do at the second conference?

They reported an equally hideous price control provision. It provided that the price of domestically produced crude would be rolled back to $5.25 per barrel. If the President were able to overcome built-in administrative obstacles, he could raise the price to $7.09 per barrel.

This is ridiculous. Do you know any legislator whose wisdom enables him to select a specific dollar and cents price for a product at less than current market prices which would result in increasing supply?

Can you imagine the gall of any legislator asserting that he found that magic number and that it will work?

A majority of both houses apparently believe in the scheme with sufficient faith and certainly to pass the conference report and send it to the White House.

I am sure that none of you want the Congress to legislate prices for your company products at all, let alone set prices below market levels.

We managed to scrape by again by sustaining the Presidential veto of the crude oil price rollback, but the battle is not over. Following the Senate action to sustain the veto, the bill was re-introduced in slightly modified form and recently reported out of Committee without the price control provision. The bill's sponsor, however, who will be its floor manager, announced his intention to offer a floor amendment to impose price controls on both imported and domestically produced petroleum.

Before leaving what is now called the Standby Energy Emergency Bill, you should know about some of its other marvelous features.

It contains a provision intended to prevent any oil company from closing any of its franchised gas stations, no matter how uneconomical its operations may be, unless the company entirely withdraws from the U.S. market. How would you like similar restrictions imposed on your industry?

The bill contains a section requiring wholesale disclosure by energy companies of any of their proprietary information requested by the Federal Government. The same provision authorizes fishing expeditions through company records by federal employees to verify the accuracy of company data submitted to the government by the company. Would you like to have such fishing expeditions conducted through your company's files?

While on the subject of energy data, we should consider another bill, S. 2782.

Jointly introduced by Senators Nelson and Jackson, S. 2782 uses the cloak of verification of energy data as a carte blanche for the Federal Government to discover any company information whether it has direct bearing on energy or not. Part of the motive here is to achieve public disclosure of sources of profits, resource reserves, consumption, productivity, patterns of ownership, capital requirements, and related proprietary information and trade secrets. Here the extent of discovery is not limited to energy producing companies alone but extends to any company which consumes energy. That means virtually every company. Think of what Big Brother could do with unrestricted access to such information.

Businesses which either produce or consume energy would be mandated to make public internal proprietary information to include ownership or control of resources, the locations throughout the world of those resources, the types, sizes and state of development, fair market value and cost of production. They would have to report their assets annually and describe their operations on a worldwide basis. Can you imagine what damage such a requirement would do to capitalism generally, let alone to a competitive world market?

Just this week the Congress passed the Federal Energy Administration bill. Section 14(a) of that bill provides:

"The Administrator shall make public, on a continuing basis, any statistical and economic analyses, data, information, and what-

ever reports and summaries are necessary to keep the public fully and currently informed as to the nature, extent, and project duration of shortages of energy supplies, and the impact of such shortages and the steps being taken to minimize such impacts."

This will now be law. Here we are discussing a real danger, not just a potential threat.

To look at another example of legislation well into the markup stage, let's turn to the Consumer Energy Act being handled by the Senate Commerce Committee. It would extend Federal Power Commission regulation of natural gas to intrastate transportation and sale, and apply the same public-utility treatment to oil, regardless of whether produced and consumed in the same state.

The bill would exempt from federal regulation "independent producers," defined as non-integrated oil or gas producers whose foreign activities, if any, are incidental to U.S. operations, and who don't engage in more than one other segment—pipelining and storage, refining or other processing of oil, and wholesale or retail sale of oil. An independent may not be an affiliate of a natural gas pipeline or distribution company or an affiliate of a producer engaged in more than one other industry function. The FPC may suspend or remove the independent exemption for "anticompetitive behavior or unfair or deceptive acts or practices."

The Consumer Energy Act also would require the FPC to establish area rates to govern all sales of crude oil and natural gas (except for independents) based on cost plus a fair rate of return, by February 1, 1976.

It would require the FPC to establish prices at the refinery for gasoline, jet fuel, distillate fuel oil and residual oil, also based on costs plus a fair return, within 30 days after expiration of any existing regulations on these products.

It would roll back prices of crude oil and refined products to December 1, 1973, pending determination of area rates.

The bill would create a Federal Oil and Gas Corporation to explore for and produce oil and natural gas on federal lands, giving it first call on 20 percent of the acreage offered at offshore lease sales with option to develop the lease or resell it to the highest bidder. The federal corporation's selections would be kept secret until after private bids were opened. It would be financed by appropriations of $50 million per year plus funds raised by the sale of selected leases, and would have access to all prelease geological and geophysical data of government and industry.

This bill would provide for a uniform system of accounts for oil and gas companies, with collection of comprehensive cost and operating data worldwide for purposes of regulation, with reserves and resources of oil and gas certified by an independent petroleum engineer approved by the FPC.

The bill would allow the FPC to set aside state rules and regulations.

It would cancel leases on federal lands for failure to develop within one year of start of lease, and require royalty bidding on 50 percent of acreage offered.

And finally, the Consumer Energy Act would authorize the FPC to allocate natural gas supplies among pipelines for up to 180 days.

Can you imagine how quickly the U.S. energy industry would become nationalized if this bil becomes law? Can you imagine how this bill would discourage increasing domestic energy supplies? Can you imagine the precedent this bill would establish for similar controls over your industry?

Allow me to discuss one more bill—although it has not yet been introduced—the corporate chartering bill. My understanding is that it would require a federal charter for all energy companies doing business in the United States. To obtain such a charter the company would be required to disclose any and all information requested of it by a Federal Chartering Board. Then if the board found the public interest would be served, it could grant a charter.

The bill reportedly provides for "public" members to be appointed to the Board of Directors of such chartered companies with an unrestricted right of access to all company records and a duty to initiate suits against the company to enjoin it from taking certain actions considered by the "public" board members not to be in the public interest.

Do you see any possible precedents here for similar legislation directed against your industry? Do you see a pattern emerging in these legislative examples in which federal bureaucrats will be making decisions affecting business judgments which, since Adam Smith, have been the exclusive province of corporate executives?

Before discussing what can be done about discouraging such legislation it might be well to consider the causes of these punitive measures.

Part of the legislation is a self-serving political response to public distrust of the energy industry, but there are other motivations.

There is the attitude of a growing number of Congressmen and Senators that free enterprise is an outmoded Nineteenth Century institution, that industry acting alone is incapable of serving the public interest, and that only through massive federal intervention into the workings of the marketplace can the public interest be served. Many members of Congress do indeed believe that the public interest is served in direct proportion to the extent industry is regulated by the federal government.

An increasing number on Capitol Hill believe that capitalism is inherently evil. They feel that the profit motive only results in the strong exploiting the weak, that the growth necessary to sustain industrial survival will destroy the society itself, that business competition encourages destructive aggression.

These foes of Capitalism feel that only government is capable of doing good. They argue that to the extent that government can supplant or control industry in the production of goods and services, justice will be done.

I know that many members of Congress believe this—as do even more of their staff members. I know that many—if not most—leaders of the academic community believe this, as do an increasing number of students who have left the colleges and universities to enter society. I stress these points because I believe that the punitive attacks on the energy industry are merely the beginning of even greater attacks on all industry.

What can industry do to survive?

You must first come to the aid of the energy industry. I will not write a prescription for you. Just ask your friends in the energy industry. They will give you some ideas. Don't wait to be asked—the hour already is late.

Secondly, and I believe most importantly, the industry must become "politicized." "Politicization" is a term primarily used by radicals to describe the process of educating and motivating a constituency into injecting itself into the political process for the purpose of bringing about changes in government policy which result in direct benefits to the constituent groups.

We have many recent examples of this process.

Ralph Nader politicized the American consumer.

The Symbionese Liberation Army is attempting to bring about economic and social revolution through the process of politicization.

The Women's Liberation Movement used the concept very effectively.

Many years ago in my home state, I helped found the Arizona Business-Industry-Education Council. Our objective was to work with the schools to promote an understanding of business enterprise and to encourage talented students to seek careers in business. Now we have Industry-Education Councils of America which promotes this on a nationwide basis. Back in the crew-cut era when the leaders of Arizona business and industry first got involved in this, we didn't think of it as politicization, but I suppose that in today's jargon, that is what it was. It's strange how so many of the so-called "new ideas" simply are old ideas with new names.

As good an idea as the Business-Industry-Education councils are, they are only a part of the answer to the current radical assault on our economic system. Our problem is immediate, and our efforts must be expanded tremendously. Business and industry leaders, and all people who recognize the virtue of our free market system and want to see it survive must jump into the political struggle if our system is to survive.

Most business leaders understand little more about how the political system functions and how to operate successfully within it than most legislators understand how business functions.

Until U.S. industry becomes politicized, there is little hope that more politicians will begin to understand, let alone sympathize with the needs of American industry.

How can such industrial politicization become a reality? Not merely by making campaign contributions to sympathetic candidates.

Not merely by writing letters to Congressmen.

Not merely by maintaining understaffed Washington offices.

Not merely by naming a new vice president for Public Affairs.

Not merely by writing letters to stockholders.

Not merely by expanding advertising.

Not merely by concluding that something ought to be done about the problem.

Some of the traditional means will help but they are not adequate to solve the problem in the 1970s.

Top management must learn that despite high costs, a policy of politicization must be instituted in all industries. This must be done even though it is virtually impossible to calculate a casual relationship between the funds expended and the impact on quarterly earnings.

If businessmen do not get into the political ballgame, the days of quarterly earnings may be numbered.

To use another radical term, a "consciousness raising" must be instituted within companies about the need to politicize. Then employees should be sent out to grassroots to raise public consciousness about the evils of government supplanting free enterprise.

Politicians are most responsive to pressure from the electorate. The politicians' quarterly earnings statement is his certificate of election. If a majority of the voters are educated about his positions on issues and believe them to be against their own best interests, the incumbent can be defeated and a more responsive official elected. Until the elected official is confronted with grassroots pressure from his constituents he can get away with voting for whatever he wants.

Ladies and gentlemen, we are engaged in a battle to save the free enterprise system. Very frankly, we are losing ground. When suffering setbacks, it is wise to study the tactics of the opposition to see if you can utilize these same tactics in your own effort. That is what I have tried to do here this morning in discussing the radical approaches of politicization and consciousness raising.

For those of you representing your corporations here in Washington there is much

that can be done. Most of you are so understaffed that it is difficult to keep up with legislative and executive branch activities affecting your own industry, let alone other industries. But you must intensify your support for other industries.

One way is to bring your top executives up to Capitol Hill. There are some of us left who would be pleased to point out to them anti-business developments such as were detailed this morning. We would be pleased to make concrete suggestions as to action that may be taken on the political front while learning from them more about related problems on the business front. Together we can launch positive initiatives rather than merely limiting our efforts to defeat ill-conceived legislation. The time to start is now.

Survival of the free enterprise system depends upon how quickly we who support this proven economic concept can adapt to and use the concept of politicization. We must move fast or we certainly will lose to those who seek destruction of the free enterprise system.

SPEECH BY SENATOR JAMES L. BUCKLEY BEFORE THE U.S. CHAMBER OF COMMERCE, WASHINGTON, D.C., APRIL 30, 1974

Over thirty years ago, the Nobel Prize-winning American author, Sinclair Lewis wrote a novel depicting a totalitarian conquest of the United States. The novel was titled *It Can't Happen Here* and Lewis meant the title to be taken ironically: what he was attempting to show is that men can lose their freedom if they continue to think, in the face of mounting evidence to the contrary, that "It can't happen here."

It is my thesis today that the greatest danger facing our system of free, private, competitive enterprise is the refusal of too many in the business community to face the mounting evidence of a new passion for governmental regulation and control; a passion that threatens not only our traditional way of doing business, but the economic well-being of the American people. Too many businessmen take refuge in the assumption that "It can't happen here, at least not to me." Oh yes, it might happen to the company down the road who is being harassed by the latest directives from H.E.W.; it might happen to the major oil firms, who may have been asking for it anyway; but it can't happen to me.

If that is what you think, you are wrong. It can happen to you and your business. Indeed it *is* happening to you. The free enterprise philosophy is being attacked on a wider scale than ever before. It is being attacked, moreover, in the name of a new regulatory ethic, promulgated by anti-business critics in the academy and in government and implemented by the ever-ravenous bureaucracy in Washington. The new regulatory ethic has turned the old presumptions on their head. It was once understood that our economy functioned best and for the good of the greatest number when it was left to the interaction of a million daily decisions by private investors, manufacturers, sellers and consumers, each pursuing his own private gain and fulfillment. It was understood that government would interfere in these decisions only when necessary to protect an overriding and clearly defined public need, and then only to the extent required to meet that need. It was understood that the primary role of government in economic affairs was not to regulate and control the private sector, but to preserve the free, competitive, stable environment in which that sector could operate with the greatest efficiency.

But now the new regulatory ethic is on the ascendency on a broader scale than anyone could have conceived of just a year or two ago. It takes as indisputable doctrine the desirability and even the absolute necessity for the government to regulate business on an ever-increasing scale. It has its own propagandists such as John Kenneth Galbraith; its own shock troops, typified by Ralph Nader; and, as is typical with all essentially ideological movements, its own slogan: "The public interest."

I recently came across an article which demonstrated the degree to which this new ethic has managed to set the limits of public discourse concerning business. The author wrote of what he perceived as an unquestioned assumption on the past of our most influential thinkers; namely, that as the market is "imperfect ... nearly every intervention to perfect the market is theoretically justified." He then wrote, "When the economic market is rejected ... it can only be replaced by a political market, supplemented by bureaucratic implementation."

John Kenneth Galbraith, the high priest of a planned economy, has written: ". . . Social pressures build up, as politicians respond, so the kinds of actions which are required get taken. The action may be disguised by the semantics. It will be some time before we get around to talking about planning. It will be longer, no doubt, before we get around to using so obscene a word as socialism. I sometimes use the phrase 'social action,' which is more benign. Even talk about income redistribution seems to many people still very odd and dangerous. But circumstances are in the saddle, not theory. . ."

Mr. Galbraith, I think you will agree, has at least the virtue of candor.

Now I want to pause here to emphasize what I believe to be the underlying importance of the passage I have quoted. The authors take for granted that the market has been rejected, what criteria were used to judge its alleged failure, what counter-charges have been made simply are not even alluded to.

That a distrust of business has reached dangerous levels is to me beyond dispute. Last year the Harris survey showed that 77% of those polled wanted the government to be "tougher on business." As recently as 1966, 70% of the people thought that business was at least striking a fair balance between making a profit and providing a service to the public; today, only 29% do. In 1966, 28% thought big business was dangerous to our way of life; today, 46% do.

These figures, I might add, were compiled before the recent onslaught against the oil companies; and this brings me to the arena in which I believe we can most clearly discern where the new impulse to regulate will be leading us unless headed off by those who best understand why the public interest is best served by the economic system that is now under such heavy attack. But before sketching some of the wondrous new areas of governmental intervention that have been spawned in Congress in response to the energy crisis, I think it useful to try to place the oil and gas industry in some sort of non-hysterical perspective. Otherwise some of you might be inclined to consider that industry so far outside the norms of American business as to make its current tribulations irrelevant to you, or to American business as a whole.

The first part of wisdom, it seems to me, is to distinguish between foreign and domestic operations within the industry, for it has been the extraordinary impact of abnormal events affecting foreign operations during the past year—primarily the awesome rise in crude prices mandated by the Middle Eastern producing states—that has caused the profits of companies with major foreign holding to rise to such dizzying heights. In point of fact, about 85% of the "obscene profits" referred to by Senator Jackson is directly attributable to foreign factors that, presumably, it is beyond the capacity of the Congress to control, short of a return to gunboat diplomacy.

Placing the abnormal aside, what are the major characteristics of an industry that has drawn such thunderbolts of Congressional displeasure? Speaking in terms of domestic operations which, after all, are the ones that are most relevant to questions of domestic policy, the industry is divisible into three major activities:

The production of oil and natural gas, in which over 4,000 producers are currently active;

The refining of petroleum, in which over 125 firms are active; and

The marketing of petroleum products and natural gas, which has no less than 500 competitors—and probably more.

Looked at in terms of concentration, the oil and gas industry presents us with this picture: the top four companies account for 27.1% of crude oil production; 24.4% of natural gas production; 32% of refining; and 29% of marketing.

If, in search of more dramatic concentrations, we expand our base to the top eight companies in each area, we find their control to range from a low of 48.3% in the case of natural gas, to a high of 56.3% in the case of refining.

Thus the domestic oil and gas industry is not much different from other large American industries except that contrary to myth, whether viewed in terms of competition between its component parts or between integrated entities it represents a significantly lower market concentration than a number of other capital-intensive industries, such as steel, autos, and aluminum.

In terms of profitability, the domestic oil and gas industry is again well within the parameters of general business experience within this country. Over the past five years, the return on investment has averaged around 10%. And even though 1973 saw a rise to 11% from the prior year's 9.6%, this higher figure is still below the average for U.S. manufacturing companies generally.

Moreover, there is no clear evidence at this point that domestic earnings are about to go into orbit. In fact, drowned out by the headlines that announced last week new record first quarter earnings for Texaco and Gulf, was the fact that although their respective global earnings were up 123% and 76%, reportedly, over the same period last year, their domestic earnings had declined significantly.

I do not suggest in this thumbnail sketch of the industry, that individual companies here and there may not have colluded with one another to violate anti-trust laws or to take unconscionable advantage of existing shortages. I simply do not know whether or not they have, and I assume we have ample laws on the books to cope with such situations. What I do suggest is that the industry is not so clearly distinguishable from all other forms of American corporate enterprise that no responsible leader in American industry can afford to be unconcerned over the shape of the sometimes-punitive and always-overly restrictive legislation that is now being designed for application to the oil and gas business. For whatever new patterns of control are fashioned today for application to oil and gas companies will most assuredly be available tomorrow for application to whatever other industry is then the popular whipping boy.

Let me sketch for you the new compulsion to regulate what I have observed over the past year or so, as well as some of the new forms of intervenion that are now being seriously planned.

As a member of the Interior Committee I have observed the evolution of most of our recent energy bills, and have kept a weather eye on related legislation being hatched elsewhere in the Senate. I have watched

with awed fascination as idea after idea has surfaced—ideas that just a few years ago would have been deemed unthinkable. Some of these have now been enacted into law; others would now be law but for Presidential vetoes; and still others are on the drafting board, with important support from some of the most influential members of the Senate.

Let me cite a few specific examples.

The zeal to regulate ran wild in the Emergency Petroleum Allocation of 1973, reported out by the Interior Committee in May of last year, well in advance of the Arab oil embargo. This legislation provided for mandatory allocations of petroleum products and the regulation of prices in accordance with abitrary standards written into legislative concrete, as often as not without benefit of hearings. It authorized the regulators to discriminate as between end users without provision for prior hearings. It prohibited "exhorbitant price increases" without establishing criteria for determining when prices were in fact exhorbitant; and it also had the effect of modifying or abrogating existing contracts. The Emergency Petroleum Allocation Act, in short, is a classic piece of arbitrary, excessive, and rigid regulation that has in practice made more difficult the incredibly difficult responsibilities of the Federal Energy Office. It represents a significant escalation in degree of the kind of regulatory authority to which too many in business have become inured.

Then, of course, we have the energy emergency acts in their various forms. The following is a sampling of provisions that might now be law but for the fact that two Presidential vetoes have been sustained:

The first version of the Act would have authorized any purchaser of any petroleum product to bring suit against any seller for the recovery of what a Federal Renegotiation Board subsequently determined to be the difference between an ordinary rate of profit and a windfall profit. This provision would have been an astonishing invitation to law suits across the nation as individuals purchasing gasoline or heating oil from retailers, or retailers purchasing from wholesalers, and so on up the line, decided to determine whether in their particular case an excessive price was charged.

The second Energy Emergency Bill, which invoked price rollbacks, also sought to plow virgin regulatory ground. In this instance, the legislation presumed to establish a base price of $5.25 per barrel of domestic crude oil, while providing the President with a highly limited authority to allow certain categories of oil to be priced at up to $7.09 per barrel, but no higher—irrespective of future circumstances. This represented a venture into statutory price fixing that is unparalleled in our experience.

Another bill now under serious consideration is truly aweinspiring in its sweep. I speak of S. 2782, which is designed to establish a national energy information system. It was jointly introduced last month by Senators Nelson and Jackson, and is co-sponsored by twenty-five other Senators among whom are a half dozen of the Senate's most powerful men.

S. 2782 uses the cloak of verification of energy data as a carte blanche for the Federal government to discover almost *any* company information whatsoever whether it has direct bearing on energy or not. Part of the motive here is to achieve public disclosure of sources of profits, resources reserves, consumption, productivity, patterns of ownership, capital requirements, and related proprietary information and trade secrets. Here the extent of discovery is not limited to energy-producing companies alone but extends to any company which *consumes* significant amounts of energy. But I think in this case it is best to let the bill speak for itself as to what its authors seek to create.

To give you the flavor of this remarkable proposal, let me quote from some of its provisions:

Under the section titled "Inspection of Records; Subpoenas: Enforcement of Subpoenas", we find the following:

"The Administrator . . . shall have right of entry to the real property and access to any books, documents, papers, statistics, data, information, and records of any company, business, institution, establishment, or organization of any nature whatsoever, when the purpose of such access is to obtain or verify energy information which (he is) authorized by this Act to obtain."

And what is to be done with all the information that the Administrator is authorized and directed to gather? For your enlightenment, I shall now quote from the section entitled "Classification of Information":

"Energy information received by the Administrator shall, in general, be classified public. Energy information shall be classified confidential if . . . the company shows by clear and convincing evidence that such information constitutes a trade secret (whose) disclosure . . . would cause substantial harm to the competitive position of the company. . . . Notwithstanding a sworn statement . . . and an affirmative finding by the Administrator (that the information is otherwise entitled to be held confidential) . . . the Administrator shall classify public any energy information when he finds: 1) such energy information is in the possession of any person not employed by the company . . .; or 2) the benefit to the public interest (presumably as defined by Ralph Nader) in immediately classifying such information public outweighs the demonstrated harm to the competitive position of the company . . ."

Another bill that is in the final mark-up stage is the Consumer Energy Act now being considered by the Senate Commerce Committee. This bill, among other things, would extend the Federal Power Commission's policing authority to all sales of natural gas, crude oil and a number of specified refined products, whether interstate or intrastate, such pricing to be based not on the interactions of the marketplace, but on the public utility concept of cost plus a fair return. This legislation would also create a Federal Oil and Gas Corporation to explore for and produce oil and natural gas on Federal lands so as to be able to establish standards of enlightened management in the public interest by which to measure the performance of those companies continuing to operate in the private sector.

Let me make final reference to a bill that is still in the process of gestation, as it suggests the extent to which some influential members of Congress are now prepared to go on imposing Federal direction on what has hitherto been considered the province of private management and shareholders. I speak of a Corporate Chartering Bill. From all accounts it would require a Federal Charter for all energy companies as a condition precedent for their continuing to do business in the United States. To obtain such a charter, the company would be required to disclose any and all information requested of it by a Federal Chartering Board. Then if the Board found the public interest would be served, it would grant a charter.

The bill reportedly also provides for "public" members to be appointed to the board of directors of chartered companies with an unrestricted right of access to all company records and a duty to initiate suits against the company to enjoin it from taking certain actions not in the public interest.

This completes my rather general overview of what one industry is now facing because it has been judged not to be acting in the public interest by the upholders of the new regulatory ethic. I submit that the pattern of federal encroachment that is apparent in this package of energy bills and proposals ought to be of as great concern to the full membership of the United States Chamber of Commerce as it is to the membership of the American Petroleum Institute. For what is at stake is not the fate of one industry, but the very life of our economic system as we have known it.

For years, now, too many American businessmen have been excessively parochial in their concern for legislation. They have sought and welcomed special favors; they have grown comfortable with regulations that serve to protect some businesses from the hazards of a truly competitive environment. Too many have shown a remarkable lack of concern over the gradual erosion of the conditions which allow a free economy to function. Too many actually welcomed the imposition of the first wage and price controls in our history. Most authoritarian peacetime measures in our history, namely, wage and price controls.

The time has come for a display of true statesmanship within the American business community. The time has come when those who understand our economic system, those who have confidence in it, those who know it has been the world's most effective and efficient system for the organization of human resources for the satisfaction of human needs, to begin thinking about protecting that system rather than protecting their own narrow interests.

This means that every member of this chamber must become more directly concerned over the general level of public appreciation of how our system works. This means that they must launch a concentrated campaign to stem the tide that is now running so discernibly against the basic concepts of a free and competitive economic system.

But how is this to be done? First of all, each businessman who cares about the future must somehow involve himself in the political process. Secondly, representatives of every sector of American business must begin lobbying first and foremost, not for themselves, but for the preservation of the free enterprise system; they must seek to preserve and strengthen the economic and governmental environment in which our economic system can best flourish. They must learn to identify legislation that promises to establish new patterns of federal regulation or control on any sector of American business; and when such legislation is not justified by a clearly identifiable public need, they must seek to block it by coordinating and mobilizing the vast resources represented by American business. By resources, I mean not just money, but the experience and energy represented by management; and most particularly, by that pool of politically sophisticated and knowledgeable men and women who represent every segment of American business here in Washington. These men and women ought to be directed to lobby against the adoption of any legislation, whoever it directly effects, that establishes new precedents dangerous to the concepts of private enterprise and a market place economy; and in the process, they can help our legislators achieve a more accurate understanding of how our economic system operates, and why left substantially alone it will continue to serve the best needs of the American public.

One thing American businessmen cannot any longer afford to do, and that is to stand idly by. They must gain a new recognition of the interdependence of all American industry. It means that every businessman must see a threat to one as a threat to all.

Or, to borrow a phrase from John Donne: "Ask not for whom the regulatory bell tolls; it tolls for thee."

POSTAL RATE SQUEEZE

Mr. MOSS. Mr. President, earlier this week I placed in the RECORD two articles from the Christian Science Monitor on the problems that many magazines and newspapers now confront as a result of the rising costs of postage.

As I have stated many times before on the floor of this chamber, American democracy can thrive only if there continues to be a free and full exchange of ideas. Many of the newspapers and magazines that are now threatened by rising costs play an essential role in this free exchange.

For this reason, it is imperative that the Congress pass S. 411, which would ease the cost burden on publications by spreading out the proposed postal rate increase over a greater length of time.

The Monitor has followed its articles with an editorial in support of S. 411. I ask unanimous consent that this editorial be printed in the RECORD.

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

[From the Christian Science Monitor, Apr. 30, 1974]

POSTAGE AND PRESS

Postage, which used to seem like a negligible expense for Americans, is mounting in cost to the point where citizens can see its effect in their budgets and daily lives.

With the 10-cent first class rate, it now can cost a dollar or more just to mail off one's monthly bills.

But just as significantly, the climbing rates for second-class mail—which includes magazines and newspapers—may affect the exchange of ideas and information vital to a society. The nonprofit press, that section of the print media which is most akin in content to the public television sector of television, is being particularly hard hit by the schedule of postage hikes. These publications vary from Boy Scout magazines to intellectual digests.

As a recent two-part Monitor study on postage hikes reported, the United States Postal Service has made strides toward its Congress-mandated goal of self-sufficiency by 1984. The postal service deficit was reduced from $175 million for fiscal 1972 to $13 million for fiscal 1973.

A Senate bill submitted by Sen. Gale McGee of Wyoming would spread out the schedule of postal hikes for profitmaking publications over six years instead of three, and the hikes of nonprofit publications over 14 years instead of over eight. The stretched out schedule would still keep the 1984 breakeven target intact but would also enable many useful publications to survive.

Commercial television news already dominates the news scene. It needs not only the supportive rivalry of public television but also the competition of weekly news magazines and other publications. The way to a balanced post office budget should be found that doesn't unbalance the spectrum of the exchange of ideas and viewpoints.

FAIR HOUSING MONTH

Mr. PACKWOOD. Mr. President, 6 years ago last month title VIII of the Civil Rights Act of 1968 became the law of the land.

Section 801 of the title established that "It is the policy of the United States to provide, within constitutional limits, for fair housing throughout the United States."

I take this opportunity to commend the U.S. Department of Housing and Urban Development on its positive and continuous efforts to make equal opportunity in housing a reality for all Americans.

Secretary James T. Lynn of Housing and Urban Development, and Assistant Secretary for Equal Opportunity, Dr. Gloria E. A. Toote, have provided outstanding leadership of their Department, not only in enforcing the provisions of the law, but—more importantly—in informing and educating all Americans in their rights and obligations under the law, and in promoting voluntary compliance as an effective and enduring way of insuring a decent home and a suitable living environment for all Americans.

I salute the Department of Housing and Urban Development on their fine achievements and their superlative efforts.

FEDERAL INDIAN HEALTH PROGRAMS

Mr. HUGHES. Mr. President, on February 1 of this year the Senator from Washington (Mr. JACKSON) introduced S. 2938, a bill to implement the Federal responsibility for the care and education of the Indian people by improving the services and facilities of Federal Indian health programs and encouraging maximum participation of Indians in such programs, and for other purposes. I fully support the purposes of S. 2938. It faces squarely the tragic and devastating problems created by our long-standing neglect of the health needs of Native Americans. I congratulate the Senator from Washington for this commendable legislative effort.

In a statement for the hearing record on S. 2938, I invited the attention of the members of the Interior Committee to one area of Indian health needs—one which the National Indian Health Board last year declared to be "one of the greatest health problems of the Indian population"—alcohol abuse and alcoholism.

I ask unanimous consent that this statement and related material be printed in the RECORD.

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

STATEMENT

Mr. Chairman:

I have reviewed S. 2938, a bill to implement the Federal responsibility for the care and education of the Indian people by improving the services and facilities of Federal Indian health programs and encouraging maximum participation of Indians in such programs, and for other purposes.

This is an excellent bill which faces squarely the tragic and devastating problems created by our long-standing neglect of Indian health needs. I commend you for it.

There is one major area of Indian health needs, however, which I would like to bring to the attention of the Committee—a problem which the National Indian Health Board last year declared to be "one of the greatest health problems of the Indian population." I speak of alcohol abuse and alcoholism.

I recommend that Indian alcoholism prevention, treatment and rehabilitation be integrated into the structure of Indian health and social services provided by the Indian Health Service and the Bureau of Indian Affairs. These agencies must begin to assume their responsibility for the prevention and treatment of Indian alcoholism.

A recent Report to the Congress by the Comptroller General of the United States entitled "Progress and Problems in Providing Health Services to Indians" stated:

"The Secretary of HEW should direct the IHS to develop, or help the Indian communities to develop information which identifies the extent of the alcohol problem and factors leading to, and resulting from, the problem; influences funding sources on the need for alcoholism programs at specific locations; and provides a basis for evaluating existing programs.

The Report also recommended that the Secretary of Health, Education and Welfare direct IHS to establish procedures for systematically referring patients with alcohol problems to rehabilitation programs.

I strongly endorse the recommendations of the Comptroller General.

Although the General Accounting Office reported that the IHS "provided medical treatment to alcoholics," my office has received complaints that many IHS hospitals will not accept alcoholic patients under that diagnosis. I can only assume that the GAO was referring to the treatment of those illnesses which can be traced to alcohol abuse or alcoholism, such as cirrhosis of the liver, rather than the treatment of alcoholism itself. From one Indian witness before the Subcommittee on Alcoholism and Narcotics of the Labor and Public Welfare Committee, for example, I received testimony that at one general hospital located near an Indian Reservation in Wisconsin, to which the Indians from the reservation turn for treatment, the doctors change the diagnosis to something other than alcoholism because the Indian Health Service refuses to reimburse the hospital for the treatment of alcoholism itself.

For this reason I also strongly urge that all IHS hospitals or other hospitals which contract with the IHS for the treatment of Indians be required to accept alcoholics on a non-prejudicial basis for medical treatment and that the IHS provide or contract for follow-up rehabilitative services.

The Comptroller General's report goes on to say:

"According to IHS, alcoholism probably adversely affects more aspects of Indian life than any other health factor and has been an Indian health problem since the 17th century. IHS reports that alcoholism causes cirrhosis, disintegrates family relationships, and adversely affects the economic functioning of the whole Indian society. Most accidents, homicides, assaults, and suicide attempts are associated with drinking. IHS officials have stated that a significant part of their medical services workload can be traced to alcohol abuse and alcoholism. However, IHS has done little to explore the nature of, extent of, and solution for the alcohol problem in most Indian communities.

"We found that, although IHS provided medical treatment to alcoholics, almost all the funds for projects to prevent drinking problems or rehabilitate alcoholics were provided by the Office of Economic Opportunity until July 1972 and thereafter by HEW's National Institute on Alcohol Abuse and Alcoholism.

"IHS headquarters and service unit officials said they had little data on the magnitude of community alcoholism and had no data on how effectively the projects were dealing with the alcohol problem. IHS officials believed these programs, for the most part, to be incomplete, fragmentary, and lacking substantial impact on the problem."

The findings of the GAO concerning the inadequacies of the IHS response to alcoholism reinforce my impressions and those of the staff of the Subcommittee on Alcohol-

ism and Narcotics based on our visits to Indian Reservations, and on testimony from Indian witnesses before the Subcommitte on Alcoholism and Narcotics.

During hearings in March of last year on S. 1125, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1973, the Subcommittee heard testimony from a panel of four Indians, all actively engaged in either administering or providing technical assistance to Indian alcoholism programs. Incidentally, all four were themselves recovered alcoholics.

They expressed great frustration at what they believed to be indifference to alcoholism among Indians on the part of the Federal Government, particularly the Bureau of Indian Affairs and the Indian Health Service.

The Indian witnesses testified that alcoholism is the number one health problem, number one social problem, and number one killer of Native Americans. They indicated that every Indian family is affected adversely in some manner by the disease of alcoholism and that it had been determined that alcoholism is the major factor in widespread poverty among their people as well as a causative factor in a long list of social ills: suicide, family breakup, child neglect, abandoned children, lack of economic opportunities, and financial instability.

One Indian witness, a woman, testified that "the dropout rate of Indian college students is 80 percent; this is due to alcoholism. The dropout rate of our high school children is 50 percent; and this is also due to alcoholism." She also spoke of 8- and 9-year-old children who had to be sent home from school because of drunkenness.

Yet, I have been able to elicit little interest on the part of the IHS in alcoholism. For example, on June 1, 1973, Emery A. Johnson, M.D., Director of the Indian Health Service, in response to an inquiry to him on May 3, 1973 (copies of which are attached), indicated that IHS considered its role merely one of providing technical assistance and of cooperating with other agencies with responsibility for alcoholism (primarily the National Institute on Alcohol Abuse and Alcoholism). Dr. Johnson indicated that, while the Institute was at that time spending $6.6 million for Indian alcoholism programs, IHS had contributed only $250,000 through its Mental Health Program. He saw the role of IHS as merely "to attempt to be the Indian's advocate to other Federal agencies."

On the other hand, the National Institute on Alcohol Abuse and Alcoholism at that time had funded 101 alcoholism programs for Indian people, including 47 which had been transferred from the Office of Economic Opportunity. With the release of the impounded alcoholism funds, and with the passage of the Fiscal 1974 appropriation, the Institute has indicated its willingness to intensify its efforts to provide treatment programs for Indians even though this commitment requires allocating a somewhat disproportionate amount of its already severely limited funds.

I have been especially pleased with the determination of the Institute to see that these programs are designed and administered by Indians. Special standards were developed by Indians, and the NIAAA has an Indian desk and an all-Indian Initial Review Committee to review all Indian grant applications.

The pervasive scope and extent of the problem of alcohol abuse and alcoholism in Indian communities is a cold hard fact. Yet, the situation is not hopeless. Only a few years ago an Indian alcoholic recovered from his disease through the help of a group of Alcoholics Anonymous in Chicago. One by one he brought his Indian friends to the groups. AA members worked to help those who needed medical treatment to obtain further help in the Chicago area. When enough Indian alcoholics had recovered, they formed their own Indian AA group. Since that time, members of that original group in Chicago have returned to their reservations in various parts of the country and have begun to help their fellow alcoholics. One hundred or more Indian AA groups have now been formed, countless hundreds have received help and many of these recovered Indian alcoholics are working in treatment programs supported by the National Institute on Alcohol Abuse and Alcoholism. On one reservation visited by a member of the Subcommittee staff, the reservation AA group started by one of the original Chicago group, now has more than 25 recovered members.

While AA has helped many alcoholics to recover and to retain their sobriety after receiving medical help, it cannot do the job itself. Only about 20% of Indian alcoholics are being reached through programs funded by NIAAA or through AA. Many alcoholics need emergency medical treatment, detoxification, half-way houses and rehabilitation before they can rebuild their lives and become productive contributing members of society. These are the services I would like to see the IHS provide.

The American Indian Commission on Alcoholism and Drug Abuse has been created to provide technical assistance to Indian treatment programs, and many other Indian organizations are forming across the country to combat alcohol and other drug abuse among their people. They need the support which the Indian Health Service and the Bureau of Indian Affairs can and should give.

It seems to me that ultimately the prevention and treatment of alcoholism among Indians must be integrated with the full range of health, education, and social services designed for, and increasingly by, Indians and funded by the Indian Health Service and the Bureau of Indian Affairs. Alcoholism is both a cause and a result of most of the problems which these agencies are seeking to overcome, and it cannot be ignored or treated as a separate and unrelated problem.

As the report of the General Accounting Office indicated, the Indian Health Service and the Bureau of Indian Affairs seem to be standing somewhat aloof from responsibility. Not only have they failed to make any serious effort to prevent and treat alcoholism, but they have not even compiled data on the magnitude of the problem, its impact on the Indian family and community, or the effectiveness of those treatment projects now under way.

I fully support the purposes of S. 2938, and I urge your Committee to require that those Federal agencies having a responsibility for Indian health and social problems direct their attention to alcoholism, one of the key elements of those problems, to consult and coordinate with the National Institute on Alcohol Abuse and Alcoholism, and to assume an increasing share of the cost of the prevention, treatment, and rehabilitation programs which are so essential to any effort to improve the quality of Indian life.

MAY 3, 1973.

Dr. EMERY A. JOHNSON,
Director, Indian Health Service, Department of Health, Education, and Welfare, Rockville, Md.

DEAR DR. JOHNSON: I have a copy of the Resolution of the National Indian Health Board, No. 2-73-B, recognizing that alcoholism and alcohol abuse are "one of the greatest health problems of the Indian population."

This is consistent with the findings of the Indian Health Service's Task Force on Alcoholism and this Subcommittee's investigation of alcoholism and alcohol abuse among the Indian population. It has been brought to our attention, for example, that 70% of all Indian people coming into clinics and hospitals for any medical need have problems related to the use of alcohol. We have learned that alcoholism is a major cause of suicide attempts, family disintegration, child neglect, abandoned children, financial instability and poverty among Indian people.

In view of the above, I would like to have a report on the activities of the Indian Health Service in attempting to prevent and treat this disease and future plans of the Indian Health Service relating to the control of alcohol abuse and alcoholism, including budget information.

I appreciate your cooperation in this matter.

Sincerely yours,

HAROLD E. HUGHES,
Chairman, Subcommittee on Alcoholism and Narcotics.

RESOLUTION OF THE NATIONAL INDIAN HEALTH BOARD

REQUEST EVALUATION OF FUNDED ALCOHOLISM PROGRAMS

Whereas, the National Indian Health Board recognizes that alcoholism and alcohol abuse is one of the greatest health problems of the nationwide Indian population, and

Whereas, in recent years there has been much money allocated to many divergent groups to combat this problem, yet only a very small amount has been channeled into the important avenues of evaluation and prevention, now

Therefore be it resolved that since the Indian Health Service has the primary responsibility of combating Indian health problems, that they concert their efforts toward the prevention of this problem and evaluation of the effectiveness to the Indian consumers of all alcohol programs or projects now funded under Health, Education and Welfare with services to our Indian people.

CERTIFICATION

It is hereby certified that at the Quarterly meeting of the National Indian Health Board held at Albuquerque, New Mexico on March 26-30, 1973, the foregoing resolution was presented and approved by the majority of those members present.

PERRY SUNDUST,
Chairman, National Indian Health Board.

JUNE 1, 1973.

Hon. HAROLD E. HUGHES,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HUGHES: This is in response to your letter of May 5, 1973, which encloses the National Indian Health Board Resolution 2-73-B, concerning evaluation of funded alcoholism programs, and requests a report on the activities of the Indian Health Service in attempting to prevent and treat this disease, and future plans of the Indian Health Service relating to control of alcohol abuse, alcoholism, and budget information.

Beginning with the 1969 Indian Health Service Task Force Report on Alcoholism, which you speak of in your letter, we have attempted to locate additional resources to be applied to this problem. With the President's message to the American Indians in July 1970, $10 million dollars was identified from other agencies to begin development of needed special programs. Among these monies, $1.2 million dollars was identified from OEO, and $750,000 was identified from the National Institute of Mental Health for support of Indian alcohol control programs. Interagency cooperation was effected and 32 alcoholism projects were funded by OEO and NIMH with the technical support of the Indian Health Service in FY 1971.

With the development of the National Institute on Alcoholism Abuse and Alcoholism in FY 1972, and its consideration of the development and implementation of Indian alcohol programs as one of its six priority areas the Institute became the basic mechanism for funding Indian alcoholism pro-

grams. The role of the Indian Health Service continued as one of close collaboration with the Institute by its ability to relate to Indian communities, identify critical need, assist with technical expertise and help review all program proposals received by the Institute as a member of the Ad Hoc Review Committee of the NIAAA. As a result 45 Indian programs totalling $3,341,726 were funded in FY 1972 and 50 OEO Indian Alcoholism programs were transferred over to NIAAA totalling 101 Indian Alcoholism programs and $6.6 million dollars.

With an additional $250,000 added to the IHS Mental Health Program, in FY 1972, 18 tribal alcoholism projects were funded that could not otherwise be funded.

All health and mental health activities of the Indian Health Service are appropriately directed towards identification of problem communities, assisting communities in developing their own alcoholism programs, and coordinating all available resources in order to deal effectively with this major health problem.

For FY 1973 and 1974 Indian programs totalling $4.7 million dollars were not able to be funded by NIAA. Indian Health Service is not funded to meet these new demands and has attempted properly to be the Indian's advocate to other Federal agencies.

The problems of alcohol abuse and alcoholism among Indian people requires technical assistance in developing appropriate prevention and control programs, training for Indian people as counselors and Program Directors, research that is Indian conducted into psychosocial variables of alcohol abuse and alcoholism among Indian people, and most importantly, sufficient additional funding in order to deal effectively with this major health problem.

The Indian Health Service, the NIAAA, and the Indian community are in agreement on this approach.

The future plans of the Indian Health Service include coordinated cooperative efforts with agencies that have money for alcoholism programs. Our concern is that there continue to be a specially identified "Indian" access to appropriate funding for alcoholism programs regardless of which agency does it because the needs are so great. We will continue to utilize all available resources to assist tribal groups in their attempts to deal with alcoholism.

We estimate that another $5 to $6 million dollars is needed on a continuing basis to assure good alcoholism prevention and control programs on each reservation. Other changes to elevate economic, educational, and other reservation parameters must also occur if real progress is to continue in regard to control of alcoholism.

We will continue to do our utmost to aid and abet these necessary processes that need to happen.

Thank you for writing.

Sincerely yours,

(Sgd.) EMERY A. JOHNSON, M.D.,
Assistant Surgeon General, Director,
Indian Health Service.

VOLUNTARY PRICE RESTRAINT

Mr. HANSEN. Mr. President, in the current debate on an extension of wage and price control authority, I find it very refreshing to see an excellent example of what private enterprise can and is doing voluntarily to restrain inflationary price increases.

I refer to action taken recently by the Wyoming Hospital Association at a meeting of the board of directors. The board voted unanimously to recommend to all hospitals in the State of Wyoming that they voluntarily submit on a statewide basis to a program of review of all rate increases taken on or after May 1, 1974, The resolution to this effect reads:

That the Wyoming Hospital Association develop a plan of action and guidelines to assist hospitals in taking responsible action and restraint for increases in hospital patient charges. This is to be done in line with conditions of the rest of the economy, yet tied to the individual hospital needs when fully justified.

Further, that the Wyoming Hopital Association develop a monitoring procedure and interchange of ideas to assist hospitals in a continuing review of changes of hospital charges.

Following this resolution, the association appointed a committee to develop and implement immediately a peer review voluntary compliance program.

I use this example as one of many instances where private enterprise in this country is using its own initiative to develop programs of price restraint and cost control. Let us encourage such efforts. They are noteworthy, and can ultimately, if not undercut by Government interference, do the job of bringing inflation under control.

ALCOHOLISM

Mr. HUGHES. Mr. President, during the last few years public understanding of alcoholism has begun to develop rapidly. We have acquired new knowledge about the character of the disease, its social and economic impact, and its alarmingly high incidence in our society. A sign that alcohol abuse and alcoholism are now deemed deserving of wide public attention was the appearance of the subject as a cover story in a recent issue of Time magazine.

In its well-documented story, Time stated that—

The age-old problem of excessive drinking is taking a disturbing new turn and affecting new kinds of victims. . . . In one sense, it is good news: across the U.S., the young are turning away from hard drugs. In another sense, it could not have been worse news: "The switch is on," says Dr. Morris Chafetz, Director of the Department of Health, Education, and Welfare's National Institute on Alcohol Abuse and Alcoholism (NIAAA). "Youth are moving from a wide range of other drugs to the most devastating drug—the one most widely misused of all—alcohol."

I commend Time for its comprehensive coverage of this subject, and agree with its conclusions that the Federal Government should earmark more funds to cope with this national tragedy, and that those States which have not yet removed public drunkenness from the criminal statutes and provided for its handling through the health system should do so.

S. 1125, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1974, now waiting final passage in the House of Representatives, will extend the funding authorizations through fiscal year 1976 at levels of $80 million per year for formula grants to the States and $80 million in fiscal year 1975 and $95 million in fiscal year 1976 for projects and contracts. In addition, it provides for special grants of $100,000 plus 10 percent of its formula grant allotment to each State which removes public drunkenness from its criminal code to assist that State in providing treatment facilities.

The cover story also pointed out the high success rates in treating alcoholics at such treatment and rehabilitation facilities as Chit Chat in Pennsylvania, Lutheran General Hospital northwest of Chicago, and Seattle's Shick's Shadel Hospital. Unfortunately, in most States medical insurance plans do not cover treatment in such facilities. I was pleased to note in the Washington Post of April 19, 1974, that Blue Cross of Maryland is expanding its group health coverage to include the rehabilitation of alcoholics at private residential treatment centers. This is an exciting and long-awaited breakthrough in a long-neglected area.

I ask unanimous consent that both the Time cover story and the Washington Post story of April 19 be printed in the RECORD.

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

[From Time, Apr. 22, 1974]

ALCOHOLISM: NEW VICTIMS, NEW TREATMENT

From the day man first sipped the liquid collecting around honey or fruit left too long in a warm place, alcohol has played an important role in his life. Early in history, wine became—and still is—an integral part of religious ceremonies. The Bible acknowledged the "wine that maketh glad the heart of man" (*Psalms 104: 15*), and Pasteur called it "the most healthful and hygienic of beverages." In the hectic modern world, hundreds of millions of people drink liquor, beer or wine for enjoyment, solace and tranquility. Yet today, as it has throughout history, alcohol is also troubling mankind. For in almost every society, there are those who cannot enjoy alcohol without becoming its slave.

In the U.S., the age-old problem of excessive drinking is taking a disturbing new turn and affecting new kinds of victims. On a New York subway train, a school-bound 15-year-old holds his books in one hand, a brown paper bag containing a beer bottle in the other. He takes a swig, then passes bag and bottle to a classmate. In a San Francisco suburb, several high school freshmen show up for class drunk every morning, while others sneak off for a nip or two of whisky during the lunch recess. On the campuses the beer bash is fashionable once again, and lowered drinking ages have made liquor the high without the hassle.

In one sense, it is good news: across the U.S., the young are turning away from hard drugs. In another sense, it could not have been worse news: "The switch is on," says Dr. Morris Chafetz, director of the Department of Health, Education and Welfare's National Institute on Alcohol Abuse and Alcoholism (NIAAA). "Youths are moving from a wide range of other drugs to the most devastating drug—the one most widely misused of all—alcohol."

The upsurge of problem drinking among the young is only part of a more disturbing nationwide and even worldwide problem. In the past few years alcoholism—among youths and adults alike—has at last been recognized as a plague. From 1960 to 1970, per capita consumption of alcohol in the U.S. increased 26%—to the equivalent of 2.6 gal. of straight alcohol per adult per year. It is now at an alltime high, probably surpassing the levels during such notoriously wet eras as the pre-Civil War and pre-Prohibition years. Moreover, according to the NIAAA, about one in ten of the 95 million Americans who drink is now

either a full-fledged alcoholic or at least a problem drinker (defined by NIAAA as one who drinks enough to cause trouble for himself and society). Uncounted thousands of the problem drinkers are under 21 and, in fact, the approximately 9 million excessive drinkers are representatives of—and affect—the whole spectrum of American society.

The facts gathered by NIAAA about alcohol abuse are as depressing as they are impressive.

After heart disease and cancer, alcoholism is the country's biggest health problem. Most deaths attributed to alcoholism are caused by cirrhosis of the liver (13,000 per year). An alcoholic's life span is shortened by ten to twelve years. Recently, medical researchers have found evidence suggesting that excessive use of alcohol may also quietly contribute to certain kinds of heart disease, and that it eventually damages the brain.

In half of all murders in the U.S. either the killer or the victim—or both—have been drinking. A fourth of all suicides are found to have significant amounts of alcohol in their bloodstreams. People who abuse alcohol are seven times more likely to be separated or divorced than the general population.

The dollar cost of alcoholism may be as much as $15 billion a year, much of it from lost work time in business, industry and the Government.

At least half of each year's 55,500 automobile deaths and half of the 1 million major injuries suffered in auto accidents can be traced directly to a driver or pedestrian "under the influence."*

Many of the deaths and injuries are caused by the under-21 age group, and arrests of young people for drunken driving have skyrocketed since states began lowering the drinking age from 21. In the year following its lowering of the drinking age, for example, Michigan reported a 141% increase in such arrests.

But parents seem relatively unconcerned about their children's drinking. In fact, children who drink are often simply following the example set by their fathers and mothers. Teen-agers know that their parents make scenes if they catch them smoking marijuana. But if the youngsters come home drunk, most of them are merely sent quietly to bed. "Often when we report to a parent that his kid isn't acting the way he should and smells of liquor," says Don Samuels, a Miami drug-education coordinator, "the reaction is: 'Thank God! I thought he was on drugs.'" Actually, many teen-agers use both marijuana and alcohol.

The alcoholic tide has been pushed higher by the fast-selling, inexpensive pop wines, which disguise their alcoholic content with sweet fruit flavors. These wines make the transition from soda pop to alcohol just one easy step. "Kids seem to look on the stuff as a zippy, sophisticated soft drink," says Houston's Bruner Lee, education director for the Texas Council on Alcoholism. "But this 'kiddie stuff,' this pop wine, contains 9% alcohol—about twice as much as beer." After the pop wine phase is over, the kids often go on to much stronger drink.

Vanilla Extract. Most school officials are too embarrassed by the alcohol problem to do much more than reluctantly admit that it exists. One system that has faced up to it and conducted reliable surveys is in the suburban county of San Mateo, south of San Francisco. There, in 1970, school officials found, 11% of the ninth grade boys (13- and 14-year-olds) said that they had drunk some kind of alcohol beverage 50 or more times in the past year, in 1973 the figure had jumped to 23%. Among senior class boys (17- and 18-year-olds) the percentage of such relatively frequent drinkers rose during the same time span from 27% to 40%. Senior class girls drank less, but they are catching up fast: 29% said they drank 50 or more times in 1973, compared with only 14% in 1970. Notes Paul Richards, an adviser at a San Mateo high school: "This school represents a socioeconomic background from welfare to upper middle class, and the drinkers come from all categories."

The under-21s are not the only ones who are drinking more. Reversing past patterns, which showed middle-aged men the most prone to alcoholism, there has recently been a marked increase in alcoholism among people in their 20s and 30s and among women. In the '50s, by National Institute of Mental Health estimates, one of every five or six alcoholics was a woman; the ratio is now one woman for every four men. These figures may in fact be understating the problem for women, because a nonworking woman, who does not have to punch a time clock or stand scrutiny in the office, finds it easier than her husband might to hide her habit. One alcoholic housewife in Miami admitted stashing Clorets in every jacket pocket and downstairs drawer to disguise her liquor breath from unexpected callers. Others try to hide their alcoholic breath by sipping Listerine, Scope or vanilla extract.

In some places the ratio between men and women problem drinkers is already equal. For example, in Florida's Dade County (pop. 1,385,000), authorities estimate that there are 78,000 alcoholics—and almost half are women. At the Women's Alcohol Education Center in South West Miami, patients can relax in a pool or on a patio and their kids can play in a garage full of toys and live animals. The center is open from 9 a.m. to 11 p.m., and has a daily average of 18 women visitors.

Who is an alcoholic, and who is "merely" a problem drinker? The definition depends on the definer. Thus Mrs. Fred Tooze, head of the National Women's Christian Temperance Union, maintains that an alcoholic is "anyone who drinks alcohol. As soon as they start to drink they're on that road downward." By that definition many of the researchers in alcoholism would be practicing alcoholics themselves.

Quantity consumed is only one criterion—and not necessarily the decisive one. "We see little old ladies who drink less than a pint a day who are dying," says Harold Swift, of the Hazelden Foundation's model treatment facility in Minnesota. "Yet we see men who go through better than a fifth a day and still function well."

An alcoholic does not necessarily know that he is an alcoholic. The stereotype of the stumbling, mumbling Bowery bum applies to no more than about 5% of the alcoholics in the U.S. Most alcoholics hold jobs, raise families, and manage to hide their addiction from everyone, often even from themselves. An alcoholic may go on for years, imbibing three martinis at lunch, two more on the way home and three when he gets there. One day, however, he may wind up in a hospital with a broken leg and, deprived of his daily quota, may suddenly find himself in the middle of the DTs (delirium tremens), which are characterized by extreme agitation, confusion and frightening hallucinations.

Social Custom The National Council on Alcoholism, a voluntary health organization, has drawn up a checklist of 26 questions for drinkers. In its view, a yes answer to any one of them warns of possible alcoholism. Some of the council's questions: Do you drink heavily after a disappointment or a quarrel? Did you ever wake up on the morning after and discover you could not remember part of the evening before, even though you did not pass out? Do you try to have a few extra drinks when others will not know it? Are you secretly irritated when your family or friends discuss your drinking? Have you often failed to keep the promises you have made to yourself about controlling or cutting down on your drinking?

The Rutgers University Center of Alcohol Studies offers a more concise definition: "An alcoholic is one who is unable consistently to choose whether he shall drink or not, and who, if he drinks, is unable consistently to choose whether he shall stop or not." Yet the more researchers study alcoholism, the more complex they realize it is. There are, in fact, almost as many "alcoholisms" as there are alcoholics. Behavioral Scientist Don Cahalan of the University of California at Berkeley objects to even attempting a strict definition. Drinking, he says, is a continuum, and no one can draw an exact line between an alcoholic and a severely troubled drinker. "The issue," he states, "is why some people apparently waste their lives on alcohol while others don't. What's the 'glue' that binds some people to their alcohol problems?" Adds Marty Mann, the woman who founded the National Council on Alcoholism: "No one has ever found the way to turn a non-alcoholic into an alcoholic. There is a basic difference in people."

For those who are susceptible, U.S. society offers powerful temptations. Observes NIAAA's Morris Chafetz: "There are houses where they don't even say anything to you when you come in the door before they ask, 'What will you have to drink?'" He also notes that "in our crazy-quilt value system, masculinity means that if you can hold a lot of alcohol and seemingly not show its effects, that's somehow a sign of strength." Chafetz points out that in some other countries—Italy and Israel, for example—drinking is an accepted social custom, but there is little alcoholism. Why? The reason, he thinks, is that alcohol in those countries is a companion to a happy occasion, not the occasion itself.

Many other countries, however, have a much worse problem with alcohol than the U.S. France, for instance, has the highest rate of alcoholism in the world (an estimated 10% to 12% of the population, including some children), and the Soviet Union may not be far behind. Soviet newspapers now blame 60% of their country's murders, holdups and burglaries on that old demon vodka. Soviet Party Chief Leonid Brezhnev gave tacit recognition to the problem when U.S. Secretary of State Henry Kissinger visited him recently. Discussing with Kissinger plans for a U.S.-built soft-drink factory in the Soviet Union, Brezhnev mused: "Maybe we can teach our people to drink less vodka and more Pepsi-Cola."

Bad Reflection. Some experts believe that alcoholism may be encouraged by the destruction of traditional values. Buttressing this notion is the experience of the American Indians and Eskimos, whose cultures have been disrupted more than those of any other ethnic groups on the continent. "The major problem is one of social disintegration," says Dr. Charles Hudson, chief of psychiatric services at the U.S. Public Health Service's Alaska Native Medical Center. "The original social structure in many places in rural Alaska has been blown apart, much as it has been in central cities, the ghettos and Appalachia. The things that were important to people have been taken away, and when there's nothing to do, they'll take their last buck to get a bottle and stay drunk all the time."

Blacks and Chicanos are also particularly prone to alcoholism, possibly for similar reasons. Among whites, the Irish Americans probably rank highest on the alcoholic scale. No one can explain precisely why, although Irish American social life has often centered around the pub or bar, and heavy drinking has been a culturally accepted means for temporarily getting away from problems. Jews, by contrast, have a relatively low incidence of alcoholism, though it is rising among them too. Jews have always frowned

*In virtually all states, that influence is legally set at a blood concentration of 1% or more alcohol. A 150-lb man can reach this level if he takes three one-jigger (1½ oz. per jigger) drinks within an hour.

on public drunkenness as being a bad reflection on their entire culture, and drinking has not been the accepted way to relieve problems ("Jews *eat* when they have problems," quips one Jewish psychiatrist in Manhattan).

Although alcoholism, when it occurs, often follows ten years or so of problem drinking, there are also alcoholics who apparently skipped even the social-drinker phase. They passed from total abstinence directly into chronic alcoholism. This may be due in some cases to a biochemical imbalance of some sort. "There have been people I call 'instant alcoholics' who are in trouble the minute they drink," says Marty Mann.

There may be some yet unknown hereditary factor that fosters alcoholism. Dr. Donald Goodwin, a psychiatrist at Washington University in St. Louis, studied the case histories of 133 Scandinavian men who had been separated from their natural parents and raised by foster parents. The sons of alcoholic fathers were four times as likely as the sons of non-alcoholics to be alcoholics themselves. Similar studies by Goodwin of twins raised by different families seem to offer even stronger support for some genetic explanations. Most researchers are reluctant to accept such biological determinism as the sole cause, but many agree with Goodwin that there may very well be some errant gene that makes at least some alcoholics more vulnerable than the rest of humankind to the bottle. "There is no one overall answer," concludes Don Cahalan. "We are trying to exorcise a devil, but there is no one devil. There is a host of demons."

There is also a host of treatment centers—7,500 by latest count—and treatments. Until recently, alcoholics were thought to be all but incurable, afflicted with a kind of psychic leprosy. Doctors would scarcely touch them (many still refuse to treat them), and the law looked upon them as human vermin who had to be swept off the streets and thrown into drunk tanks. Old attitudes still persist, but within the past five years there has been a remarkable change in prognosis. No miracle cure, no equivalent of the Salk vaccine is in sight for the alcoholic, and none is ever likely to be found; but for every one of the many alcoholisms there is at least one treatment or combination of treatments that offers a good chance of cure.

The common element in most of the cures is group support. Explains Jim Bryan, director of therapy at Chit Chat Farms, a highly successful alcoholic treatment center west of Reading, Pa.: "We tell the patients it can be done, and you don't have to do it alone. The patients help each other get well." Half the staff—including Bryan himself—are recovered alcoholics, providing even more credence to the support they give to patients during Chit Chat's 28-day, $840 treatment. "We do not look into the whys of their drinking," says Bryan, "but how they can stop."

No In-Depth Therapy. At Lutheran General Hospital northwest of Chicago, where the treatment runs 21 days and costs $1,827, there is also an emphasis on interaction between patients and staff and among the patients themselves. For most patients, there is no in-depth therapy. "We're off this kick of using psychotherapy," says Medical Director Dr. Nelson Bradley, a psychiatrist, echoing the general opinion of experts that classical psychoanalysis is of limited help for most alcoholics.

The patient at Lutheran General is treated for withdrawal symptoms—which can range from the shakes and hallucinations to convulsions and full-blown DTs—and given a medical assessment during his first five days. On the sixth day he is assigned to one of three 25-patient teams. They meet three times a week—in many cases with wives, husbands, children and even employers—in sessions designed to bring the alcoholic back into society through lectures, educational films and discussions about drinking problems. Lutheran General follows up its patients for two or three months, some of them with psychotherapy, and it estimates its success at about 50% after three years. "Beyond 50%," says Bradley, "you've got to have the involvement of the family and the employers. Then the success rate can go as high as 80%."

A variant of the Lutheran General and Chit Chat models is the treatment center that combines group therapy and hypnotic suggestion with a behavioristic kind of aversion treatment: electric shocks or drugs to make the very odor of liquor abhorrent. At Seattle's Schick's Shadel Hospital, which offers an eleven-day, $1,500 program, each patient is taken to "Duffy's Tavern," a small room decorated with enough bottles of whisky to lubricate a regiment. The patient is given a nausea-inducing shot and then handed a glass of his favorite brand. He sniffs the aroma, takes a sip and swirls it around in his mouth. Then, sickened, he spits it out into a handy container.

FATAL ILLNESS

The patient goes through a similar process four more times during his stay at Schick's Shadel, at the end of which he will presumably associate nausea with liquor—and have a long-term aversion to the stuff. "Aversion conditioning is not fun at all," Schick's Shadel's Director Dr. James W. Smith tells incoming patients, "but you are dealing with a fatal illness. In other fatal illnesses, such as cancer, surgery is often called for if it gives the patient the best fighting chance for survival. At the moment this is the best we know of—the method that will do the best job in the shortest time."

Aversion therapy has been widely criticized. Says one social scientist: "I think doctors who emphasize aversion conditioning are misguided. They claim that they are curing alcoholics by giving them a shot in the behind, which makes them sick. But how long does that really last?" A program that draws even more fire is one in which doctors study alcoholism by offering drinks to alcoholics. Indeed, Dr. Edward Gottheil, who oversees such a research project at the Coatesville Veterans Administration Hospital in Pennsylvania, admits that his work is "extremely controversial." Still, he argues, traditional centers either study alcoholics without their alcohol or alcohol without the alcoholics—but not drinking itself. "The idea that complete abstinence is the only treatment interferes with research," he says.

At Coatesville, patients are not only given individual psychotherapy, group therapy, music therapy and antidrinking seminars but are also allowed one or two ounces of pure alcohol (ethanol) once an hour on the hour, from 9 a.m. to 9 p.m., simply by asking for it. If he drinks the allowable maximum every hour, a patient can achieve a considerable buzz by 9 p.m. More important, 13 times every day he must make a conscious decision: to drink or not to drink. In a follow-up study of their first group, Gottheil and his associates claim that, after six months, approximately half of the group members were either dry or drinking less than twice a week.

Almost everyone else who works with alcoholics regards this study as heresy against the almost universally accepted belief that a recovered alcoholic can never ever drink again. "Out of 3,000 alcoholics treated at this hospital and another 12,000 consulted, I have never seen one return safely to social drinking," says Richard Weedman, head of an alcoholic treatment center at Chicago's Grant Hospital. "One drink won't push him off the wagon, but if he takes another three weeks later, bang! He's gone."

Most of the methods owe a large debt to Alcoholics Anonymous, the oldest, the biggest (650,000 to 750,000 members) and still the most successful organization by far for helping alcoholics. "Until the researcher is able to demonstrate some better practical techniques, the A.A. approach continues to merit our admiration and endorsement," says Gottheil. And, write Sociologists Harrison Trice and Paul Roman: "Despite lay leadership, A.A. has apparently achieved a success rate that surpasses those of professional therapies."

An A.A. member is anyone who considers himself a member. There are no required dues, and lest riches corrupt the fellowship, no one is allowed to contribute more than $300 a year. Instead of using professional therapists, the members help each other; one alcoholic is always on call to come to the aid of another. The treatment is nothing more sophisticated than the gathering together of a dozen or more other alcoholics who share their drinking histories and admit to themselves and each other that they are powerless to control their drinking. Members attend meetings as often as they feel the need. "My name is John," a member will intone at each meeting, "and I am an alcoholic." Says an Atlanta executive who has been a member for 25 years: "I am deeply convinced that A.A. is the only way. Doctors cannot cure alcoholism because it is not simply a sickness of the body. Psychiatrists cannot do it because it is not simply a sickness of the mind, and ministers cannot do it because it is not a sickness of the spirit alone. You must treat all three areas, and that is what A.A. does." *

Easy Cop-Out. Even A.A. requires the alcoholic's commitment to change. Many workers in the field are now trying to downplay the idea—espoused by Marty Mann 30 years ago—that alcoholism is a disease. The label may make problem drinking worse by absolving the drinker of responsibility. An overemphasis on the psychological causes of alcoholism can have a similar effect. "A search for the roots of the personal problems that cause a person to become addicted can become an easy cop-out," says Psychiatrist Robert Moore. "The classic therapy game becomes a technique of protecting his alcoholism."

What about the alcoholic who does not want to change—or does not even recognize his problem? For many there is still no answer, no lifeline that can be thrown to them. For many others, however, there is new hope in an old and hitherto unacceptable technique—arm twisting by the boss. Recognizing that alcoholic employees are costing them countless billions a year, many companies are investing money and effort in affirmative action. Since the late '40s, when the first industrial programs started, some 200 firms, including General Motors, Hughes Aircraft and even Hiram Walker, the distiller, have jumped on the bandwagon, the majority of them in the past five years. Many of the firms have written the plans into their union contracts. Although the programs are costly, they actually save money in the long run because they can salvage valuable careers.

An alcoholic employee is absent 2½ times as often as a non-alcoholic. Indeed, he is partially absent even when he is working, often demonstrating much less efficiency than his nonalcoholic colleagues. If he is fired, the investment that the company has put into his training is lost altogether. "The company of any size that says it does not have an alcohol problem is kidding itself," says Ray Kelly, an Illinois state mental health official. In any typical group of workers, 3% to 4% are likely to be disruptive drinkers.

In the typical industrial program, a supervisor, noticing an employee's work slipping, alerts a counselor. If the counselor's investigation finds that alcohol is the culprit, he calls the man in and recommends a treat-

*If a member's physical problems are acute, A.A. gets him admitted to a hospital.

ment-and-rehabilitation plan that falls under the company's medical insurance coverage. There will be no stigma attached if he enters the plan, the counselor tells him, and if he successfully completes it, his career will not be hurt. "If they do not want to go for treatment," says Jack Shevlin, an alcohol counselor in Illinois Bell Telephone's pioneering program, the answer is in effect: "Of course you do—if you want your job."

The results have been more than encouraging, and in most programs about 90% of the alcoholic employees do elect treatment. When a company puts its weight behind an employee's rehabilitation, the chances of success are better than 2 in 3, say doctors at Lutheran General, which works with 52 companies in the Chicago area.

HALFWAY HOUSES

Government at all levels has become sensitive to the alcoholic's plight—and the enormous damage that he wreaks. Since 1970, when Congress demonstrated Washington's changed attitude by passing an alcohol abuse and alcoholism act, a score of states have enacted laws that remove drunkenness (though not drunken driving) from the criminal statutes. Thus drunks are no longer put in jail. Other places, however, must be provided to receive them. These are called Local Alcoholism Reception Centers (or LARC), where the alcoholics are detoxified. They then graduate to "halfway" houses for outpatient treatment. Because LARC makes a strenuous effort to reach alcohol abusers early, the centers can usually help improve the physical condition, earning ability and family situation of their patients.

Sparked by Iowa's Senator Harold Hughes, who is himself a rehabilitated alcoholic, the Government has begun an expensive program to combat alcoholism through research, education and funding of local programs. Starting with $70 million in 1971, federal spending has now reached $194 million. Eighty-five percent of this amount is allotted to treatment, rehabilitation centers and halfway houses, many of which would no doubt still be only token efforts without substantial federal funding to the states.

The liquor industry has awakened to the problems that excessive use of its products causes. Some of the companies have been promoting moderation through advertising and posters. Seagrams, for example, last year spent $250,000 for hard-hitting magazine ads against excessive drinking. Licensed Beverage Industries, Inc., the public representative of the distillers, spends $150,000 a year on research projects and allots $250,000 each year for a national advertising campaign, promoting "responsible" drinking. ("Know when to say when" is the theme of one ad. "If you can't stop drinking, don't start driving" is the message of another.) Last week liquor industry leaders and state beverage-control officials met in Miami with experts from the Rutgers Center of Alcohol Studies to consider other measures that could or should be taken. Jack Hood, board chairman of the National Alcoholic Beverage Control Association, told conferees of plans to use "the unmatched power of education to convince every American, young and old, that responsible drinking is the only kind that anyone should tolerate."

Still, for an industry that has revenues of $18.3 billion a year (after federal, state and local taxes), such expenditures are probably only a fraction of what they should be. Contrasted with this are all the ads pitched toward the young, implying that not even a weekend in the country can be truly enjoyable without drinking. The industry could no doubt change its pitch—use older models and show people drinking only at parties—without cutting sales or profits.

Public Awareness. What else can be done? For a starter, the Nixon Administration should give Chafetz's agency the entire $137,947,000 it has requested for the coming fiscal year, instead of attempting to cut it to $99,800,000. The money would be well spent on research, training, community health services and public education. Second, the 30-odd states that have not yet removed drunkenness from the criminal statutes should do so, adding treatment centers and halfway houses on the Minnesota model. Third, more companies should start alcoholic rehabilitation programs, looking upon money spent combatting alcoholism as almost an efficiency measure, which it certainly is.

How is the battle against alcoholism going? Again, there is good news and bad news—with an emphasis on the latter. Senator Hughes, who, more than anyone else, was responsible for the turnabout in the Government's attitude, is as good a judge as any. He is happy that tax dollars are joining the fight against alcoholism, and that the public is finally becoming aware that alcoholism is a treatable condition from which, with dedicated help, two-thirds or more of its victims can recover. But he sees even that as only limited comfort. "I'm not optimistic that we're gaining on the problem," he reckons. "Instead, it's gaining on us."

THE EFFECTS OF ALCOHOL

Almost immediately after it hits the stomach, alcohol is coursing through the bloodstream to the central nervous system, where it starts to slow down, or anaesthetize, brain activity. Though it is a depressant, the initial subjective feeling that it creates is just the opposite, as the barriers of self-control and restraint are lifted and the drinker does or says things that his well-trained, sober self usually forbids. Only later, after a number of drinks, are the motor centers of the brain overtly affected, causing uncertain steps and hand movements.

How quickly the alcohol takes effect depends on many factors. One person may be bombed after a glass, while another stays relatively sober after several. Because alcohol is diluted in the blood, a 200-lb. man can usually tolerate more liquor than a 110-lb. woman. Food also retards absorption of alcohol from the gastrointestinal tract, and a few ounces taken with a meal are less powerful than an equal amount downed an hour before. By the same token, some drinks with food in them—eggnogs made with eggs, milk and cream, for example—have slightly less wallop than straight drinks. The tomato juice in a Bloody Mary or the orange juice in a screwdriver is not enough to make any appreciable difference.

The total quantity of alcohol in a drink and the rate of consumption determine the alcohol level in the bloodstream. Thus a Scotch and water would pack the same punch as Scotch on the rocks or a Scotch and soda if all three were drunk at the same speed; drinking more slowly gives the system a chance to eliminate some of the alcohol. The mixing of different types—beer, wine, whisky and brandy, for instance—might make a drinker sick, but it would not make him any more drunk than the same alcoholic measure of just one of these drinks.

So far medicine has found no cure for the hangover, although aspirin can alleviate the headache. Despite a plethora of folk cures (none of them really effective), the best policy is to avoid drinking in excess the night before. Actually, no one knows exactly what causes the hangover's unpleasant symptoms of headache, nausea, depression and fatigue, which many drinkers experience at one time or another.

Some recent research indicates that even social drinking can have both immediate and possibly long-range deleterious effects on the body. According to Dr. Peter Stokes, a psychobiologist at Cornell University Medical College, the liver becomes fatty and therefore less efficient after only a few weeks of downing three or four drinks a night. But in the early stages, at least, the condition can be reversed by abstinence. More moderate imbibing—two drinks a night with meals, say—almost certainly does no harm to most people. New studies link drinking to heart-muscle damage and deterioration of the brain. Research by Dr. Ernest Noble of the University of California at Irvine shows that alcohol inhibits the ability of the brain cells to manufacture proteins and ribonucleic acid (RNA), which some researchers believe play a role in learning and memory storage. After 20 or 30 years, says Dr. Noble, two or three drinks a night on an empty stomach may impair a person's learning ability. Both Stokes and Noble cite studies showing premature and irreversible destruction of brain cells after years of heavy drinking.

Such frightening studies of the results of drinking have not yet been accepted throughout the medical profession, but the physical effects on an alcoholic of very heavy drinking are beyond dispute. A pint of whisky a day, enough to make eight or ten ordinary highballs, provides about 1,200 calories—roughly half the ordinary energy requirement—without any food value. As a result, an alcoholic usually has a weak appetite and often suffers from malnutrition and vitamin deficiency. The slack cannot be taken up by popping vitamin pills; heavy alcohol consumption impairs the body's utilization of vitamins. At the same time, excessive intake of alcohol also affects the production and activity of certain disease-fighting white blood cells, giving the alcoholic a particularly low resistance to bacteria.

Inevitably, the alcoholic develops a fatty liver, and his chances of developing cirrhosis, a condition in which liver cells have been replaced by fibrous scar tissue, are at least one in ten. A severely damaged liver cannot adequately manufacture bile, which is necessary for the digestion of fats; as a consequence, the alcoholic often feels weak and suffers from chronic indigestion. This may be made worse by gastritis, which is caused by alcohol irritation of the sensitive linings of the stomach and small intestine. The troubles of a heavy drinker do not end there, and through damage to the central nervous system and hormonal inbalance, alcohol may even cause impotence.

THE PRICE OF ALCOHOLISM: FIVE CASE HISTORIES

No one is a typical alcoholic, and the only thing all alcoholics have in common is their addiction. That fact was reemphasized by the reports of TIME *correspondents who interviewed many of them across the U.S. and Canada, including the following:*

Joe, 52, an Atlanta stockbroker, began his career as an alcoholic at 15 when he went camping with his brothers. One of the boys opened a bottle of wine, and Joe instantly discovered his weakness. "That night was it for me," he says. "I went looking for a drink in the morning, and I drank all the way through high school. I was in the grip of an insidious, progressive disease." Joe continued to drink through Harvard and the service, but when he went home again his parents sent him to a hospital for "aversion" therapy. "I stayed sober two or three months," he remembers. But for him the aversion was only temporary.

Drinking, borrowing money, being arrested repeatedly, at 27 he was so far gone that he was not able to write his name. In December 1947 he went to Alcoholics Anonymous but fell off the wagon after only two months. In March he was back in A.A., and has been going to meetings ever since.

"People there welcomed me," he says. "My goal was to live. Survival, that's all. They told me that if I helped other people, I would receive and be helped myself. A funny thing happened I got better. In two

or three months I was in better shape than I had been in for five years. I needed a miracle and got it. But it's not over yet. It won't be over until I die."

Elizabeth, 44, a Manhattan advertising woman, was a fierce teetotaler because both her parents were problem drinkers. At 35, facing the prospect of a mastectomy, Elizabeth went to her psychoanalyst. The doctor proposed that she try a drink to calm her fears. "I'll never forget the feeling," Elizabeth says. "It hit me instantly. This was something I'd been waiting for without knowing it, and I never wanted to be without it again. I felt so warm and calm and safe."

It turned out that she did not have cancer, but she went on drinking anyway, "right around the clock." Although she sipped almost a fifth of Scotch a day, it did not seem to affect her work. "I never got really drunk, never had a hangover." One night while waiting for a date she took an extra slug of Scotch "to be bright and special." Instead she stumbled and cut her forehead on the mantel. Her date found her bloodied and bleary and walked out. This shocked her so much that she went to A.A.

Elizabeth dried out for a while and then had a relapse, drinking more heavily than before. Finally she returned to the A.A. program, which she has followed successfully for five years. "Mine was one hell of a binge," she says, "and I consider my sobriety precious. I wouldn't do anything to jeopardize it."

Jay, 45, a Montreal journalist, says that he began drinking heavily "out of a sense of fatalism"; his father, mother and brother are all alcoholics.

"I turned into a chronic liar and charlatan, trying to cover up my affliction. I made raucous scenes and picked fights for no reason. I often wet my pants and vomited all over myself in public. I went to doctors and got tranquilizers, which I proceeded to combine with liquor, which made me even worse. I went to private clinics, public hospitals and even ended up in a mental home. I went to a priest and then to Alcoholics Anonymous. They were well-meaning people, but their piety seemed too facile to me, and I usually had to rush to the nearest bar every time I came out of a meeting. I was thrown into jail, mugged, and slept in the gutter. I stank, my gums bled, and my hands were too shaky to shave without a couple of drinks."

The turning point for Jay came when he awoke in a seedy hotel with the DTs. "My eyes were bulging from their sockets. My arms and legs flailed about like windmills. Then those black dots started spreading across the walls and ceilings, and I had to choke back a scream. This was the point at which I finally decided I wanted to live, not die, and forced myself to go get cured."

The cure came at Toronto's Donwood Institute, where he went into group therapy and was put on a daily dose of Antabuse, a drug that causes nausea, palpitations and anxiety at the first whiff of liquor. To ensure his long-term sobriety, a six-month supply was implanted under the skin of his abdomen. "I finally walked out—cured, tingling with life and vigor and almost hypersensitively aware. But as I saw a bar, the craving hit me so hard that I bent double. Was this the way it was going to be all my life? The answer apparently is yes. The desire would fade, but somewhere—in the clink of glasses or the sight of good red wine—is the trigger. It is a trigger that I dare not pull."

Barbara, 26, a Miami divorcee with two young children, started drinking when she was 13. "My mother was a heavy drinker," she says, "and we always had lots of liquor around the house." Married soon after high school, she became pregnant and—at doctor's orders—began downing a shot of brandy to help her sleep. "I didn't like the taste, but before my baby was born I was drinking half a bottle a night."

She and her husband eventually separated, and Barbara started to vary her drinking habits. "The kids were one and three, and I sipped wine while I prepared their lunch. Within six months, I went from a small bottle a day to a gallon, then on to martinis and Scotch. It could be blowing a blizzard, and I'd trek through anything to get my bottles."

"People are so drink-oriented," she adds. "It's the acceptable thing to do. You never go to a party or dinner without drinks." Guidelines that she set for herself—never drink in the morning or before driving—were discarded, and arrests for drunkenness began to pile up. Sent to a detoxification center after one eight-day binge, she sneaked out to a bar, then, at 5 a.m., accepted a ride back from one of the male patrons. He invited her to stop at his apartment for a drink. She had to fend off a rape attempt, suffering a broken jaw and scarring cuts on the face. "I thought I'd hit the bottom before," she says through the wires that still hold her teeth together, "but now I realized that this was it."

After attending a Dade County alcohol rehabilitation center for the past three months, Barbara is sober and plans to remain that way. She fears, however, that her drinking may have permanently hurt her children. "They remember my wine-drinking days when I'd throw up in their wastebasket. Now if they see me drinking a Coke, my older girl will come over and taste it and then reassure the younger one: 'It's O.K.'"

Bob, 18, a New York City carpenter, started off on a bottle of Canadian whisky from the family liquor cabinet when he was twelve, and from that moment would drink whatever and whenever he could. "If it was beer, I laughed a lot. If it was wine, I would get very mellow. If it was whiskey, I was sure to go wild and get into a fight."

Kicked out of school for fighting a guidance counselor in what he calls a "temper blackout," Bob was sent to Bellevue Hospital for a psychiatric examination. "At the nut house they told me I wasn't an alcoholic because of my age. I was told that if I handled my emotional problems, I would be able to drink normally." Bob nonetheless tried A.A., not once but three times between binges. "I just hadn't decided that I wouldn't drink any more."

Finally the A.A. "cure" took when Bob was at the ripe age of 15. Sobriety has not been easy. A well-meaning social worker pressured Bob to take tranquilizers to relieve his tension. He refused. "If I did that," he asks, "then why not drink? I was tired of being told that 1) I'm alcoholic, and 2) I need to take tranquilizers to survive. If I had taken drugs, I would have been in the nut house again in a matter of months."

[From the Washington Post, Apr. 19, 1974]

BLUE CROSS IS EXTENDED TO ALCOHOLICS

(By Robert E. L. Baker)

Blue Cross of Maryland has agreed to expand its group health coverage to include the rehabilitation of alcoholics at private residential treatment centers.

The program was called the nation's first by Thomas H. Sherlock, president of Blue Cross in Maryland.

"This is more than just a standard benefit program," he said. "It incorporates a management commitment on the part of the purchaser to the rehabilitation of alcoholic employees."

Health insurance plans generally cover alcoholics only when they are hospitalized for acute pathological disorders associated with alcoholism but do not provide help in rehabilitation.

Maryland Blue Cross, in its announcement, said a further step was necessary—"to restore the well-being of the individual through rehabilitation."

Its coverage can be added to group health contracts for a cost of 45 cents a month for an individual and one dollar a month for husband and wife. More than 800,000 state residents are now enrolled under Blue Cross group contracts with employers.

Coverage may be extended later to Blue Cross members who are not under group contracts, a spokesman said.

The program limits coverage to two 30-day confinements for each alcoholic. It provides bed and board in semiprivate accommodations, medical and nursing services and rehabilitation services such as group, individual or family counseling.

The first facility to sign a contract with Blue Cross for the rehabilitation program is the Hidden Brook Treatment Center in Bel Air.

Under the Blue Cross group contracts, some employers share the costs with employees while other employers pay the full costs.

THE 1973 TAX RETURN FOR SENATOR AND MRS. WEICKER

Mr. WEICKER. Mr. President, in keeping with a policy that I have followed throughout my service in the Congress, I am again this year making public the tax return filed by my wife and myself.

I firmly believe in the practice of full disclosure, and the public right to know the tax conduct of its elected officials. It is the kind of policy that helps to reaffirm confidence in our Government at all levels.

Mr. President, I ask unanimous consent that the individual income tax return for my wife and myself for 1973 be printed in the RECORD.

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

THE 1973 U.S. INDIVIDUAL INCOME TAX RETURN FOR MR. AND MRS. WEICKER

County of residence, Fairfield.

Occupation, yours, U.S. Senator and spouse's, homemaker.

Exemptions, yourself and wife, 2.

c. First names of your dependent children who lived with you, Scott, Gray, and Brian Bianchi, 3.

7. Total exemptions claimed, 5.

9. Wages, salaries, tips and other employee compensation, $43,500.

10a. Dividends, $8,249. 10b. Less exclusion $200, balance $8,049.

10d. Gross amount received, if different from line 10a, $8,288.

11. Interest income, $2,418.

12. Income other than wages, dividends, and interest (from line 38), $8,866.

13. Total (add lines 9, 10c, 11, and 12), $62,833.

14. Adjustments to income (such as "sick pay," moving expenses, etc. from line 43), $2,829.

15. Subtract line 14 from line 13 (adjusted gross income), $60,004.

16. Tax, check it from: Tax Rate Schedule X, Y, or Z, $10,792.

18. Income tax (subtract line 17 from line 16), $10,792.

20. Total (add lines 18 and 19), $10,792.

21a. Total Federal income tax withheld (attach Forms W-2 or W-2P to front), $11,078.

22. Total (add lines 21a, b, c, and d), $11,078.

24. If line 22 is larger than line 20, enter amount OVERPAID, $286.

25. Amount of line 24 to be REFUNDED TO YOU, $286.

PART I. INCOME OTHER THAN WAGES, DIVIDENDS, AND INTEREST

29. Net gain or (loss) from sale or exchange of capital assets (attach Schedule D), $1,000.

31. Pensions, annuities, rents, royalties, partnerships, estates or trusts, etc. (attach Schedule E), $1,216.

37. Other (state nature and source), Honoraria, $8,650.

38. Total (add lines 28, 29, 30, 31, 32, 33, 34, 35, 36, and 37). Enter here and on line 12, $8,866.

PART II. ADJUSTMENTS TO INCOME

41. Employee business expense (attach Form 2106 or statement), $2,829.

43. Total adjustments (add lines 39, 40, 41, and 42). Enter here and on line 14, $2,829.

PART III. TAX COMPUTATION

44. Adjusted gross income (from line 15), $60,004.

45. (a) If you itemize deductions, enter total from Schedule A, line 41 and attach Schedule A, $19,250.

46. Subtract line 45 from line 44, $40,754.

47. Multiply total number of exemptions claimed on line 7, by $750, $3,750.

48. Taxable income. Subtract line 47 from line 46, $37,004.

FOREIGN ACCOUNTS

Did you, at any time during the taxable year, have any interest in or signature or other authority over a bank, securities, or other financial account in a foreign country (except in a U.S. military banking facility operated by a U.S. financial institution)? No.

ITEMIZED DEDUCTIONS

Medical and dental expenses

1. One half (but not more than $150) of insurance premiums for medical care. (Be sure to include in line 10 below), $150.

10. Total (add lines 1 and 9). Enter here and on line 35, $150.

Taxes

11. State and local income, $2,236.

12. Real estate, $3,459.

13. State and local gasoline (see gas tax tables), $110.

14. General sales (see sales tax tables), $484.

15. Personal property, $171.

Interest expense

18. Home mortgage, $6,668.

19. Other (Itemize). Putnam Trust Co. Loans, $2,107.

20. Total (add lines 18 and 19). Enter here and on line 37, $8,775.

Contributions

21. (a) Cash contributions for which you have receipts, cancelled checks, etc., $598.

Round Hill Community Church, $200.

24. Total contributions (add lines 21a, b, 22, and 23). Enter here and on line 38, $798.

Casualty or theft loss(es)

Miscellaneous deductions

33. Other (Itemize). Unreimbursed senatorial expenses—schedule attached, $2,878.

Investment advisory services, $189.

34. Total (add lines 30, 31, 32, and 33). Enter here and on line 40, $3,067.

Summary of itemized deductions

35. Total medical and dental—line 10, $150.

36. Total taxes—line 17, $6,460.

37. Total interest—line 20, $8,775.

38. Total contributions—line 24, $798.

40. Total miscellaneous—line 34, $3,067.

41. Total deductions (add lines 35, 36, 37, 38, 39, and 40). Enter here and on Form 1040, line 45, $19,250.

Lowell P., Marie L. Weicker, Jr.

File No. [redacted]

Year ended December 31, 1973.

Schedule E—Part III—Income from trusts:

Chemical Bank, New York, N.Y., T-1270 Mary H. Paulsen et al tr V/A L. P. Weicker, ID No. [redacted] $893.

Fiduciary Trust Co., Boston, Mass., TTEE. B. Joy 1954 Trust—Godfrey, ID No. [redacted] $323.

Total, $1,216.

Schedule of Congressional reimbursements and expenses:

1973 reimbursement for expenses paid in 1972, $1,215.

Reimbursement for first 1973 round trip to Washington and return, $102.

Expenses paid and reimbursed in 1973:

Travel, $2,676.

Office expenses, $6,919.

Less: Expenses paid in 1973 to be reimbursed in 1974:

Travel $603.

Office expenses, 543.

Total, $4,146.

Cost of living—Washington, D.C., $3,000.

Expenses in excess of reimbursement, $2,829.

Miscellaneous deductions:

Entertainment of constituents, $1,951.

Miscellaneous office expense, $927.

Total, $2,878.

CAPITAL GAINS AND LOSSES

Part I: Short-term Capital Gains and Losses—Assets Held Not More Than 6 Months:

Schedule attached (A), $517.

3. Enter net gain or (loss), combine lines 1 and 2, $517.

5. Net short-term gain or (loss), combine lines 3, 4(a) and 4(b), $517.

Part II: Long-term Capital Gains and Losses—Assets Held More Than 6 Months:

Schedule attached (A), $3,456.

7. Capital gain distributions, $39.

9. Enter your share of net long-term gain or (loss) from partnership and fiduciaries, $78.

11. Net gain or (loss), combine lines 6 through 10, $3,339.

13. Net long-term gain or (loss), combine lines 11, 12(a) and 12(b), $3,339.

Part III: Summary of Parts I and II:

14. Combine the amounts shown on lines 5 and 13, and enter the net gain or loss here, $3,856.

(a) Enter one of the following amounts:

(iii) If amounts on line 5 and line 13 are net losses, enter amount on line 5 added to 50% of amount on line 13, $2,187.

(b) Enter here and enter as a (loss) on line 29, Form 1040, the smallest of:

(iii) Taxable income, as adjusted (see instruction L), $1,000.

SCHEDULE OF GAINS AND LOSSES FROM SALES AND EXCHANGES OF PROPERTY—LOWELL P. AND MARIE L. WEICKER, JR. (DEC. 31, 1973)

(1) Number of shares or bonds	Property description	(2) Date Acquired	Date Sold	(3) Gross sales price (contract price)	(4) Depreciation allowable	(5) Cost or other basis	(6) Expense of sale etc.	(7) Gain (or loss) Long term	Short term
100	Topps Chewing Gum	June 16, 1972	Aug. 24, 1973	$838		$2,215		($1,377)	
100	Topps Chewing Gum	June 19, 1972	Aug. 24, 1973	838		2,329		(1,491)	
100	Scoville Mfg. Co	Oct. 13, 1971	Jan. 26, 1973	2,341		2,473		(132)	
100	Scoville Mfg. Co	Oct. 13, 1971	Mar. 9, 1973	2,168		2,473		(305)	
50	Scoville Mfg. Co	Sept. 20, 1972	Jan. 26, 1973	1,160		1,270			($110)
40	Taylor Wine Co	Oct. 27, 1972	Jan. 26, 1973	1,874		1,823			51
20	Seven Up Co	June 27, 1972	Jan. 26, 1973	655		962		(307)	
10	Seven Up Co	July 12, 1972	Jan. 26, 1973	327		491		(164)	
5	Seven Up Co	Oct. 9, 1972	Jan. 26, 1973	164		224			(60)
5	Seven Up Co	Oct. 9, 1972	Mar. 9, 1973	159		224			(65)
15	Seven Up Co	Nov. 2, 1972	Mar. 9, 1973	478		605			(127)
25	Englehard Min. & Chem	Oct. 12, 1973	Dec. 12, 1973	380		586			(206)
100	Southland Corp	Sept. 16, 1969	Apr. 9, 1973	2,255		1,659		596	
3M	Skil Corp 5 percent, July 1, 1972	Feb. 3, 1972	Nov. 7, 1973	2,536		1,988		548	
200	Acme United	May 30, 1972	Jan. 26, 1973	2,439		3,263		(824)	
	Total short-term gain (or loss)								(517)
	Total long-term gain (or loss)							(3,456)	
	Total net capital gain (or loss)								(3,973)

SCHEDULES E & R—SUPPLEMENTAL INCOME SCHEDULE AND RETIREMENT INCOME CREDIT COMPUTATION

Part III: Income or Losses from Partnerships, Estates or Trusts, Small Business Corporations:

Schedule attached, $1,216.

1. Totals, $1,216.

2. Income or (loss). Total of column (d) less total of column (e), $1,216.

Total of parts I, II, and III (Enter here and on Form 1040, line 31), $1,216.

TAX REFORM

Mr. CLARK. Mr. President, on April 8, 9, 10, and 11. the Christian Science Monitor published an excellent series of articles on tax reform. They were written by Richard Nenneman, the Monitor's business-financial editor. I ask unanimous consent that they be printed in the RECORD.

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

TAX REFORM—I

(By Richard Nenneman)

WASHINGTON.—During the 1972 election campaign, both Georges—McGovern and Wallace—drew huge and enthusiastic crowds whenever they talked about tax reform. Whether it was the rich who didn't pay "a fair share," the property tax, or the foundations run by pinheads, tax talk seemed to

hit pay dirt—so much so that the Nixon administration agreed to look at taxes again and Wilbur D. Mills agreed to hold hearings on the tax loopholes the candidates were talking about.

What happened?

Amid the slow pace of Watergate-laden Washington, and a normally overworked Ways and Means Committee, tax reform seemed almost forgotten. But the next few weeks should give a clue as to how deep the 1972 grumblings really went.

BRICKBATS AND BOUQUETS

While the federal income tax is widely criticized by many economists, and its loopholes (legal deductions that allow citizens and corporations to avoid some taxes) are becoming better known by the public, it is also widely acclaimed as the fairest tax in America.

Its critics have their day in the press and will have their day in Congress. But so will the lobbyists for all the present loopholes and, more important, so will the tax lawyers who understand the complexity of the U.S. economy and the valid reasons for many of the tangled pages of the tax code.

The personal income tax brings in the largest part of federal receipts—about 42 percent, or $128 billion, this year. That it be a fair tax is important, since theoretically it is in the first instance self-assessed and collections could drop off if there was widespread revolt against it.

TAX FRAUD

However, most taxpayers have most of their tax withheld from wages, and wealthy taxpayers who receive more of their income outside the normal withholding channels know that tax fraud is a criminal offense in this country (it is only a civil offense in many others).

The last tax reform was passed in December, 1969. Since then, critics have claimed that it did little to simplify the tax process and also did little to end the vertical and horizontal inequities in the law. "Vertical" refers to the relative level of taxation of different income groups; "horizontal" refers to the amount of taxes paid by individuals in the same income group who may have different sources of income and deductions.

INITIATES REFORM

The House Ways and Means Committee, of which Mr. Mills is chairman, initiates all tax legislation. But the overloaded committee also considers such diverse matters as trade legislation, pension reform, and health care. When the committee held hearings on the loopholes, or tax preferences, early in 1973, it did not proceed to draft legislation for last year's session of Congress. Indeed, Representative Mills convinced some critics that he was not serious about major tax reform at all, but merely wanted to show that the loopholes were largely justified and the tax system not as unjust as some critics claim.

NEW GROUPS FORM

So why has tax reform come to life again in 1974? The publicity over the President's own taxes has undoubtedly had some effect, although the main loophole in his case (the gift of his vice-presidential papers) has since been closed. The existence of new tax-reform groups in Washington undoubtedly also has some effect on keeping alive the charge that the tax system is grossly unfair.

Some also think that Mr. Mills has agreed to hold tax-reform hearings shortly after the Easter recess at least partly to keep the committee's authority intact. There has been a growing rumble in the House that Ways and Means has too much under its wing and should be stripped of some of its jurisdiction. (It is even now uncertain how thorough the tax hearings will be, since the committee may simultaneously hold hearings on health care. The Joint Committee on Internal Revenue Taxation, which does the spadework for tax hearings, has been preoccupied for several weeks with its audit of the President's tax returns.)

Tax reform interest groups in Washington say that the tax legislation could go either of two ways this spring:

(1) A "substantive" reform, including some change in capital-gains taxation, in the treatment of municipal-bond interest, and a change in the minimum income tax that was introduced in the 1969 reform. Such a reform bill would not make it through Congress before the end of the session, in the view of these observers, and even it would not include dealing with the treatment of capital-gains taxes at death or with estate-taxation reform. These latter items are ones to which reform groups give a high priority.

Or, (2) Congress may pass a mini-reform bill, which would mainly be an effort at simplifying the tax code. It might get rid of many of the small deductions most taxpayers use—the deduction for medical expenses over 3 percent of gross income, the state gasoline tax deduction, the $100 dividend exclusion, and so on.

The rates taxpayers pay could be adjusted downward (or some broad deduction raised) but the tax-figuring process would be simplified. This minimum reform would probably also include some change in the 1969 minimum tax levied against high incomes reaping unusual advantage from the various loopholes written into the code.

The view from Treasury Department is that Ways and Means will first take up the two Nixon administration proposals dealing with the minimum tax. One would repeal the 19 percent minimum tax of 1969 and adopt a stronger set of rules, in effect limiting the use of tax preferences much more than is now done. The other would limit the use of artificial accounting losses to the activities they are connected with; the fast depreciaion on an apartment house would no longer shelter a doctor or lawyer's professional income.

Once these areas are dealt with, it is possible that the committee will get into capital-gains taxation. But nothing more is expected for this year.

The one item that is common to both Treasury and to the two possible ways Mr. Mills's committee might go is the minimum income tax. And it seems a fair bet to make that if anything gets altered, that will be it. Each year the public hears about a small number of rich people who, one way or another, legally escape all taxation—even with the minimum income tax written into the 1969 reform. One tax lawyer asserts that these are not the same people each year, that there are in every case special circumstances which let an individual escape taxation for a single year. (The few that escape taxation because all their income is from municipal bonds don't even have to file a return, so they are not included in the number.)

But a tightening of the provisions for the minimum income tax would end this situation.

Why is it that the major overhaul of the system which so many professional and usually liberal reformers see as desirable seems unlikely to occur?

Robert Brandon, an attorney with Ralph Nader's Tax Reform Research Group, thinks there will be no major reform until there is campaign spending reform. Too many congressmen are beholden to special interests who have helped elect them, he says, to vote what is the fairest tax legislation for all.

"Nonsense," replies John Nolan, a highly respected Washington tax attorney who was assistant secretary of the Treasury and in charge of tax policy during Mr. Nixon's first term.

Mr. Nolan, who reminded this writer that the Nixon administration proposed a much stiffer minimum tax idea in 1969 than the Congress bought, thinks that that area still needs strengthening. But as for the rest of the system, he says, "We have a pretty fair balance right now." Instead of Congress's being influenced by campaign gifts, he maintains that each time tax reform has been an issue, the Congress has listened rather carefully to all the needs of the community.

Those needs are many and not always ones that have the same answer; for simplicity, for fairness, for raising sufficient revenues, and for maintaining the individual incentives that make a free enterprise system click.

When it comes to fairness, tax reform groups generally turn to the loopholes (also called tax preferences or tax subsidies) as the most egregious example of injustice in the U.S. federal income tax.

TAX REFORM—II

(By Richard Nenneman)

WASHINGTON.—For many, income tax reform means one thing: eliminating the loopholes.

Unfortunately, "loophole" is a pejorative. It conjures up the image of something crooked. Actually, the loopholes, or tax preferences, are nothing more than legal deductions from gross income of such varying items as the oil depletion allowance (now under hot debate and probably about to be drastically curtailed), the deduction of half of long-term capital gains from taxable income, and the garden variety of deductions which most taxpayers use at some time—medical expenses, charitable contributions, and home-mortgage interest.

The loopholes came into being one by one—some for a good social purpose at the time, some because of successful lobbying efforts.

CAPITAL GAINS

The capital-gains preference is obviously supported by wealthy persons, by the securities industry, and by economists who stress the need for capital formation. But there are other, more "innocent" lobbies.

Take the senior citizens. There is a double exemption for those over 65, and social-security income is tax-free (a sensible idea, since it was after-tax income of the employee that paid the original contribution).

But if Congress wants to bolster the income of the older generation, there are selective ways of doing it instead of giving two kinds of preferential treatment that benefit the wealthy old people even more than the elderly poor.

The deduction for mortgage interest and for property taxes is a support to the building industry and shows the government's support of the concept of private home ownership.

The value of a tax preference, which is what such deductions amount to, is greater the higher one's income is. But since the middle class all reap some benefit from a deduction such as this, it is fairly easy to find support for continuing it.

PROGRESSIVE TAX STYMIED

While some of the loopholes may have a high degree of public support, it is easy enough to see why elimination of the loopholes has become the rallying cry of many tax reformers.

In theory, the United States has a steeply progressive federal tax law. That is, the higher your income, the larger the tax on incremental amount of that income. It rises from 14 percent to 70 percent, although under the 1969 tax reform earned income can be taxed only at a 50 percent maximum rate.

Because of the loopholes, the tax system is nowhere near that progressive. In asking that the loopholes be eliminated, critics are asking that the system in practice conform to what the average citizen has been led to believe it already is.

ACTUAL RATE

In testimony before the Ways and Means Committee the last time it considered tax reform, Joseph Pechman, director of economic studies at the Brookings Institution said, "The present-law tax is a relatively low percentage of income at all income levels. It rises from an effective rate of less than 2 percent of comprehensive income below $5,000 to 9 percent at $10,000 and to a maximum of 32 percent at income levels of $1 million and above."

Stanley Surrey, who was the resident tax expert in Treasury under Presidents Kennedy and Johnson, has another name for the loopholes: tax expenditures.

Through forgoing the income tax that would accrue to government in some area that is not taxed—such as half of capital gains—government has in effect spent, or subsidized, that particular activity.

These expenditures reach, depending on what is included by definition, anywhere from $60 billion to $80 billion a year at present income levels.

Comparing this with the size of the federal budget (just over $300 billion), Mr. Surrey complains that the Congress is letting a lot of spending authority escape its discretion, by automatically subsidizing certain kinds of economic activity (such as housing) through the tax laws. (Mr. Surrey has just published a new book, "Pathways to Tax Reform.")

The greatest single loss in revenues comes from the special treatment of capital gains; this costs the government more than $7 billion annually.

There are many other multibillion-dollar losses—almost $4 billion from the investment tax credit to business; almost $7 billion to homeowners for the mortgage interest and property tax deductions; more than $3 billion for charitable contributions; almost $3 billion from the exemption of interest on municipal bonds; almost $2 billion for the mineral depletion allowance. (None of these estimates takes account of the changes in economic activity that might occur if the tax preferences were ended.)

Mr. Pechman says close to $80 billion more in taxes could be collected if the loopholes shown in the accompanying chart were closed. (This would include taxing transfer payments, such as social security.) He does not suggest that this money in fact be collected; rather, the tax brackets could at the same time be lowered.

Such a restructuring would be a field day for tax experts. There would be an infinite number of ways to juggle the brackets and come up with the same revenue. One would be a flat tax rate of 16 percent on all income.

Mr. Pechman prefers a scheme that would give a $2,000 low-income allowance and cut out taxes for a family of four earning $5,000 or less. Under this proposal, graduated rates would rise to 44 percent for those earning $100,000 or more. This would still leave them with over half of their income (and even the 44 percent would only be collected on that part of income over $100,000, remember).

FLAWS TO APPROACH

However, there seem to be two practical flaws to this approach.

One is that unless Congress removed substantially all loopholes at the same time, whatever loopholes remained would be a form of tax preference that more wealthy people could be presumed to take advantage of. And the chances of wiping the slate clean of all the tax preferences seem remote. Aware of this, Mr. Pechman answers, "Well, you have to fight for what you think is right anyhow."

The other flaw is that conservative, and often wealthy, taxpayers see the lower brackets applied to all income as only the start toward taxing high incomes even more.

Some of Mr. Pechman's own statements seem to lend credence to this fear. For instance, in congressional testimony he has said, "It makes no sense for a nation with median family income close to $11,000 to pretend that it cannot take care of its poor in a dignified way, improve its education system, remove some of the blight from its cities, and support other public services adequately because it has reached the limits of its taxable capacity."

MORE TAXES STILL

One may agree completely with his opinion that government should be doing more. But if it is to do more (without slackening off in some other major spending area such as defense), this means the total taxation must be increased. It means going beyond the change in the tax brackets that would occur from merely eliminating the loopholes.

The charge that the system is not as progressive as it sounds is certainly true.

However, that is not all there is to the matter. It is partly because the brackets are so high that Congress has been liberal in allowing the various tax preferences to exist. There is a chicken-egg relationship between high tax brackets and liberal deductions that is impossible to sort out.

CORPORATE TAX LOAD

There is certainly no consensus that taxes ought to be 70 percent for anyone, and the tax preferences, or loopholes, are one way of adjusting the effective rates downward.

Furthermore, the United States does not have an integrated corporation income tax, as Britain, France, and Germany all do to some extent (there are different mechanisms that bring about the same result). If one figures that the brunt of the corporate income tax is borne by the shareholders in a corporation, and that shareholders are concentrated in the upper income strata, one reliable estimate is that wealthier taxpayers actually do pay about 45 percent of their total income in taxes—a figure very close to what Mr. Pechman claims it would be under his system.

TAX REFORM—III

(By Richard Nenneman)

WASHINGTON.—Like an old pair of blue jeans, the federal income tax has been patched up so many times that a lot of reformers think it's time to start over with a new piece of goods.

It seems more likely that a few more patches will be added where they are most needed.

A system built to serve many needs and a diverse economy is not that easy to transform. Tax reform, notes James Byrne of Tax Analysts and Advocates, itself a reform group here, is an "opportunity" business. This year the opportunity knocked in the energy area, and reformers see the elimination of mineral percentage depletion, or at least a substantial altering of that allowance, as a major step forward.

POSSIBLE CHANGES

When more general tax matters come before Wilbur D. Mills' Ways and Means Committee, it appears the rest of this year's "opportunity" will lie in changes in the minimum income tax and possibly in capital-gains treatment.

Changes in these areas could have a major effect on the public's view of equity, or fairness, in the system. If the minimum tax was increased, this would restrict the degree to which individuals could take advantage of tax preferences to avoid taxation.

Depending on what was done with capital gains, this could also wipe out the impression that wealthy individuals avoid large amounts of tax by making their money the capital-gains route and paying less than the taxes paid by people who "work" for a living.

MINIMUM TAX

In 1969, the Nixon administration took a major step toward increasing fairness by supporting a minimum tax. What finally survived in the Tax Reform Act of 1969 was not as tough as the Treasury had wanted, but it was a major start toward reducing the appearance of laxity toward the rich.

It was a 10 percent flat rate tax applied to a figure consisting of a taxpayer's total tax preferences, or loopholes, if you prefer, after subtracting his regular tax liability and $30,000. This obviously was a limited closing of a major loophole. But it was still a beginning.

The argument for the $30,000 exclusion was that the minimum tax could be applied only to very large income earners. And the argument for deducting the regular tax liability was that the minimum tax should be less when applied to persons who did pay substantial taxes than to those whose income was arranged in such a way as to escape almost all normal taxation.

There are several ways in which the minimum income tax can be increased. The 10 percent rate can be raised. The $30,000 exclusion can be cut back, or even eliminated. Or the deduction for regular income-tax liability could be curtailed, as a joint proposal of Sen. Edward M. Kennedy and Rep. Henry S. Reuss would do. Tax experts would generally prefer to see the rate increased or the $30,000 lowered rather than eliminating the offset for taxes paid.

The minimum income tax still excluded two items: intangible drilling costs and the interest on state and municipal bonds. These could be included in a new tax reform.

The administration has proposed that, instead of some combination of these reforms, the minimum tax of the 1969 law be replaced by two new provisions in the tax code: a minimum taxable income (MTI) and a limitation on artificial accounting losses (LAAL).

FORMULA PROPOSED

The MTI would require a taxpayer to pay a tax on an amount equal to 50 percent of his adjusted gross income plus some items now excluded from income, such as the half of capital gains that is not now taxed.

The purpose of this kind of requirement is that large personal deductions could not be used to escape income tax, except in cases where a taxpayer's normal income was double the amount of his capital gains.

Among the personal deductions now allowed, contributions to churches or universities are considered the most "elastic"—the most affected by changes in the law. So it is not surprising that many such nonprofit institutions, which rely heavily on gifts, have been critical of MTI.

MORE CONFUSION

If MTI is confusing, LAAL may be even more so. The motive of LAAL is easy to grasp, however. It is that artificial accounting losses (non-cash expenses) should not be allowed to shelter normal income from taxation. These accounting losses should be allowed to be taken only when they are applied to income from whatever activity they are connected with. Extra-fast depreciation of new real estate, for instance, may be fine as an incentive to building, but not when used to shield a doctor's or lawyer's high professional income. Excess accounting losses would be deferred until there was sufficient income to balance them against.

Tax experts say the proposal would be difficult to carry out in practice. This, plus the built-in institutional opposition to the MTI because of the blow it might be to large charitable gifts, makes it seem more probable that instead of either administration proposal being adopted, Congress will opt for some tightening of the original 1969 minimum tax.

John Nolan, partner in the firm of Miller & Chevalier and formerly an assistant Treasury secretary during Mr. Nixon's first term, defends the use of tax law to encourage certain social objectives such as real estate development.

"But," he says, "we should do this with care. Right now we need low-cost housing, not more shopping centers or office buildings. And even then, an individual should still pay income tax on part of his real earned income—on at least half."

A staff economist at the Treasury echoed this sentiment. "The combination of tax preferences should not be such as to create a new privileged class."

CAPITAL GAINS

What happens to capital gains in this session of Congress is anyone's guess. Conservatives think the present tax (a maximum of 25 percent on the first $50,000 in gains in any year and 35 percent on the amount over $50,000) is quite high enough.

They point to the need for more capital formation not only by corporations but for the encouragement of individual savings and investment. The closer the capital-gains tax comes to regular income tax rates, they argue, the more disincentive there is for saving instead of spending all of one's income.

Liberals point to the fact that the main reason the system is not as progressive in practice as it looks on the books is the exclusion of one-half of capital gains. In 1971, this exclusion accounted for 87 percent of the tax preferences used by individuals.

Wilbur Mills in the past has shown some sympathy to the concept of a graduated capital-gains tax. One approach would be to tax capital gains at the full income rate for 12 months instead of the present six, but to establish a sliding rate on assets held more than one year. The longer the asset was held, the lower the tax would be. One justification for this is that the gains made over a longer period reflect in part the change in general price levels due to inflation.

Another approach would be to tax capital gains the same as regular income, but allow very liberal income averaging. This would minimize the tax for the individual who did not regularly have large capital gains to report. While this approach would tax capital gains higher than now, it has the advantage of simplicity on its side; it would effectively end an array of tax shelters whose main attraction is to qualify some activity in the long-term capital-gains area.

PEROT'S NOVEL PLAN

H. Ross Perot, the Texas entrepreneur who made millions with his computer company and then lost some of those same millions trying to shore up an ailing Wall Street brokerage house, has a novel idea about capital gains. He would let any individual accumulate $100,000 in capital gains tax free.

If one agrees that capital accumulation is still important and that the dispersion of wealth is socially desirable, enactment of this proposal would help many small individuals get a start as capitalists before taking the full brunt of the tax impact on high incomes.

This is similar to proposals made (among others) by the Small Business Association of New England (SBANE) that the 26 percent flat-rate tax on the first $25,000 of corporate income be extended to the first $75,000 or $100,000.

The lower figure was set back in 1938, and the change in value of the dollar since then would alone justify a tripling of the figure. The reason behind SBANE's proposal is that the small firm has less access to public capital markets and should be encouraged in building up its own capital.

In a mass-oriented democracy, it is certainly easier to talk about taxing "the money made by money" the same as money made by people. On the other hand, the energy crisis has made the nation more aware of being capital-short. So any attempt to end or limit the biggest tax preference of them all may collide head on with a new appreciation of the need to create capital.

TAX REFORM—IV

WASHINGTON.—One can expand on the thought that tax reform is an opportunity business.

There are still several specific reforms to be considered that might further refine the system built to date. What are some of them?

CAPITAL GAINS AT DEATH

Theoretically, the fact that unrealized capital gains are not taxed when an estate is probated (there is only an estate tax to pay) is a large loophole in the tax system. Gerard Brannon, former head of the tax economists in the Treasury and now director of research for Tax Analysts and Advocates, says, "The biggest single item of tax reform would be to tax capital gains at death."

This was one element of the tax reforms suggested by George McGovern in 1972. Besides being a loophole in the system, liberals claim that the lack of this omission makes the stock market illiquid.

A person of advanced years, the theory goes, holds onto his stocks instead of trading them or perhaps buying bonds with higher current yields, knowing that he is cutting out the capital-gains tax on them if they end up in his estate.

Conservative tax experts thinks this reasoning is entirely wrong. There are just as compelling arguments for holding onto stocks that have appreciated, they say, because no one knows whether he could do as well with re-investing a smaller amount of money after the capital-gains tax was paid. The question of what should be taxed at estate time, they say, is essentially a question of what form a transfer tax at death should take and how large it should be.

In view of the arguments both ways on this one, and the shortness of time left for this Congress, this seems one of the more unlikely changes to come out of Capitol Hill in 1974. But it is certainly one that we will hear more about.

SOCIAL SECURITY

"If we are concerned about equity at the low end of the income ladder," says Mr. Brannon, "we shouldn't talk about cutting taxes. The poor don't pay much in income taxes to begin with. Instead, we should reform social security."

The flat-rate social security-tax is widely recognized as a regressive tax. But, because social security has from its beginning been sold to the public as a kind of insurance plan, it has so far "escaped" attempts to fund any significant part of it with general revenues.

But social security also has an element of welfare about it. Recipients at the lower end of the scale and with a shorter working history get back more in relation to what they have contributed than those who have paid the maximum amount.

Mr. Brannon's suggestion is that this welfare aspect of social security, which may amount to as much as one-third of the payout each year, be funded out of general revenue. A new study just done by Alicia Munnell for the Federal Reserve Bank of Boston indicates how this might be done. She suggests a gradually disappearing social-security tax exemption for lower-paid workers. Families earning less than $4,300 would pay no social security tax. At present economic levels, this would cost about $4 billion a year, and she suggests that this be made up from general revenues.

Robert Brandon, with the Tax Reform Research Group, would increase the taxable wage base. In either case, upper-income workers would be making up the difference.

The concept that social security is something entirely separate from the rest of the tax system has delayed the day when at least part of it probably will be funded out of general taxation. When the social-security tax was less, that may have been good politics. But today social security brings in $85 billion in revenues, second only to the individual income tax, and many a working family pays more in social-security taxes than income tax.

VALUE-ADDED TAX

A value-added tax (VAT) is similar to a nationwide sales tax. The Nixon administration considered it a few years ago and dropped the idea. Liberals normally scorn it as a regressive tax, since it applies to all purchases and most of a low-income family's income is spent on consumption.

However, a VAT has several things going for it. For one thing, it is a tax on spending. If it becomes a recognized national goal to increase savings and investment, it would make sense to penalize spending and thereby indirectly lift some of the burden from saving. Mr. Brannon of Tax Analysts sees the VAT favorably. "It would encourage the $10,000 to $15,000 class to save more," he thinks.

Mr. Brannon does not endorse a VAT unconditionally. He suggests a flat exemption on the income tax of $1,000 a person, and alteration of the income-tax brackets to allow for a diminishing part of the VAT as one's income increases. Thus, the regressive features of VAT could be overcome.

CORPORATION INCOME TAX

Integration of the corporate income tax with personal incomes seems one of the more unlikely events to happen in the world of tax reform. It could be one of the most important.

Tax economists like to point out that only people pay taxes. Corporations may write the checks for their income taxes, but ultimately every expense of a corporation is borne in some combination by the workers, the buyers of its products, and its owners. Most economists agree that at least the greatest part of the corporate income tax is shouldered by the stockholders.

David and Attiat Ott, a team of economists at Clark University in Worcester, Mass., are the main authors of a new study called "Reforming the Federal Tax Structure." High on the Otts' list of goals is to simplify the U.S. tax system. And one of the steps toward that goal is to impute all corporate income to the shareholders. If all federal taxes were paid by individuals, either in the form of income taxes, excises, social security, or value added, there would be less room for disagreement over the burden of taxation actually borne by different income levels.

GENERAL CUT POSSIBLE

Before Congress is done discussing taxes this year, it is also quite possible that there will be a general tax cut. This depends in part on whether the present economic leveling off seems to be over by summer.

Tax cuts have been part of the pattern in recent tax reforms, however. If there is a consensus that those below a certain income level should pay no income taxes, that income level has to be adjusted for inflation periodically.

In fact, everyone has income in current dollars that gradually creeps into a higher tax bracket as the result of inflation. And a general tax cut would be one way to counter this trend, as well as possibly to stimulate the economy if that seemed needed later in the year.

To summarize, a nation's tax system says a lot about its quest for justice for its citizens. Plato wrote in "The Republic," "When there is an income tax, the just man will pay

more and the unjust less on the same amount of income." Tax reform cannot make just men out of unjust men. But it can try to erect the laws that treat men and their incomes equally and fairly.

Because some are in favor of a specific reform and some against it does not necessarily mean that some are against justice. The United States faces the same dilemma in tax policy as it does in other phases of its society.

As the heirs of Thomas Jefferson, we are deeply committed to the doctrine of the equality of all citizens. Yet as the heirs of settlers who came to these shores looking for freedom, we are also committed to an ideal that, pursued to its ultimate, is contradictory to equality—the ideal that each man can pursue his particular interests and reach his full potential.

In tax policy, this dilemma or paradox amounts to the contradiction between an emphasis on equity, on fairness, and an emphasis on maintaining the incentives in our economic system. And, just as in political life, there is no room for either emphasis to win entirely.

BALANCE REQUIRED

There is a need both to maintain economic incentives and to strive for fairness. Those who emphasize one element of this balance must recognize that the other element also has a right to survive.

Specifically, those who talk about incentives need to remember that the poor and the middle class need incentives, too. Maybe most citizens will never contribute much in terms of capital resources. But their labor is their most important resource, and that must not be turned off or diminished by a feeling that the rich have always had it their way and that it is the rich who make the tax laws.

At the same time, those who openly want to use tax policy as a mechanism to redistribute income need to remember that there are no scientific answers as to how high taxes ought to be for the person earning $50,000 as compared with the one earning $10,000. Plugging away at the most flagrant examples of unfairness—such as the excessive use of tax preferences by a handful of people—probably is the quickest way to improve equity. And this appears to be the path Congress will continue to take.

THE FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1974

Mr. THURMOND. Mr. President, the word "reform" carries with it the denotation of change for the better or the removal of faults or abuses. However, as this word was applied to the Federal Election Campaign Act Amendments of 1974 which recently passed this body, it seems that this meaning was somehow forgotten. While other provisions of the bill may indeed be steps in the right direction, that section calling for the public financing of political campaigns embodies one of the most ill-conceived and unfortunate concepts proposed in the Congress in many years. By any stretch of the imagination, this is not reform. It is a step backwards that will result in political irresponsibility and insensitivity while at the same time depleting the public treasury of funds that are desperately needed in other sectors of our society.

When this bill is fully understood by the American public, a cry of indignation and disgust will arise that will not soon be forgotten.

An excellent article recently appeared in Newsweek magazine on this subject and I ask unanimous consent that it be printed in the RECORD following these remarks.

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

THE RIPOFF NAMED REFORM

(By Patrick J. Buchanan)

Having passed the Senate by a score of votes, "public funding" of Federal campaign is before the House. If it is enacted, the burden of financing future Federal campaigns will be shifted permanently—off congressmen, their fund raisers and "fat cats"—onto the backs of the American taxpayers.

The ultimate argument of Senate liberals has a certain crude appeal: only if you taxpayers shoulder the full cost of all our future campaigns, i.e., ads, airline tickets, polling and partying, only then can you be certain we won't sell you out to the big contributors.

This legislation amounts to as splendid a piece of political larceny as this city has seen in some time. What gives the planned political ripoff of the Treasury a special patina is that the enterprise was conceived and carried out in the hallowed name of campaign reform.

As Sen. Roscoe Conkling observed: when Dr. Johnson referred to patriotism as the last refuge of a scoundrel, he obviously had not fully considered the uses of the word "reform."

Where, during the Senate balloting, were those eloquent opponents of Congressional "conflict of interest"—Senators Bayh, Mondale, Kennedy and Jackson? Each, with unblinking eye, voted himself millions of dollars in Federal matching funds for his Presidential primary campaign in 1976—with $17 million in prize money to the winner. As they say in the Statehouse, when the political pork is about to be distributed, "What the hell do you mean 'conflict of interest'? This bill doesn't conflict with *my* interests."

WINNERS

Who will be the winners when taxpayers are forced to finance elections?

Topping the list is Common Cause and John W. Gardner, the former HEW Secretary, who, with ex-Attorney General Ramsey Clark, provided the indispensable goo-goo sheen to LBJ's war Cabinet during the years of escalation in Vietnam. When large private contributions become a Federal crime, Common Cause, the liberal lobby, becomes the likely repository for the millions in "peace" and "conscience" money that can no longer go to liberal candidates. Small wonder the Gardner team has been working the Hill as only the National Rifle Association can, when the Saturday-night special is in trouble.

Runners-up would have to be Mr. Meany and COPE. While the legislation restricts monetary contributions, no similar prohibitions are placed upon contributions in kind, i.e., the millions in manpower unions provide to candidates.

A third beneficiary would be the big media. Under the bill, conservative Republicans—prohibited from raising the funds to overcome off-year media bias in favor of liberal candidates and causes—would have to depend increasingly upon the big media's fairness, objectivity and balance. Good luck.

Fourth, the measure might be retitled the "Incumbents Preservation Act." Not only will congressmen be able to bill Treasury for campaign costs; the measure effectively clips the wings of potential challengers by denying them the financial resources needed to overcome the traditional incumbents' advantages of recognition, the franking privilege and free media in the off year.

LOSERS

Who are the losers?

First, the nation's businessmen, whose political influence will contract, while the power of their critics and adversaries in the national media and labor will be correspondingly enhanced.

Second, conservative Republicans, one of whose primary political resources will be curtailed. Third, that perennial loser when national legislators gather, the taxpayer. Certainly, he will be pleased to learn that his role in the national atonement for Watergate is to spare the friends of Senator Kennedy the burden of financing his Presidential ambitions. A fourth loser will be our major political parties. In a prophetic observation, FDR once termed welfare a "narcotic," a "subtle destroyer of the human spirit." What the dole has done to millions, public financing will do for our political parties, when they start mainlining it out of the Treasury.

That "public funding" should be ballyhooed as the answer to Watergate is thoroughly in keeping with the modern politician's instinctive response to each new "crisis" or "problem" that arises: create a new agency, draw up some new laws, give government new powers.

Even those most enthusiastic about the bill, however, leave the impression that they are unconvinced by their own arguments. Does anyone truly believe the influence peddlers and vote buyers who congregate along the Potomac will pull up stakes because the 93rd Congress has outlawed campaign contributions as a medium of exchange?

Few liberals believe that. To them, "public financing" means another new Federal agency, new Federal jobs for sympathetic bureaucrats and those new rules, regulations and guidelines they love so dearly to draw up and enforce.

All the media propaganda to the contrary notwithstanding there is no "irresistible public demand" for this legislation. Only 14 per cent of the American taxpayers, one in seven, this year exercised the political checkoff on their tax returns, despite the fact it would not have cost them a dime. The 86 per cent who voted to ignore the checkoff option seem rather more expressive of the public will than the tiny fraction who did not.

GOOD-BY JEFFERSON

To the conservative, the measure is just another utopian exercise, calling forth new restrictions on individual freedom, new intrusions into the private sector, and a new transfer of wealth, power and responsibility from the citizenry to the bureaucracy—when every lesson of the last decade screams out that we are headed in the wrong direction.

Finally, in that it requires taxpayers to subsidize candidates they oppose, the scheme is antidemocratic in nature. "To compel a man to furnish contributions of money for the propagation of opinions which he disbelieves is sinful and tyrannical." That is what Jefferson at least believed and wrote in the Statute on Religious Freedom. And it is at least mildly heartening to know that in 1974 the caucus of the Democratic Study Group would have thrown him out on his ear.

TENTH ANNIVERSARY OF UNITED REPUBLIC OF TANZANIA

Mr. HARTKE. Mr. President, for centuries the people of what is now known as the United Republic of Tanzania, lived under the domination of foreigners. Exploitation and enslavement were part of the bitter cup from which they drank during those long and sorrowful years.

The part known as Tanganyika finally won its freedom in 1961 and in the other part, Zanzibar, revolution against their foreign overlords finally brought the people independence in 1963. Just 10 years ago—in 1964—the two states joined hands and become the United Republic of Tanzania.

is independent nation of 14 million ple is struggling to overcome the ndicaps of its colonial heritage and to ke its rightful place among the peace- ul family of nations. Indians, Paki- stanis, Arabs, Europeans, and native blacks alike enjoy the warm climate of this relatively new East African state.

Primary education is compulsory and schools are being established throughout the country. More than 1,200 Tanzanians attend the University of Dar es Salaam, and another 1,400 students attend college abroad.

The people support themselves with farming, fishing, mining, and forestry. Tanzania is rich in diamonds, gold, and mica. The country is also blessed with coal, lead, iron ore, tin, tungsten, and other valuable minerals. Foreign trade is lively and growing. Despite its relatively small size, Tanzania exports close to $300 million annually in such products as coffee, diamonds, and cotton, and imports nearly $250 million in manufactured goods and food.

The head of the government is President Julius Nyerere who, in 1954, formed the Tanganyika African National Union which led the struggle for the freedom of that nation. Legislative authority is vested in the uni-cameral national assembly of 207 members, the majority of whom are elected and the rest appointed by the President.

Tanzania in many ways symbolizes the modern thrust toward independence of the former colonial state of the world. Whatever the odds, whatever the dangers and despite the cost, they want to work out their own fate, without outside interference, no matter how well-intentioned. This was the story of America 200 years ago, and this is the story of Tanzania today.

I wish to salute this new nation as it celebrates its 10th anniversity and wish it well in finding peace, prosperity, and justice for all its citizens.

SENATOR BUCKLEY ADDRESSES THE U.S. CHAMBER OF COMMERCE

Mr. BARTLETT. Mr. President, I ask unanimous consent to have printed in the RECORD an address delivered before the U.S. Chamber of Commerce on April 30 by the distinguished Senator from New York (Mr. BUCKLEY).

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

SPEECH BY SENATOR JAMES L. BUCKLEY

Over thirty years ago, the Nobel Prize-winning American author Sinclair Lewis wrote a novel depicting a totalitarian conquest of the United States. The novel was titled *It Can't Happen Here* and Lewis meant the title to be taken ironically: what he was attempting to show is that men can lose their freedom if they continue to think, in the face of mounting evidence to the contrary, that "It can't happen here."

It is my thesis today that the greatest danger facing our system of free, private, competitive enterprise is the refusal of too many in the business community today to face the mounting evidence of a new passion for governmental regulation and control; a passion that threatens not only our traditional way of doing business, but the economic well-being of the American people. Too many businessmen take refuge in the assumption that "It can't happen here, at least not to me." Oh yes, it might happen to the company down the road who is being harassed by the latest directives from H.E.W.; it might happen to the major oil firms, who may have been asking for it anyway; but it can't happen to me.

If that is what you think, you are wrong. It can happen to your business. Indeed it *is* happening to you. The free enterprise philosophy is being attacked on a wider scale than ever before. It is being attacked, moreover, in the name of a new regulatory ethic, promulgated by anti-business critics in the academy and in government and implemented by the ever-ravenous bureaucracy in Washington. The new regulatory ethic has turned the old presumptions on their head. It was once understood that our economy functioned best and for the good of the greatest number when it was left to the interaction of a million daily decisions by private investors, manufacturers, sellers and consumers, each pursuing his own private gain and fulfillment. It was understood that government would interfere in these decisions only when necessary to protect an overriding and clearly defined public need, and then only to the extent required to meet that need. It was understood that the primary role of government in economic affairs was not to regulate and control the private sector, but to preserve the free, competitive, stable environment in which that sector could operate with the greatest efficiency.

But now the new regulatory ethic is on the ascendency on a broader scale than anyone could have conceived of just a year or two ago. It takes as indisputable doctrine the desirability and even the absolute necessity for the government to regulate business on an ever-increasing scale. It has its own propagandists such as John Kenneth Galbraith; its own shock troops, typified by Ralph Nader; and, as is typical with all essentially ideological movements, its own slogan: "The public interest."

I recently came across an article which demonstrated the degree to which this new ethic has managed to set the limits of public discourse concerning business. The author wrote of what he perceived as an unquestioned assumption on the part of our most influential thinkers; namely, that as the market is "imperfect . . . nearly every intervention to perfect the market is rejected . . . it can only be replaced by a political market, supplemented by bureaucratic implementation."

John Kenneth Galbraith, the high priest of a planned economy, has written: ". . . Social pressures build up, politicians respond, so the kinds of actions which are required get taken. The action may be disguised by the semantics. It will be some time before we get around to talking about planning. It will be longer, no doubt, before we get around to using so obscene a word as socialism. I sometimes use the phrase 'social action,' which is more benign. Even talk about income redistribution seems to many people still very odd and dangerous. But circumstances are in the saddle, not theory . . ."

Mr. Galbraith, I think you will agree, has at least the virtue of bluntness.

Now I want to pause here to emphasize what I believe to be the underlying importance of the passage I have quoted. The authors take for granted that the market has been rejected, what criteria were used to judge its alleged failure, what countercharges have been made simply are not even alluded to.

That a distrust of business has reached dangerous levels is to me beyond dispute. Last year the Harris survey showed that 77% of those polled wanted the government to be "tougher on business." As recently as 1966, 70% of the people thought that business was at least striking a fair balance between making a profit and providing a service to the public; today, only 29% do. In 1966, 28% thought big business was dangerous to our way of life; today, 46% do.

These figures, I might add, were compiled before the recent onslaught against the oil companies; and this brings me to the arena in which I believe we can most clearly discern where the new impulse to regulate will be leading us unless headed off by those who best understand why the public interest is best served by the economic system that is under such heavy attack. But before sketching some of the wondrous new areas of governmental intervention that have been spawned in Congress in response to the energy crisis, I think it useful to try to place the oil and gas industry in some sort of non-hysterical perspective. Otherwise some of you might be inclined to consider that industry so far outside the norms of American business as to make its current tribulations irrelevant to you, or to American business as a whole.

The first part of wisdom, it seems to me, is to distinguish between foreign and domestic operations within the industry, for it has been the extraordinary impact of abnormal events affecting foreign operations during the past year—primarily the awesome rise in crude prices mandated by the Middle Eastern producing states—that has caused the profits of companies with major foreign holding to rise to such dizzying heights. In point of fact, about 85% of the "obscene profits" referred to by Senator Jackson is directly attributable to foreign factors that, presumably, it is beyond the capacity of the Congress to control, short of a return to gunboat diplomacy.

Placing the abnormal aside, what are the major characteristics of an industry that has drawn such thunderbolts of Congressional displeasure? Speaking in terms of domestic operations which, after all, are the ones that are most relevant to questions of domestic policy, the industry is divisible into three major activities:

The production of oil and natural gas, in which over 4,000 producers are currently active;

The refining of petroleum, in which over 125 firms are active; and

The marketing of petroleum products and natural gas, which has no less than 500 competitors—and probably more.

Looked at in terms of concentration, the oil and gas industry presents us with this picture: the top four companies account for 27.1% of crude oil production; 24.4% of natural gas production; 32% of refining; and 29% of marketing.

If, in search of more dramatic concentrations, we expand our base to the top eight companies in each area, we find their control to range from a low of 48.3% in the case of natural gas, to a high of 56.3% in the case of refining.

Thus the domestic oil and gas industry is not much different from other large American industries except that contrary to myth, whether viewed in terms of competition between its component parts or between integrated entities it represents a significantly lower market concentration than a number of other capital-intensive industries, such as steel, autos and aluminum.

In terms of profitability, the domestic oil and gas industry is again well within the parameters of general business experience within this country. Over the past five years, the return on investment has averaged around 10%. And even though 1973 saw a rise to 11% from the prior year's 9.6%, this higher figure is still below the average for U.S. manufacturing companies generally.

Moreover, there is no clear evidence at this point that domestic earnings are about

to go into orbit. In fact, drowned out by the headlines that announced last week new record first quarter earnings for Texaco and Gulf, was the fact that although their respective global earnings were up 123% and 76%, reportedly, over the same period last year, their domestic earnings had declined significantly.

I do not suggest, in this thumbnail sketch of the industry, that individual companies here and there may not have colluded with one another to violate anti-trust laws or to take unconscionable advantage of existing shortages. I simply do not know whether or not they have, and I assume we have ample laws on the books to cope with such situations. What I do suggest is that the industry is not so clearly distinguishable from all other forms of American corporate enterprise that no responsible leader in American industry can afford to be unconcerned over the shape of the sometimes-punitive and always-overly restrictive legislation that is now being designed for application to the oil and gas business. For whatever new patterns of control are fashioned today for application to oil and gas companies will most assuredly be available tomorrow for application to whatever other industry is then the popular whipping boy.

Let me sketch for you the new compulsion to regulate what I have observed over the last year or so, as well as some of the new forms of intervention that are now being seriously planned.

As a member of the Interior Committee I have observed the evolution of most of our recent bills, and have kept a weather eye on related legislation being hatched elsewhere in the Senate. I have watched with awed fascination as idea after idea has surfaced—ideas that just a few years ago would have been deemed unthinkable. Some of these have now been enacted into law; others would now be law but for Presidential vetoes; and still others are on the drawing board, with important support from some of the most influential members of the Senate.

Let me cite a few specific examples.

The zeal to regulate ran wild in the Emergency Petroleum Allocation of 1973, reported out by the Interior Committee in May of last year, well in advance of the Arab oil embargo. This legislation provided for mandatory allocations of petroleum products and the regulation of prices in accordance with arbitrary standards written into legislative concrete, as often as not without benefit of hearings. It authorized the regulators to discriminate as between end users without provision for prior hearings.

It prohibited "exhorbitant price increases" without establishing criteria for determining when prices were in fact exhorbitant; and it also had the effect of modifying or abrogating existing contracts. The Emergency Petroleum Allocation Act, in short, is a classic piece of arbitrary, excessive, and rigid regulation that has in practice made more difficult the incredibly difficult responsibilities of the Federal Energy Office. It represents a significant escalation in degree of the kind of regulatory authority to which too many in business have become inured.

Then, of course, we have the energy emergency acts in their various forms. The following is a sampling of provisions that might now be law but for the fact that two Presidential vetoes have been sustained:

The first version of the Act would have authorized any purchaser of any petroleum product to bring suit against any seller for the recovery of what a Federal Renegotiation Board subsequently determined to be the difference between an ordinary rate of profit and a windfall profit. This provision would have been an astonishing invitation to law suits across the nation as individuals purchasing gasoline or heating oil from retailers, or retailers purchasing from wholesalers, and so on up the line, decided to determine whether in their particular case an excessive price was charged.

The second Energy Emergency Bill, which invoked price rollbacks, also sought to plow virgin regulatory ground. In this instance, the legislation presumed to establish a base price of $5.25 per barrel of domestic crude oil, while providing the President with a highly limited authority to allow certain categories of oil to be priced at up to $7.09 per barrel, but no higher—irrespective of future circumstances. This represented a venture into statutory price fixing that is unparalleled in our experience.

Another bill now under serious consideration is truly awe-inspiring in its sweep. I speak of S. 2782, which is designed to establish a national energy information system. It was jointly introduced last month by Senators Nelson and Jackson, and is co-sponsored by twenty-five other Senators among whom are a half dozen of the Senate's most powerful men.

S. 2782 uses the cloak of verification of energy data as a carte blanche for the Federal government to discover almost any company information whatsoever whether it has direct bearing on energy or not. Part of the motive here is to achieve public disclosure of sources of profits, resource reserves, consumption, productivity, patterns of ownership, capital requirements, and related proprietary information and trade secrets. Here the extent of discovery is not limited to energy-producing companies alone but extends to any company which consumes significant amounts of energy. But I think in this case it is best to let the bill speak for itself as to what its authors seek to create.

To give you the flavor of this remarkable proposal, let me quote from some of its provisions:

Under the section titled "Inspection of Records; Subpoenas: Enforcement of Subpoenas", we find the following:

"The Administrator . . . shall have right of entry to the real property and access to any books, documents, papers, statistics, data, information, and records of any company, business, institution, establishment, or organization of any nature whatsoever, when the purpose of such access is to obtain or verify energy information which (he is) authorized by this Act to obtain."

And what is to be done with all the information that the Administrator is authorized and directed to gather? For your enlightenment, I shall now quote from the section entitled "Classification of Information":

"Energy information received by the Administrator shall, in general, be classified public. Energy information shall be classified confidential if . . . the company shows by clear and convincing evidence that such information constitutes a trade secret (whose) disclosure . . . would cause substantial harm to the competitive position of the company. . . . Notwithstanding a sworn statement . . . and an affirmative finding by the Administrator (that the information is otherwise entitled to be held confidential) . . . the Administrator shall classify public any energy information when he finds: 1) such energy information is in the possession of any person not employed by the company . . .; or 2) the benefit to the public interest (presumably as defined by Ralph Nader) in immediately classifying such information public outweighs the demonstrated harm to the competitive position of the company. . . ."

Another bill that is in the final mark-up stage is the Consumer Energy Act now being considered by the Senate Commerce Committee. This bill, among other things, would extend the Federal Power Commission's policing authority to all sales of natural gas, crude oil and a number of specified refined products, whether interstate or intrastate, such pricing to be based not on the interactions of the marketplace, but on the public utility concept of cost plus a fair return. This legislation would also create a Federal Oil and Gas Corporation to explore for and produce oil and natural gas on Federal lands so as to be able to establish standards of enlightened management in the public interest by which to measure the performance of those companies continuing to operate in the private sector.

Let me make final reference to a bill that is still in the process of gestation, as it suggests the extent to which some influential members of Congress are now prepared to go on imposing Federal direction on what has hitherto been considered the province of private management and shareholders. I speak of a Corporate Chartering Bill. From all accounts it would require a Federal Charter for all energy companies as a condition precedent for their continuing to do business in the United States. To obtain such a charter, the company would be required to disclose any and all information requested of it by a Federal Chartering Board. Then if the Board found the public interest would be served, it would grant a charter.

The bill reportedly also provides for "public" members to be appointed to the board of directors of chartered companies with an unrestricted right of access to all company records and a duty to initiate suits against the company to enjoin it from taking certain actions not in the public interest.

This completes my rather general overview of what one industry is now facing because it has been judged not to be acting in the public interest by the upholders of the new regulatory ethic. I submit that the pattern of federal encroachment that is apparent in this package of energy bills and proposals ought to be of as great concern to the full membership of the United States Chamber of Commerce as it is to the membership of the American Petroleum Institute. For what is at stake is not the fate of one industry, but the very life of our economic system as we have known it.

For years, now, too many American businessmen have been excessively parochial in their concern for legislation. They have sought and welcomed special favors; they have grown comfortable with regulations that serve to protect some businesses from the hazards of a truly competitive environment. Too many have shown a remarkable lack of concern over the gradual erosion of the conditions which allow a free economy to function. Too many actually welcomed the imposition of the first wage and price controls in our history.

The time has come for a display of true statesmanship within the American business community. The time has come when those who understand our economic system, those who have confidence in it, those who know it has been the most effective and efficient system for the organization of human resources for the satisfaction of human needs, to begin thinking about protecting that system rather than protecting narrow business interests.

This means that every member of this Chamber must become as concerned over the thrust of current energy legislation as those who are intended to be its immediate victims. This means that the American business community must become more directly concerned over the general level of public appreciation of how our system works. This means that great resources of American business should be joined together—for the good of the country—in an effort to stem the tide that is now running so discernibly against the basic concepts of a free press and competitive capitalistic system.

But how is this to be done? First of all representatives of every sector of American business must begin lobbying now for the presentation of the free enterprise system; they must seek to preserve and strengthen

the economic and governmental environment in which our economic system can best flourish. They must learn to spot legislation that promises to establish new patterns of federal regulation or control on any sector of American business is not justified by a clearly identifiable public need, they must try to block it by coordinating and mobilizing the vast resources represented by American business. By resources, I mean not just money, but the experience and energy represented by its management, and most particularly, by that pool of politically sophisticated and knowledgeable men and women who represent every segment of American business here in Washington. These men and women ought to be directed to lobby against the adoption of any legislation, whoever it directly effects, that establishes new precedents dangerous to our economic system; and in the process, they can help our legislators achieve a more accurate understanding of how our economic system operates, and why left substantially alone it will continue to serve the greater public interest.

One thing American businessmen cannot any longer afford to do, and that is to stand idly by. They must gain a new recognition of the interdependence of all American industry. It means that every businessman must see a threat to one as a threat to all.

Or, to borrow a phrase from John Dunne: "Ask not for whom the regulatory bell tolls; it tolls for thee."

RULES OF THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the Committee on the Judiciary, at a meeting held May 1, 1974, adopted the following rules for the committee:

Resolved, by the Committee on the Judiciary, That, pursuant to subjection (3) of rule XXV, as amended, of the Standing Rules of the Senate (S. Res. 180, 81st Cong., 2d sess., agreed to February 1, 1950) a quorum of the committee, or any subcommittee thereof, for the purpose of taking sworn testimony shall consist of one Senator of said committee.

Resolved, by the Committee on the Judiciary, That the committee shall not take any action with respect to any report pertaining to an inquiry or investigation conducted by any subcommittee, unless, at least one day before such action is taken, a copy of such report is furnished to each member of the committee. If, within 24 hours after a copy of any such report has been furnished to any member as herein provided, the member shall request that action be deferred thereon, no action shall be taken by the committee on the report prior to the 14th day after the day on which the report was furnished to the member or members requesting the deferral, unless an earlier date is specified by such member or members.

SEC. 2. For the purpose of this resolution, a copy of any report may be furnished to a member by (1) delivery to the member, or (2) delivery to the office of the member during office hours.

Resolved, by the Committee on the Judiciary, That the Internal Security Subcommittee shall, during the 93d Congress, continue its practice of conducting a hearing in executive session with each witness it subpenas, prior to any hearing of such witness in open session.

FINANCIAL STATEMENT OF EDWARD W. BROOKE

Mr. BROOKE. Mr. President, I have long advocated and supported legislation to require disclosure by Members of the Congress of their financial holdings and sources of income. Such efforts have not succeeded. Thus, I have decided to make a public disclosure of my holdings. In considering how I might best do this, I have been conscious of the public's right to know as well as the basic rights of privacy of all Members of Congress and their families.

In 1963, when I assumed the office of attorney general of the Commonwealth of Massachusetts, I discontinued my law practice. Since then, as attorney general and U.S. Senator, I have not practiced law, nor have I been associated with any law firm.

I do not presently have any interest in a private business firm. The principal source of my income since 1967 when I became a Member of the U.S. Senate has been my salary. That salary was $30,000 annually from January 3, 1967, to March 1, 1969, and $42,500 annually since. The major supplement to my salary has been from lecture fees and published articles. That supplementary income has averaged $13,654.52 in the 7 years since I have been in the Senate. In addition, I have also realized for the past 7 years income totaling $10,523.12 from trustee and director fees. My total supplementary income from all of these sources has averaged $15,157.82 per year for the past 7 years.

In addition, I receive rental income from the properties I own on the islands of Martha's Vineyard, Mass., and St. Martin, French West Indies. I began renting the Martha's Vineyard property in 1969 and the gross income before expenses from that property for the past 5 years has averaged $1,993 per year. I began renting the St. Martin property in 1970 and the gross income before expenses from that property for the past 4 years has averaged $7,824.34.

I presently own the following stocks with market quotations as of May 2, 1974. During the 7 years I have served in the Senate, my dividend income during this period has averaged $291.23 per year.

(Value as of market quotations, May 2, 1974)

Shares	and stock:	
200	Pan Am Sulphur	$3,375.00
100	Fairtex Mills	250.00
2,000	Earl Graves Publishing	2,269.00
103	Columbia Pictures	270.38
216	Image Systems	243.00
1,100	Lewron TV	137.50
100	Fotomat	387.50
6,054	New Jersey Life	4,162.12
3,675	Rem Win Development Corp.	46,500.00
1,000	Great Lakes Silver Mines	30.00
2,000	Omega Alpha	1,500.00
105	General Felt & 7 conv. $100 bonds	687.75
1,000	Shareholders Capitol	312.50
15,000	Unicom	39,375.00
		99,499.75

My home at 535 Beacon Street, Newton, Mass., was purchased on January 4, 1963 for $38,500. The original mortgage in the amount of $30,000 is held by the Boston Five Cents Savings Bank.

Two houses and land at 32–34 Nashawena Park, Oak Bluffs, Martha's Vineyard, Mass. were purchased on July 1, 1958 for $18,000. The original mortgage in the amount of $15,000 was held by Anna V. Jeffers and later transferred to the Wareham Savings Bank on May 25, 1965. This mortgage was refinanced on December 26, 1969 for $86,000 with the South Boston Savings Bank.

A house—LaBatterie—at Friar's Bay, St. Martin, French West Indies, together with personalty, and 10 acres of land in Riley Hill were purchased on December 31, 1969 for $190,000. This property was financed by a personal loan from the Commonwealth National Bank on December 26, 1969 in the amount of $125,000 and with proceeds from the aforementioned mortgage on the Oak Bluffs Martha's Vineyard property.

A duplex apartment—cooperative—at 2500 Virginia Avenue, Washington, D.C. was purchased on October 5, 1972 for $67,500, subject to an existing mortgage in the amount of $24,528.57 held by the John Hancock Mutual Life Insurance Co.

Since I have no intention of liquidating any of these holdings, I am unable to state their present or future market value.

THE GENOCIDE CONVENTION: ANSWER TO QUESTIONS

Mr. PROXMIRE. Mr. President, U.S. ratification of the Genocide Convention would clarify any doubts other nations have on how the United States stands on the issue of genocide. For the past 25 years, the U.S. Senate has delayed any direct action on this treaty. There can be no compromising or wavering when it comes time to take a stand on the crime of genocide.

As the first human rights treaty signed by the United Nations, it was passed unanimously, due to the tremendous support given by our country. An entire generation has grown to maturity since the U.N. passed the Genocide Treaty. Ironically, the United States has not ratified this humanitarian treaty. Immediate consideration and passage will answer the questions raised by our failure to act. On an issue as important as genocide the United States should make its position clear. We absolutely oppose genocide. The American people's support of all attempts to prevent genocide would be shown by Senate ratification of the Genocide Convention.

SENATOR BENTSEN'S TESTIMONY ON THE NEED FOR INCREASED AGRICULTURAL RESEARCH

Mr. TALMADGE. Mr. President, on April 24 my distinguished colleague from Texas (Mr. BENTSEN) testified before the Subcommittee on Agriculture, Environmental and Consumer Protection of the Senate Appropriations Committee. He testified on the need for increased agricultural research to meet worldwide demand for food. I believe that the Senator from Texas has made an excellent case for expanded agricultural research, and I would like to share his remarks with the entire Senate. He has pointed out that in this time of worldwide food shortages and increased demand for American agricultural products the administration is actually reducing agricultural research. The personnel of the USDA Agricultural Research Service has

been reduced by almost 10 percent since 1970. He has also pointed out that the Nation's prosperity and the current huge contribution that agriculture makes to our balance-of-payments situation is due to the greatly expanded productivity of the American farmers in the past few decades.

Late in 1973, the Director of the Office of Management and Budget, Mr. Ash, and his assistants met with me, as the chairman of the Committee on Agriculture and Forestry, and with the ranking minority member to discuss the committee's budget priorities for fiscal year 1975. We told Mr. Ash that we felt that there should be increased funding in two areas: First, rural development; second, agricultural research. I had hoped that our recommendations would be seriously considered. The President's budget does provide for a small increase in the budget for agricultural research, but it is only sufficient to take care of the inflated cost of research materials, buildings, equipment and salaries of research personnel.

Mr. President, as a result of the passage of the Agriculture and Consumer Protection Act of 1973, the American taxpayer will realize substantial savings in the farm program. Secretary Butz has testified that this year's total USDA budget will reflect a reduction of $3.4 billion in subsidy payments as compared with the 1973 budget. It would seem that it would be wise to use at least a part of these savings from subsidy payments to invest in the future of American agriculture and in the future of the consumer of American agricultural products. The Senator from Texas has made this point eloquently and I commend his statement to the attention of the Senate. Mr. President, I ask unanimous consent that the statement be printed in the RECORD.

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

STATEMENT OF SENATOR LLOYD BENTSEN BEFORE THE APPROPRIATIONS SUBCOMMITTEE ON AGRICULTURE, APRIL 24, 1974

A. Rising food prices.

1. 40% fear food shortage within 10 years.

2. Food inflation affecting whole economy.

B. Success of agriculture research in increasing productivity.

1. Hybrid corn.

2. Egg production.

3. Milk production.

4. Meater hogs.

5. Meater chicken and beef.

C. De-emphasis in agriculture research.

1. 10.7% of budget in 1955, 2.5% today.

2. 10% reduction in manpower.

3. Same research capability as 14 years ago.

4. Administration's intent to reduce budget.

D. Proposal of Director's budget.

1. Increase of $27,000,000 over the President's.

2. Action oriented, not just cost of living increase.

3. Detailed programs for increasing research for the major food crops and livestock.

4. Forest research and rural development.

5. Legislation involved is Hatch, McIntire-Stennis, Rural Development Act of 1972, and Public Law 89-106 (special grants).

E. Feasible.

1. $3½ billion has been trimmed from the U.S.D.A. budget since 1972.

F. Summary.

1. Act now to benefit consumer.

Mr. Chairman, I appreciate this opportunity to appear before this distinguished Subcommittee. I am here to plead a case on behalf of the American consumer and ask this Committee to take steps to increase our farm productivity and bring down food prices.

Mr. Chairman, at one time this country was known as the "Land of Plenty". However, in the last year, headlines have not told of plenty, but of shortages and feared shortages, of price freezes lifted, of angry consumers, of irritated and confused farmers, and of devaluations and balance of payments problems. This situation has brought at a minimum genuine concern and at a maximum, bewilderment to the minds of Americans. It is no wonder that in face of these headlines, a recent study has revealed that 40% of our populaton fear a serious food shortage in this Country within the next 10 years.

Mr. Chairman, the situation is very serious. For the first time in years the percentage of the family budget being spent on food has increased. This fact has sent repercussions all through our economy. It is a warning that we in Congress must review what has kept our food costs down in the past, and increase our efforts to return to the days of plentiful, economical food.

One of our greatest assets in maintaining low food prices has been the unsurpassed productivity of the American farmer, aided to a great extent by the agricultural effort of this country. It is research that has given our farmers the knowledge and expertise to be able to produce plentiful quantities of food.

Past examples of our agricultural research accomplishments are dramatic:

Through the development of hybrid corn, and related production practices, National corn yields have doubled in the last 15 years.

Yearly egg production has increased from 200 to 300 eggs per hen due to research efforts.

Milk production per dairy cow has increased 50% in the last 15 years due to advances in genetic research, animal nutrition and management.

The hog has been completely re-designed so that the average yield of lard per hog has dropped 27% while red meat has increased 11%.

The poultry industry increased its production and efficiency greatly to the benefit of the consumer.

The poultry broiler was unknown forty years ago, but after extensive research, it is now the basis for a plentiful, economical supply of chicken.

In addition, the productivity spawned by research has enabled this country to greatly expand its export effort.

From one-half to three-fourths of the U.S. wheat crop is now exported, one-fifth of our corn, about one-third of our cotton, and more than one-half of our soybean crop. Our exports of farm products added $17.7 billion to our balance of payments in the calendar year 1973. These exports have played a large part in helping erase our trade deficit and stabilize the dollar.

Thus our country's investment in agricultural research and developments systems has paid off in abundant and low cost food for consumers at home and in outstanding commercial gains in world trade.

These successes are dramatic, but they have lulled this country into taking its agricultural productivity and research for granted. The emphasis on research in recent years has decreased, and it is a disturbing fact.

Mr. Chairman, in 1955, 10.7% of the total U.S.D.A. budget was expended in research and development. In 1973, only 2.5% of the U.S.D.A. budget was marked for research. This is a dramatic reduction and would have been even worse had not the Congress, on the wise recommendation of this Committee increased the 1973 R & D figures over what the present Administration had recommended.

Perhaps the clearest example of a reduction in the emphasis of Agricultural research is the fact that due to the policies of the current Administration, the personnel of the U.S.D.A. Agriculture Research Service has been reduced by almost 10% since 1970. This personnel reduction coupled with the fact that our funding of agriculture research has not kept pace with inflation, has forced our research effort to remain stagnant at roughly 1960 levels—fourteen years behind with today's skyrocketing food prices!

Mr. Chairman, I ask unanimous consent to insert at this point a chart which demonstrates how our expenditures for agricultural research have not kept pace with inflation.

(Chart not printed in Record.)

In addition, Mr. Chairman, in last year's budget, the Administration indicated that it is their long-range goal to continue to reduce the spending on Agriculture research. I quote from the President's 1974 budget where it stated the intention to:

"Curtail anticipated growth in agricultural extension programs and reduce Federal support for agricultural research of primarily local benefit and low National priority."

The definitions of this phrase are subject to question, but it is my position that we in Congress must not allow the research that can lower our food prices to be caught in this philosophy.

We must also be concerned about the question of whether we can continue to produce as abundantly as we have in the past. For a great many years, the United States has been blessed with favorable moisture for bountiful crops. But this could change, like it has in Africa. In fact, recently several scientists have begun warning that the world's weather is changing and that adequate rainfall could become a critical problem across the world.

Mr. Chairman, the clear de-emphasis of agriculture and the increasing problems in meeting our food demands are very disturbing and I appear before you today with the plea that we in Congress hear the cry of the consumer and increase our emphasis on Agriculture Research in an effort to bring down food prices and to prevent drastic food shortages.

There is an effective plan to do this in the form of a proposed budget which the Directors of the Stage Agricultural Experiment Stations have proposed. The Directors carefully analyzed their ongoing research programs in the line with the Nation's research needs and presented to the Secretary of Agriculture a budget for 1975 which would provide the appropriate funding needed to attack the problems which face America's agriculture. Yet the budget recently submitted to the Congress by the President reflects very little of their input. Instead, the President's is a "business-as-usual" budget, one which does not seem adequate to accomplish what must be done through research to provide our farmers and ranchers with adequate incomes without spiralling food prices for our consumers.

Mr. Chairman, permit me to provide to the Committee and submit for the Record a copy of the 1975 Federal budget for agricultural and forestry research as proposed by the Directors of the State Agricultural Experimental Stations. It is an action-oriented research budget, and I shall proceed to compare their request with specific items in the Executive Budget where appropriate.

The directors of the State agricultural experiment stations and the National Association of State Universities and land grant colleges support the following changes—increases—in Federal support for research—fiscal year 1975:

Hatch Act (P.L. 84–352 as amended 1955):	
1974 Appropriation	$70,104,000
Increases for 1975:	
Cost of conducting research	4,071,000
Research program expansion	21,063,000
CSRS (USDA) Administration	754,000
Total Hatch increase	25,888,000
1975—Total Hatch requested	95,992,000
McIntyre-Stennis (forestry research):	
1974 Appropriation	$6,203,000
Increase for 1975:	
Cost of conducting research	372,000
Research program expansion	1,884,000
Total McIntire-Stennis increase	2,256,000
1975—Total requested	8,459,000
Specific Grants (P.L. 89–106):	
1974 Appropriation	700,000
Increase Requested	3,081,000
1975—Total Requested	3,781,000
Special grants—colleges of 1890 (P.L. 89–106):	
1974 Appropriation	10,883,000
Increases for 1975:	
Cost of conducting research	653,000
Research program expansion	1,884,000
Total Increase (1890)	2,537,000
1975—Total Requested	13,420,000
Rural Development Act of 1972 (P.L. 92–419):	
1974 Appropriation	1,500,000
Increases for 1975:	
Cost of conducting research	86,000
Research program expansion	2,086,000
CSRS (USDA) administration	86,000
Total Rural Development increase	2,258,000
1975—Total requested	3,758,000
Total requested 1975	[1] 125,900,000

[1] Includes $490,000 Federal Administration.

Increases requested from Federal sources—CSRS—in support of agricultural, forestry, home economics and rural development research at the State agricultural experiment stations, forestry schools, colleges of 1890 and Tuskegee for fiscal 1975.

HATCH

A. Increased cost of conducting research (6% of fiscal year 74 appropriation), $4,071,000.

3. CSRS Administration, $754,000.

C. Program response to urgent needs, $21,063,000.

1. Improvement of environmental quality and conservation of natural resources, $4,647,0000.

a. Waste management and utilization, $1,450,000.

b. Reduction of pollution from chemicals used in agriculture, $1,450,000.

c. Improved management and conservation practices to reduce runoff and erosion, $1,747,000.

2. More efficient crop production through new and improved high yielding, better quality disease and insect resistant varieties, product quality improvement and improved production management practices and marketing, $6,811,000.

a. Corn, $906,000.

b. Soybeans, $1,450,000.

c. Grain sorghum, $544,000.

d. Wheat, $830,000.

e. Forages, $906,000.

f. Cotton, $1,025,000.

g. Fruits, $575,000.

h. Vegetables, $575,000.

3. More efficient livestock and poultry production through improved disease and insect control, reproduction, product quality improvement and production management systems and marketing, $6,814,000.

a. Beef, $3,262,000.

b. Dairy, $906,000.

c. Poultry, $906,000.

d. Swine, $1,450,000.

e. Sheep, $290,000.

4. Human nutrition and food safety, $2,791,000.

a. Improved nutritional quality of crops and livestock products, $800,000.

b. Protecting food from mycotoxins and other natural occurring contaminants, $800,000.

c. New and improved food products for domestic and export markets, $600,000.

d. Nutritional requirements of people, $591,000.

Total—Hatch, $25,888,000.

M'INTYRE-STENNIS

A. Increased cost of conducting research (6% of FY 74 appropriation), $372,000.

B. Program response to urgent needs, $1,884,000.

1. More efficient forest management practices, $652,000.

2. New and improved use of forest materials, $652,000.

3. Improved biological efficiency adapted to soils and climatic conditions, $580,000.

Total—McIntyre-Stennis, $2,256,000.

Specific Grants to Further USDA Programs Public Law 89–106:

1. Pest management systems including weeds, insects and diseases, $544,000.

2. Unique approaches to solving the energy crisis in rural America, $812,000.

3. Land use, $725,000.

4. Transportation and marketing problems of agricultural and forestry products, $1,000,000.

Total—Specific Grants, $3,081,000.

Special Grants at Colleges 1890 and Tuskegee Public Law 89–106:

A. Increased cost of conducting research (6% of FY 74 appropriation), $653,000.

B. Program response to urgent needs, $1,884,000.

Total—Special Grants, $2,537,000.

Rural Development:

A. Increased cost of conducting research (6% of FY 74 appropriation), $86,000.

B. Program response to urgent needs, $2,086,000.

C. CSRS Administration, $86,000.

Total—Rural development, $2,258,000.

Total Increase in program support, $36,020,000.

Mr. Chairman, appropriations under the Hatch Act of 1887 in the President's budget provides for increased funds to only meet increased costs of conducting research, and as are required to be set aside for Federal administration. No additional funds for expanding the research effort of the State Agricultural Experimental Stations are included under this authorization. However, the Directors of these stations have proposed, and I endorse, additional funding of $21,844,000 under this authorization. They have indicated the topics which they feel need to be more adequately studied.

These include:

1. An expanded research effort to maintain and improve the quality of our natural resources of soil, water and air as it relates to agricultural forestry. Research to be undertaken will include waste management and utilization, especially as concerned with animal production systems; studies concerned with the reduction of pollution as a result of the use of chemicals in agriculture, and research on improved management and conservation practices to reduce runoff and erosion, thus protecting our soils and water supplies. Funds requested are $4,647,000 for this area of work. In comparison, the President's budget does not provide for any expansion of effort in this area under this authorization.

2. An expanded research effort designed to study more efficient methods and provide superior materials for crop production. To be investigated are new and improved high yielding, better quality disease and insect resistant varieties, improved production, management and marketing practices. Emphasis would be on major crops including corn, soybeans, grain sorghum, wheat, forage crops, cotton, fruits and vegetables. An appropriation of $6,811,000 is requested to expand this effort. In comparison, the President's budget does not provide for any expansion of effort in this area under this authorization.

3. An expanded research effort to provide our country with more efficient livestock and poultry production through improved disease and insect control, improved reproductive efficiency, improved product quality, and improvement in production management systems and marketing. Included would be investigations on beef, dairy products, poultry and poultry products, and swine and sheep problems. An appropriation of $6,814,000 is requested. In comparison, the President's budget again does not provide for any expansion of effort in this area.

Mr. Chairman, this portion of the budget, and the one described just before it, are perhaps the most important part of the total proposed budget. It is these sections that are most vital to fund in order to increase our farm productivity. And it must be our goal to increase productivity in order to lower production costs and in turn lower the price of food to the consumer.

Also included in the Director's budget is a research effort on human nutrition and food safety to expand the work in nutritional quality of crops and livestock products, protecting our food from mycotoxins and other naturally occurring contaminants, development of new and improved food products for domestic use and for export markets, and to more fully understand the nutritional requirements of people. An appropriation of $2,791,000 is recommended in this work.

Mr. Chairman, our Nation also needs expanded research efforts to assure an adequate supply of forest related products such as lumber and paper. The McIntyre-Stennis Act was passed to enable an expanded research effort in this important area. I note that the President's proposed budget provides only funds to theoretically offset the increased cost of doing research which face the participating schools. I urge the Congress to increase these funds in line with the recommendations made by the scientists and administrators involved: to provide an additional $1,884,000 so that research can be expanded on more efficient forest management practices new and improved uses of forest materials, and to improve the biological efficiency of forest trees in their adaptation to diverse soil and climatic conditions. This is important, Mr. Chairman, in view of the lumber shortage this country is facing. Just behind the need for economical food is the critical need for affordable housing. And affordable housing is an impossibility unless we can keep lumber prices affordable.

Mr. Chairman, Public Law 89–106 permits the Secretary of Agriculture to make specific grants to further the program of the U.S.D.A. Under this authorization, the President's proposed 1975 budget carries $3,600,000 in funds for projects on environmental quality, food and nutrition, soybean, beef and pork production. Mr. Chairman, though the Director's budget does not contain these funds

in the form of grants, and I am not adverse to these special grants. Rather, I feel that these topics are most suitable subjects for research under the Hatch appropriation: That it would be wise for the Congress to provide the additional Hatch funds which I have outlined to this Committee earlier in my testimony. At the same time, I bring to the Committee's attention some topics which the Directors of the State Agricultural Experimental Stations have proposed to the Secretary of Agriculture for inclusion under this authorization.

They include:

Research on unique approaches towards solving the energy crisis in rural America—$812,000, research on Land Use—$725,000, research on transportation systems and transportation problems as they relate to the marketing of agricultural and forestry products—$1,000,000.

Please note that the Director's budget contains a lower appropriation for grants because it proposes much of the same research under the Hatch Act appropriations. This enables each project to be benefited by the required State matching funds.

The Director's also project research on pest management systems including weeds, insects and diseases, an item also included in the President's budget.

Mr. Chairman, funds are appropriated under Public Law 89–106 for the Secretary of Agriculture to distribute to the Land Grant Colleges of 1890 and Tuskegee Institute in support of their research programs in agriculture. The proposed 1975 budget provides new monies to cover the increased costs of doing research but provides for no expansion of their research efforts. I recommend to you that $1,884,000 in additional funds be provided these institutions in line with the expanded research effort which they have projected to undertake. Mr. Chairman, at this point may I insert for the Record information on how these funds are to be utilized:

Distribution of funds research request, colleges of 1890–1975 budget

Research program and code and topic:	*Funds*
1.02—Water and water sheds	$14,000
1.04—Environmental quality	57,000
2.08—Alternate uses of (forested) land	64,000
3.01—Corn	16,000
3.02—Grain sorghum	8,000
3.06—Soybeans	221,000
3.10—Cotton	9,000
3.13—Fruit	18,000
3.14—Vegetable crops	82,000
4.01—Beef	89,000
4.03—Poultry	35,000
4.04—Sheep and wool	21,000
4.05—Swine	16,000
4.07—Aquatic food animals	17,000
5.01—Food and nutrition	550,000
5.03—Rural development	636,000
6.01—Farm adjustment, prices, and farm income	31,000
Total	1,884,000

And, Mr. Chairman, the last item of the budget I wish to address the Committee about is concerned with appropriations under Title 5 of the Rural Development Act of 1972. Last year a total of $1,500,000 was provided under authorization of the legislation, far below the level of funding indicated in that Act. The President's budget indicates no change in this item for 1975 although as much as $10,000,000 is provided for by the authorizing legislation.

The Directors of the State Agricultural Experiment Stations and the officials of the National Association of State Universities and Land Grant Colleges have recommended an increase of $2,258,000 to finance the research effort which is being undertaken in this vitally important topic. These people are located out in rural America; they know what the problems of rural development are. I endorse their recommended increase in funding and urge this Committee to do likewise.

Mr. Chairman, the Director's budget calls for an increase of $27,198,700 over the President's budget. However, I believe it is feasible to provide for this increase. Secretary Butz has testified that this year's total U.S.D.A. budget will reflect a reduction of $3,449,000,000 in subsidy payment as compared with the fiscal '73 budget. In addition, the expenditures of the Commodity Credit Corporation have been reduced $247,000,000 since fiscal 1972. These two reductions represent a savings of over three and a half billion dollars since 1972. In face of this savings, I believe the Director's request for an increase of $27,198,700 in agricultural research is a feasible request.

Secretary Kissinger recently proposed that we export our expertise and technology to help increase the world's fertilizer production capability. If we can do this, I certainly think we can take the steps to increase our own total agricultural productivity.

Mr. Chairman, at no time in our history has a strong productive agriculture been as important to our Nation's welfare as today. As we project the role that an adequate, hopefully bountiful food supply can play in our country's future, it becomes even more important that we recognize the mammoth task to be undertaken by our agricultural scientists. They must, through their research efforts, help guarantee that our citizens have wholesome and plentiful food available to them, that there will be food available for needed foreign trade, and that likewise we will have food which can be used as a weapon of good will to insure peace in the world. Our scientists need adequate support so that they may accomplish the work that needs to be done.

Today we are experiencing an energy crisis. It has created unemployment and misfortune for many of our citizens. Had the Government been foresighted enough, Mr. Chairman, to have developed an expanded energy research program in previous years, this energy crisis might have been avoided and with future fuel supplies protected and conserved as well. I seek today to orient our agricultural research budget toward avoiding a food shortage.

The anger the American public has displayed over lengthy lines at gas stations will seem minor compared to their anger if we in Congress fail to meet the challenge of increased food demand. A food shortage must not be allowed to occur in this country.

Mr. Chairman, that concludes my statement.

NUCLEAR THEFT AND HOMEMADE BOMBS

Mr. RIBICOFF. Mr. President, on April 30, I placed in the RECORD a consultant's report prepared for the Atomic Energy Commission which found that the AEC's present system for safeguarding commercial nuclear materials is "entirely inadequate" to prevent theft by terrorist groups and subsequent manufacture into homemade bombs.

Since then, two articles have appeared which zero in on the central safeguards issue: Namely, should industry or Government bear the awesome responsibility of protecting the weapons-grade materials used in the nuclear power industry?

An editorial in today's Washington Post, "The Basement Nuclear Bomb," stresses that legislation reported by the Subcommittee on Reorganization, Research, and International Organizations anticipates this problem and provides a solution to it. The bill, S. 2744, the Energy Reorganization Act of 1974, establishes a Bureau of Nuclear Materials Security in a new Nuclear Safety and Licensing Commission. One of the functions of the Bureau will be to determine whether it should contain a Federal security force to take on all or some of the functions of safeguarding commercial nuclear materials.

It should be noted that Federal authorities are already responsible for safeguarding nuclear materials in the weapons program. A key consideration in determining whether Federal protection should be extended to the nuclear power industry as well as the AEC's own projection that there will be more plutonium in the private sector after 1980 than in the Government sector—including the Government's weapons program.

An article in the New York Times of May 1, "AEC Orders Utilities to Arm Guards," reported that guards at nuclear powerplants run by Consolidated Edison in New York, and by other utilities elsewhere in the Nation, were being armed as part of the AEC's continuing policy that private industry will have to shoulder the security burden at the plants. The article went on to quote a "high nuclear industry source" as expressing concern over arming the guards "because the caliber of industrial guards is not very high—they are not exactly an elite corps."

Both of these articles make clear that the AEC has not yet come to grips with the safeguards problem in the industrial sector. This situation makes passage of the Energy Reorganization Act—and its safeguards provision—all the more urgent.

I ask unanimous consent that these two articles be printed in the RECORD.

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

[From the Washington Post, May 2, 1974]

THE BASEMENT NUCLEAR BOMB

The age of the homemade "basement" nuclear bomb is upon us. The necessary materials can be stolen from nuclear power plants, the necessary skills are widely available in the civilian economy, and the necessary information can be gotten from the public library. This means that nuclear weapons no longer need be the monopoly of a handful of national governments, as is assumed by past formal efforts to control the spread of nuclear arms. Small groups of determined individuals—terrorists—could acquire their own bombs.

A few specialists have been worried about this prospect for years. A three-piece New Yorker profile about one of them, physicist Theodore B. Taylor, brought the issue to wide public attention last December. Finally aroused by this and other pressures, the AEC responded by strengthening its "safeguard" regulations and by commissioning five experts (including one from the AEC itself) to make an internal study. Their report, a devastating document terming the AEC's *strengthened* regulations "entirely inadequate," was released over strong AEC objections the other day by Sen. Abraham Ribicoff (D-Conn.). His executive reorganization subcommittee has been studying whether the agency is organized properly to handle its quite different development and regulatory functions.

The problem seems to be this: Out of a belief that there was no point to keeping

the information classified if the Russians had it, a great deal of information useful to a basement bomb builder has entered public circulation. Meanwhile, the AEC and the atomic power industry, eager to promote the peaceful uses of atomic energy, have concentrated on the safety of power plants and not on the possibilities for illicit bombs. So it is, says the new AEC study, that 15 men, including as few as three "insiders," could steal enough nuclear material for a bomb and make one. The educational level, organizational capacity and political intensity of some of the Arab terrorists suggests to the authors of the study one way this might come about.

Not everyone who has studied this problem thinks it can be solved without an actual terrorist threat or blast. It is apparent, however, that the problem is every bit as urgent as Taylor and the authors of the AEC study believe. Fortuitously, one of the study's recommendations, for a special federal nuclear protection and transportation service, has been precisely anticipated in the AEC reorganization proposal now being pushed by Sen. Ribicoff. Another recommendation is for better intelligence on terrorist groups, to be obtained by infiltration and other operational and organizational means. It would seem essential, too, to review the policy of declassifying weapons literature—unless the horse has already been completely stolen from this particular barn. And various technical steps can be taken.

In our gathering national drive to develop new sources of energy, there may be a strong temptation to overlook a problem so grim and exotic as a terrorist's basement bomb. But this would seem to be woefully shortsighted. "If we are some day to confidently rely on nuclear power as a main source of our electricity," says Sen. Ribicoff, "we must begin now to make the handling and transportation of nuclear materials airtight and foolproof. Otherwise we will be held hostage by the very technology that is supposed to give us self-sufficiency and prosperity."

[From the New York Times, May 1, 1974]

A.E.C. ORDERS UTILITIES TO ARM GUARDS

(By David Bird)

The Atomic Energy Commission, fearing possible sabotage, is ordering utilities throughout the country to hire armed guards to protect nuclear plants, despite the protests of some utilities—including the Consolidated Edison Company—that the weapons will add new dangers.

A study on which the order was based cited "recent trends of violence and coercion by certain subcultures of modern society."

Guards at Con Edison's Indian Point nuclear facility, 24 miles up the Hudson River from New York City, reported began getting guns last week.

A spokesman said the company had told the commission that it did not want to arm its guards because of the danger of accidents but, when the A.E.C. insisted, Con Edison went along.

INDUSTRY VS. NATIONAL DEFENSE

Bernard P. Stengren, the company spokesman, said, "We are going to issue guns," but he refused to discuss the program further. "I'm not going to get into details of security," Mr. Stengren said.

Other utilities in the metropolitan area said they would go along with the A.E.C. directive. Northeast Utilities, a major electric company in Connecticut, said it had prepared a plan for security without guns but now expected to have to revise that plan in view of the commission's feelings.

The commission said that many utilities had objected to providing their own armed guards on the ground that protecting nuclear plants from sabotage was a national-defense function.

"The industry does not feel that it should be responsible for the common defense of the country," said Dr. James A. Powers, chief of the A.E.C.'s Materials Protections Standards Branch. "They feel it is a Government responsibility."

But the commission decided, Dr. Powers said in an interview that if nuclear power is to be developed privately, private industry will have to shoulder the security burden at the plants.

A high nuclear industry source who declined to be quoted by name, said that the companies were concerned over such potentially dangerous situations as "sabotage, terrorist actions and blackmail threats."

There was concern over arming the guards, the source said, "because the caliber of industry guards is not very high—they're not exactly an elite corps."

"In the presence of delicate machinery, you don't like to provoke a gun battle," he added.

The Atomic Energy Commission requirements are based on a 10-page set of standards called "Industrial Security for Nuclear Power Plants," issued last year by the American National Standards Institute, Inc., a private concern. The standards, the institute says, are very general because "specific provisions of industrial security programs must be regarded as highly sensitive information."

The manual makes no specific recommendation that firearms should be used, saying only that "each member of the security force shall be provided with equipment necessary to discharge his assigned duties effectively."

On the matter of guns, the manual says: "The extent to which these [security] forces are supplied with protective equipment, such as firearms, tear gas, crowd control devices, or nightsticks, as well as the duties assigned these forces, must be carefully assessed by the owner organization. The merits of arming security forces to meet the threats . . . shall be carefully weighed against the potential hazards associated with posible misuse of firearms."

VARIETY OF POTENTIAL THREATS

The manual says the nuclear plant's security system should be able to respond "to a wide variety of potential threats," ranging from "a single disgruntled employe" to "spontaneous and undisciplined actions of a relatively large group of people involved in mob activities associated with civil disturbance."

The manual says some protection is beyond the scope of a private company.

"Protection against actions associated with deliberate assaults by trained para-military groups or military units of a foreign power," it says, "is not covered by this standard. Protection against such actions is the responsibility of the U.S. Government."

The commission, which said the standards must be supplemented by "on-site, armed and uniformed guards," gave nuclear plant operators until March 6 to come up with a plan for individual plants, with the new procedures generally to go into effect by June 15. The A.E.C. said it had been informed that Con Edison's procedures were already in effect.

PERMANENT UNION AND MAXIMUM SELF-GOVERNMENT FOR PUERTO RICO

Mr. JACKSON. Mr. President, I wish to call to the attention of my colleagues the recent testimony of the Governor of Puerto Rico, the Honorable Rafael Hernández Colón, before the joint ad hoc advisory group appointed by the President of the United States and the Governor of Puerto Rico to consider the future development of Commonwealth.

Congress initiated in 1950 a process which gave birth to self-government for our fellow citizens in Puerto Rico, when the Commonwealth was constitutionally established on July 25, 1952. This new constitutional relationship—which former Chief Justice Warren called "perhaps the most notable of American political experiments in our lifetime"—has brought about dynamic social and economic progress for Puerto Rico. Because of it, Puerto Rico has been hailed by many observers as "the showcase of the Caribbean."

At the very outset of this novel and challenging enterprise, however, we recognized that this unique experiment in American federalism would require adjustments to our relationship in the future. Pragmatic experience would be the best guide in determining those areas where change was required. The role of the ad hoc advisory group is to make recommendations for such change in light of experience and the changing desires of the people of Puerto Rico.

The ad hoc advisory group, chaired by the distinguished senior Senator from Kentucky (Mr. COOK), and the great Puerto Rican statesman, Luis Muñoz Marin, has already heard 70 witnesses, including proponents of statehood, independence, and different ways of advancing Commonwealth status. The hearings conducted Saturday, April 27, were devoted to the presentation made by Gov. Hernández Colón and members of his cabinet.

Governor Hernández Colón has made a valuable and important statement on the future growth of Commonwealth status. I believe his remarks will be of considerable interest to the Senate, not only because he is the duly elected chief executive of the Commonwealth government, but because his approach throughout is thoughtful and imaginative. In his discussion of the application of Federal laws to Puerto Rico, of Puerto Rico's entitlement to share in Federal programs, and of Puerto Rico's appropriate international role, the Governor has combined perceptive analysis with challenging proposals. I hope his statement will receive careful study, not only by the ad hoc advisory group, but also by interested Members of Congress.

If the work of the ad hoc advisory group is to be fully effective, we must be prepared to follow through on its proposals for changes in existing policies and programs. As chairman of the Senate Interior Committee—I intend to do everything I can to assure that the group's recommendations receive full consideration by the Congress.

I ask unanimous consent that Gov. Hernández Colón's statement to the ad hoc advisory group be printed in the RECORD.

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

TESTIMONY OF THE HONORABLE RAFAEL HERNANDEZ COLON

The appointment of this Ad Hoc Advisory Group by President Nixon and myself is the latest in a series of steps towards the development of Commonwealth status initiated by President Kennedy and Governor Muñoz

Marín in an exchange of letters which took place on July 25, 1962. That exchange which opened the question of further developing Commonwealth led to the creation of the Status Commission by Congress. The Commission recommended that a plebiscite should be held in Puerto Rico to determine whether the Puerto Rican people favored statehood, independence or developing the Commonwealth status. The people of Puerto Rico chose the latter, and thereupon the report of the Status Commission recommended that the President of the United States and the Governor of Puerto Rico appoint an Ad Hoc Advisory group or groups to study and recommend to the Congress of the United States and to the Legislature of Puerto Rico specific areas for Commonwealth development.

The Charter of this Committee directs it to examine the question of the application of federal laws to Puerto Rico. Involving, as it does, the fundamental issue of distribution of power, authority, and responsibility between the United States and Puerto Rico, this agenda goes to the very core of the question of Commonwealth development.

THE MEANING AND MODEL OF COMMONWEALTH

Before entering into my specific proposals for reforms, I would like to try to put the Commonwealth experience shared by Puerto Rico and the United States in its broadest possible perspective.

We are passing through a moment of history when many international institutions and relations are being severely strained, when even great nations are wondering how they can solve their complex, inter-related problems. Looking at this world-wide disarray, and the search for new formulas, I believe we can now see that our unique Commonwealth experience in interdependence was many decades ahead of its time when it was launched in 1952. Shortly thereafter, Chief Justice Earl Warren described it as "perhaps the most notable of American political experiments of our lifetime." Today, this experiment and its subsequent success have become highly relevant to the larger canvas of world affairs.

The entire concept of interdependence now has an urgent reality for the world as a whole. Until a year ago, interdependence was largely a principle to which nations paid lip service, but to which they devoted little concrete action. It has taken the recent world-wide energy crisis to bring home dramatically to all nations that interdependence is now a transcendent fact, which they can ignore in the future only at their peril.

Despite the growing awareness of most nations, however, their attitudes and mechanisms for coping with this major new fact of history still lag far behind the needs and the realities.

A notable exception to this has been the relationship between the United States and Puerto Rico. In a world-wide context, it is now increasingly clear that our Commonwealth relationship has been fully as important and as advanced as the pioneering of the European Common Market. The basic principle of interdependence underlies both. And while the European Economic Community is the example of how highly developed, sophisticated nations of approximately equal weight can contribute to their own well-being through interdependence, the United States and Puerto Rico have shown that it is equally possible to evolve successful interdependence between a great, wealthy continental power and a small island community—interdependence in which the self-determination, the interests, and the dignity of both partners are observed.

A well-known Spanish scholar Julián Marías, recently looked at the Puerto Rico-U.S. experience from the outside in a broad, international perspective, and concluded:

"Puerto Rico has created, in the reality and doctrine of the Commonwealth, one of the most original and fruitful social-political formulas of our epoch. . . . Who would suspect that in a tiny island in the Caribbean has been hammered out a concept of universal range and of the greatest contemporaneousness?"

On the economic side, the success of the Commonwealth has been dramatic, and the mutual economic benefit has proved to be enormous. Puerto Rico's per capita income has soared from $373 in 1952 to $1,834 in 1973. And the United States, on its side, has seen its sales to Puerto Rico rise to over $2.5 billion yearly—an amount greater than its exports to all but four major countries: Canada, Japan, Great Britain and West Germany. These are large, populous and prosperous countries. But close behind West Germany's 60 million people and great Britain's 56 million, the 2,800,000 people of Puerto Rico are the next most important customers in the world for U.S. products. We buy notably more from the United States than the 52 million people of France, the 55 million of Italy, or the 100 million of Brazil. In other words, the economic benefits of Commonwealth have by no means been a one-way street—both partners have benefited.

How did this come about?

It came about at the end of World War II, when it was clear that all colonial relationships were outmoded, and that the principle of self-determination had to be the measure of all existing political relationships among the peoples of the world. Almost all the former colonies made the plunge directly from colonial dependence to separate nationhood, casting off both the good and the bad of relations with their former colonial masters, often in disregard of important mutual interests built up over many decades or even centuries.

Puerto Rico took a different course, though it felt equally strongly about the need for self-determination, it felt it could best find freedom through a new form of association. Commonwealth sprouted as an experiment in structuring this form of freedom.

Since the time when the Commonwealth "experiment" began, we have had two decades of pragmatic experience, two decades of much struggle and considerable success, two decades of trial and error to achieve that success, and two decades in which to detect empirically those parts of our mutual relationship which are still insufficient, or are inappropriate or self-contradictory, or require modification.

This Committee was chartered to make recommendations to implement the desires of the people of Puerto Rico and to review their existing relationship with the United States, so that they may exercise a maximum of self-government within the Commonwealth concept.

BASIS PREMISES

For the work of this Committee to be fruitful there are certain basic premises that must guide its deliberations. It is fundamental that this Committee should recognize clearly:

(1) That, although citizens of the United States, the Puerto Ricans collectively are a people recognized as such by the United States.

(2) That the people of Puerto Rico have, and the United States recognizes that they have, the right to self-determination.

(3) That the Puerto Rican people in the exercise of their right of free determination have expressed their wish to be permanently associated with the United States as a Commonwealth

(4) That in the further exercise of this right the Puerto Rican people have expressed their desire for a maximum of self-government.

(5) That maximum self-government may be achieved both by expanding the powers of the government of Puerto Rico and granting participation in those powers to be exercised by the federal government.

(6) That the Commonwealth relationship is a fresh and creative concept within American constitutional law and there are few constitutional limitations on its development to maximum self-government.

(7) That Commonwealth relationship is premised by Congress and Puerto Rico on the principle of consent of the governed.

(8) That commitment to the principle of government by the consent of the governed demands that authority be exercised with the participation of the governed.

(9) That Puerto Rico does not aspire to be a state and therefore it cannot ever be granted such participation through electing senators or representatives.

(10) That Puerto Rico does not aspire to be independent and, therefore, federal authority over certain parts of Puerto Rican life will always exist.

(11) That to answer the needs of the people of Puerto Rico for greater self-government, a new and creative manner must be structured whereby the people of Puerto Rico may fully determine or adequately participate in the decisions affecting their lives, their well-being and their dignity.

Self-determination, self-government, and government by the consent of the governed are democratic values inspired by the basic principle of political freedom. They lie at the basis of Commonwealth, a political creation addressed to the problems of colonialism, which is the negation of the liberty of man.

In the development of a new political institution these concepts were planted as seeds some years ago. They have sprouted and grown, and the flowers are budding. The people of Puerto Rico have given us a mandate to bring the flower of self-government into full bloom. That is our task, and we must meet it with creativity as well as maturity.

Perhaps, the basic problem which some members of Congress and others have had from time to time in wrestling with Commonwealth is the unique character of this concept. To understand the unfamiliar—Commonwealth—they sometimes tend to resort to the familiar—Statehood. Any such comparison hinders understanding and limits creativity

Commonwealth is a political relationship between Puerto Rico and the United States which is unique in its constitutional features and very different from Statehood. The federation of States responds to the needs of government of a country which is close-knit, and culturally homogeneous, however vast. Commonwealth responds to the needs of government of two peoples with profound cultural diversity, but with common basic values and fundamental objectives.

It is most critical to the work of this Committee that these basic and deep conceptual differences be kept constantly in mind.

PERMANENT UNION AND MAXIMUM SELF-GOVERNMENT

Commonwealth status is the combination of permanent union with maximum self-government.

I discussed this subject at length in my Constitution Day speech on July 25th of last year, and I would like to share with you some of the thoughts I expressed on that day.

I then pointed out that "permanent union" is not simply an abstract legal or political concept. Rather, it is the living, pulsating reality of our daily existence. Our union is made up of: the tight bonds that have been woven between the two peoples over almost eight decades of political association; the countless commercial and financial

transactions that comprise the huge U.S.-P.R. commerce, and dealings occurring every day between the Island and the mainland; the participation and earned rights of Puerto Ricans in national programs such as social security and veteran programs; the reality of the almost two million Puerto Ricans who make their home in the continental United States, and the constant and growing circular movement of hundreds of Puerto Ricans going daily to the United States and returning to the Island; the thousands of continental Americans who have settled and married in Puerto Rico and the hundreds of thousands who periodically visit our shores; the discharge of citizenship obligations to the federal government by fighting with distinction in every war in which the United States has participated in this century; the basing of operations of the different armed services to suit strategic requirements of the United States; the shared beliefs, values and ideals, in particular our mutual fight for liberty, the essential equality and dignity of human beings and our common dedication to political democracy.

Of all the ties between Puerto Rico and the United States, the deepest and most fundamental is our common citizenship. With great farsightedness it was conceived when granted as the basis on which a solid union could be achieved between the people of Puerto Rico and the United States untrammelled, by the structures inherent in the federal union devised by the Constitution. Historically, this was the policy pursued by the Federal government when citizenship was first recommended for Puerto Rico. From the very beginning in 1898, the relationship was a new departure in the creative American system—and it has been kept so both before and after citizenship.

President Taft initiated the proposal to grant citizenship to Puerto Ricans in his Annual Message to Congress of December 6, 1912.

The relevant part of his message reads as follows:

"The failure thus far to grant American citizenship continues to be the only ground of dissatisfaction. The bill conferring such citizenship has passed the House of Representatives and is now awaiting the action of the Senate. I am heartily in favor of the passage of this bill. I believe that the demand for citizenship is just, and that it is amply earned by sustained loyalty on the part of the inhabitants of the island. But it should be remembered that the demand must be, and in the minds of most Porto Ricans is, entirely disassociated from any thought of statehood. I believe that no substantial approved public opinion in the United States or in Porto Rico contemplates statehood for the island as the ultimate form of relations between us. I believe that the aim to be striven for is the fullest possible allowance of legal and fiscal self-government, with American citizenship as the bond between us; in other words, a relation analogous to the present relation between Great Britain and such self-governing colonies as Canada and Australia. This would conduce to the fullest and most self-sustaining development of Porto Rico, while at the same time it would grant her the economic and political benefits of being under the American flag.*

Secretary Stimson's legal adviser on these matters (i.e. The Law Officer of the Bureau of Insular Affairs of the Department of War) was a young chap out of Harvard Law School named Felix Frankfurter. In a memorandum to Stimson in 1914, he described the then-proposed grant of citizenship as a means of recognizing the permanence of the relationship between the United States and Puerto Rico, which would remove, "the great source of political unrest on the Island", and give Puerto Ricans, "a securer technical international standing".

Citizenship, which has constitutional permanency, since granted in 1917, has been the strongest among the many threads in the fabric which links the United States and Puerto Rico. And it is precisely the strength and resilience of this vital fabric which makes possible the further development of local, self-government in Puerto Rico with no jeopardy whatsoever to the permanence and solidity of association between Puerto Rico and the United States.

In other words, there is no threat to our union from the realization of the desires of the people of Puerto Rico for a greater share of governmental power, as expressed through free and open democratic processes.

There are those who hold that permanent union means the degree of authority which the federal government exercises over Puerto Rico. According to them, the more authority the federal government has, and the less self-government Puerto Rico has, the more permanent is the union.

The fallacy of this theory is obvious. Modern world history could not demonstrate more clearly that permanent political relations cannot be based on domination of one side over the other.

On the other hand, the Puerto Rican experience shows that the willingness of the United States over the years to listen and respond to the legitimate aspirations of the people of Puerto Rico for expanding self-government has produced a strong and enduring union. As I stated on Constitution Day last year, our history demonstrates that as the people of Puerto Rico have acquired greater self-government and greater freedom to direct their own affairs, their union with the United States of America has gained greater strength. The truth is that the union is stronger today than ever before.

Permanent union is not at issue, and we can therefore concentrate on the development of Commonwealth without any worry on this score.

Now to some specifics.

FEDERAL REGULATORY LAWS: THE NEED FOR REFORM

Literally thousands upon thousands of federal statutes and regulations are in force in the United States today, and almost all of this vast body of federal law applies to the Commonweatlh of Puerto Rico in the same manner as it applies to the States.

The exceptions, which are few in number, are those specific exemptions contained in the Puerto Rico Federal Relations Act and a handful of federal laws which, by their own terms, are not extended to the Island or apply here differently than in the States.

This situation is consistent with the Commonwealth status as it has developed until now. In accepting Public Law 81–600, the people of Puerto Rico agreed to Section 9 of the Federal Relations Act, which provides that, "The statutory laws of the United States not locally inapplicable . . . shall have the same force and effect in Puerto Rico as in the United States . . ." They also accepted Section 58 which ratified existing federal laws not inconsistent with the creation of the Commonwealth.

Nevertheless, actual experience over the past two decades has led to a growing discontent with the reach and impact of federal laws and with the processes by which they are extended to the Island. The reasons for this discontent are real and substantial.

First, for reasons of basic principles, a society which strongly believes in democracy, as does Puerto Rico, must have meaningful participation in the basic decisions which affect it.

Second, many years of pragmatic experience have shown that this lack of adequate participation in Congressional decisions frequently produces federal policies which, while beneficial to the mainland, are inadvertently detrimental to the best interests of the people of Puerto Rico. Congress will occasionally take into account the necessity for variances in its policies to deal with the special circumstances of Puerto Rico, as in the case of the special wage committee for Puerto Rico authorized by the Fair Labor Standards Act. Ordinarily, however, Congress does not focus on the question of whether its laws will work well in Puerto Rico, and with its multiple responsibilities, this is quite understandable. As a result, we often find ourselves limited in our ability to resolve the many serious social and economic problems of Puerto Rico, because of federal policies which respond to the quite different social and economic realities of the continent.

Third, the mandate of the people of Puerto Rico expressed in the plebiscite vote of 1967 is to develop Commonwealth to a maximum of self-government within the framework of our permanent association with the United States. The difficulty in carrying out this mandate lies in securing agreement on what particular activities are properly a matter of sole Commonwealth concern, which activities are solely of federal concern, and which areas are suitable for joint responsibility.

The evolution of United States constitutional doctrine during this century has weighed heavily in favor of Federal power vis-a-vis State authority. In its regulatory activities, where the United States Congress can point to any connection with interstate commerce, however remote, its legislation will be judicially upheld.

Under its sweeping Commerce Clause powers Congress has erected a vast network of Federal laws which have been automatically extended to Puerto Rico without an independent examination of the question whether, with respect to geographically remote Puerto Rico, there is a substantial federal interest in extending the particular federal law to the Island.

We maintain, however, that our claims for autonomy must be judged within the context of the Commonwealth-United States relationship, and not within the context and principles of the Federal-State relationship. One great merit of Commonwealth is that there is no constitutional compulsion on Congress to legislate for Puerto Rico as it does for the States, and that in its determi-

*The House of Representatives Report (62nd Congress, 2nd Session, Report 341 accompanying H.R. 20048) dated February 20, 1912, recommending the citizenship bill for Puerto Rico which the House passed, quoted extensively from the then last Annual Report from the Secretary of War (The Department of War then had responsibility for Puerto Ricans affairs.) The following passages are of particular interest. Said Secretary Stimson:

"I think the time is arriving, if it has not already arrived, when it is the part of honest and farsighted statesmanship frankly to declare our position as to the ultimate interrelation between the United States and Porto Rico so far as it is possible to do so without unduly hampering the future in wisely dealing with this problem. The connection between Porto Rico and the United States is permanent and has been from the beginning regarded as permanent. There is every reason, therefore, why the thoughts and habits of the people of both countries should as soon as possible begin to shape themselves toward the assumption of their final civil relationship. I am of the opinion that the aim to be striven for is the fullest possible allowance of local and fiscal self-government, with American citizenship as the bond between us, in other words, a relationship analogous to the present relation between England and her over-seas self-governing territory".

nation of the interstate effects of the particular activity being regulated, Congress is free to exercise an independent judgment with respect to Puerto Rico.

Development of the central political concept on which Commonwealth is based—autonomy, the power and right to govern ourselves in matters which are of principal concern only to us—will depend in large part on our success in asserting local control over matters fundamentally local in nature.

I would like to offer some examples of specific federal laws to illustrate this important point.

There are numerous federal statutes which have been enacted by Congress under its Commerce Clause powers and extended to Puerto Rico without an adequate examination as to whether the activities regulated in Puerto Rico have more than a minimal impact in the continental United States.

The federal environmental laws, such as the Clean Air and the Water Pollution Control Acts, are a good example. I firmly support the goals of these laws; and the agencies implementing them are doing a fine job, but, in fact, we in Puerto Rico have legislated in the environmental field almost as extensively as the federal government. I fail to see the substantial impact which the air and water of Puerto Rico can possibly have in the continental United States. The need for federal intervention in the States is clear, given the interstate nature of environmental problems. In Puerto Rico, however, separated from the United States by a thousand miles of ocean, there is no clear federal interest in exerting jurisdiction.

Before proceeding to other examples, I would like to stress, as emphatically as possible, that our request for exclusive jurisdiction in fields such as environmental protection is not based on any desire, on our part, to slacken the attack on pollutants. Within the necessities of continued economic development and the constraints of limited financial and technological resources, we are as committed to the preservation and enhancement of our environment as is the federal government. The important point is that the redistribution of jurisdiction between the United States and Puerto Rico cannot and should not be based on the abilities of the two jurisdictions to do a particular job. Rather, it should be built on the distribution of power and authority between two political bodies based on agreed-upon principles of association. Once it is determined that a particular area is properly a matter of Commonwealth concern with insubstantial impact in the continental United States, the kind of activity taking place in Puerto Rico should cease to be a matter of concern to the latter jurisdiction.

Another example involves the field of communications. Of what interest is it to the people residing in the continental United States that television, radio, and radio-phone in Puerto Rico be regulated by the Federal Communications Commission? I suggest that FCC jurisdiction in Puerto Rico, apart from international communications, is presently inconsistent with the Commonwealth status of Puerto Rico.

In the category of federal laws which run counter to the concept of Commonwealth autonomy I would also place by way of example the various federal plant and animal protection safety laws, such as the Wholesome Meat Act, the Wholesome Poultry Products Act, the Egg Products Inspection Act, the Environmental Pesticide Control Act, and the extension of the Occupational Safety and Health Act to Puerto Rico in 1972.

There are, however, federal laws in areas where there is clear justification for federal jurisdiction because of the economic and social inter-relationship of the Island and the United States. Nevertheless, either because Puerto Rico has not adequately participated in the formulation of these laws, or because it is felt that these laws have particularly harmful effects on the Island, or because these federal activities are believed to duplicate, confuse, or conflict with the activities of Commonwealth agencies in the same field, it is felt by large segments of our people that they are unjust or unwise.

I refer to the following laws, all of which are on your work agenda: federal labor laws, such as the Taft-Hartley Act and the Fair Labor Standards Act; the Immigration and Nationality Act; the various federal shipping laws; and federal trade and tariff enactments.

I will not attempt to specify the adverse impact of these laws, nor offer specific solutions with respect to each of them. You will hear the testimony today of the heads of Commonwealth agencies concerning the problems posed for Puerto Rico by these and the other laws to which I have referred. They may have specific suggestions as to desirable solutions.

However, I would like to impress upon this Ad Hoc Advisory Group the desirability of exploring, in each case, the full range of special arrangements possible under our unique Commonwealth status. These include the following possible solutions:

1. Conferral of exclusive jurisdiction to Puerto Rico.

2. Incorporation of special extension agreements between Congress and Puerto Rico in the compact.

3. Delegation of rule-making and/or administrative responsibilities to Puerto Rico subject to the federal standards contained in the law.

4. Provision of special participation or consultation with Puerto Rico in the federal executive branch implementation of the law, such as participation on trade and tariff committees or consultation on matters of defense.

5. Modifications of the laws to make them work better and more justly in Puerto Rico.

6. Establishment of joint bodies and commissions, as in the case of the wage review committees.

THE GENERAL PRINCIPLES OF APPLICABILITY OF FEDERAL LAW

Now comes the more difficult job of formulating general principles and adequate procedures for prospective application of federal laws in general to Puerto Rico.

I first propose to the Committee that it recommend a total revision of Section 9 of the Federal Relations Act, so as to establish new basic principles governing the extension of federal laws to the Island.

The reformulated Section 9 should contain as clear a statement as possible of the fundamental policies on the applicability of federal laws.

The presumption presently in Section 9 that the statutory laws of the United States extend automatically to Puerto Rico should be reversed. The presumption should be that unless Congress expressly extends a law to the Island, by specifically extending its applicability to Puerto Rico, it is understood that Puerto Rico is not covered. This will avoid inadvertent inclusion of Puerto Rico in legislation which should not be applicable according to the principles of association. It may also induce Congress to focus, to a greater extent than it presently does, on the question of whether a particular law should apply to Puerto Rico, and, if so, whether special modifications for Puerto Rico are advisable.

PARTICIPATION IN FEDERAL DECISIONMAKING

The establishment of basic principles of association concerning the applicability of federal laws will be a useless gesture, unless accompanied by adequate procedures to insure their consistent application to specific pieces of federal legislation, and to insure a meaningful participation by the people of Puerto Rico in the lawmaking process.

The matter of participation raises both a question of principle and a practical question. The principle is, of course, the right of people to have an effective voice in decisions affecting their lives. The practical question is how to devise procedures which are functionally feasible given the volume and complexities of congressional operations.

I have previously suggested several alternatives for practical participation in specific legislative or executive matters. But a general catch-all mechanism is necessary as a complement to fully satisfy the principle of government by specific consent.

It may be that representation via a Resident Commissioner is the only viable solution to deal with general participation. His is a very difficult job, however. For one man and one staff to deal with the tens of thousands of legislative proposals introduced in each session of Congress is a monumental task. Yet, to achieve unity of purpose in representing Puerto Rico, there should be only one Resident Commissioner.

A clear charter of basic agreements between the Federal government and Puerto Rico concerning the principles of applicability of federal law to the Island, such as I have recommended, would be a necessary first step to make representation by the Commissioner more effective. Federal laws specifically applied to Puerto Rico would continue to apply as legislated by Congress except those laws subject to the previously suggested special participatory mechanisms.

However, the principle of government by the consent of the governed requires an additional means whereby real power is vested in the people of Puerto Rico in order to make effective their opposition to a particular bill which the Congress has extended to Puerto Rico.

Given the fact that we are dealing with a question of principle, rather than one of practicality, the mechanism to provide this participation should be one that would be used only in the most serious and gravest of situations. I submit to you that a plebiscite on Puerto Rican initiative, where the people themselves may directly voice their position, would be the proper instrument to be recommended by this Committee. This mechanism would solve the problem of principle required by the consent of the governed. The practicalities and mutual deferences of our relationship are such, however, that I would never expect the people of Puerto Rico to be put in such a position by Congress that they would have to directly oppose a bill addressed specifically to them.

FEDERAL GRANTS-IN-AID

I would like now to turn to another area of critical importance to United States-Commonwealth relations, the participation of Puerto Rico in federal assistance programs.

It is fair to say that there is, at present, no consistent congressional policy with respect to federal financing of social and economic programs in the Commonwealth of Puerto Rico. This is only natural, since the hundreds of existing federal aid programs have themselves evolved in an ad hoc, piecemeal fashion. In most of these programs, Puerto Rico is treated as a state with the same eligibility and benefit standards. It is also subject to the same federal controls on the expenditure of these funds. In several of the largest assistance programs, however, Puerto Rico does not receive its equitable share.

The following table sets forth these programs, with their anticipated fiscal year 1975 expenditure level nationally and in Puerto Rico:

Fiscal year expenditure (millions)

Program:	U.S.	P.R.
Aid to families with dependent children/aid to aged, blind, disabled	3,936	24
Supplemental security income program	3,871	0

Medicaid	5,256	30
Social services	2,000	2
Educationally deprived children	1,900	27
Interstate highways	3,000	0
General revenue-sharing	6,000	0
Total	25,963	83

The seven listed programs make up almost 50% of the total federal aid to state and local governments expected for the coming fiscal year. As can be seen from the table, Puerto Rico's participation in them is limited, by law, to .32% of the total. In other words, for every $100 expended throughout the United States for these activities, thirty-two cents is spent in Puerto Rico. If the Island were to receive a share of these funds based only on its share of the total United States population (1.2%), its yearly assistance level for these seven programs would jump from $83 million to $311 million. Equal treatment for Puerto Rico, however, would mean considerably more, since all but one (Interstate Highways) of the listed programs provide proportionately greater assistance to the poorest and neediest states.

These differentials in federal financial treatment of Puerto Rico as compared to the states are usually justified by the fact that the Commonwealth is not covered by the federal internal revenue laws.

Without denying that the economic value of freedom from federal taxation should be taken into consideration in extending federal aid programs to Puerto Rico, I submit that it is wrong to draw a simple equation between the payment or non-payment of federal taxes and the receipt of federal subsidies. Neither in theory nor in practice does such an equation exist. It is an elementary principle of public finance that one's payment of general taxes does not entitle one to any particular governmental benefits in return and, conversely, that the absence of payment of taxes does not disqualify one from governmental aid. Further, on a functional level the programs we are discussing make no attempt to equate State grants with federal revenues raised in that State. Through the federal tax system and the fund allocation procedures in these federal social programs, resources are deliberately shifted from the richer areas of the country to the poorer areas. This is true even with respect to the so-called "General Revenue-Sharing Program" which is not revenue-sharing at all, but rather federal block grants based, in part, on the relative needs of the participating states.

Thus, it would be wrong to say that because residents of Puerto Rico do not pay federal taxes they should not be entitled to receive federal financial assistance, whether you are talking generally or about a specific program.

However, the people of Puerto Rico, I am confident, have no desire to receive more than their share of federal financial aid.

In light of the above considerations, I would like to offer to the Advisory Group some new concepts as alternatives which it may wish to consider in its deliberations on the financial aspects of the United States-Commonwealth statutory relations.

Approximately one fourth of the Commonwealth budget represents federal grants-in-aid. Most of these federal funds are earmarked for certain categorical purposes and are highly controlled by specific conditions in the federal law and regulations. In many cases, we have found that the federal priorities for these funds are not in accord with Commonwealth government priorities. The mainland needs to which these funds respond are not always the Island's most pressing needs. Since we can rarely, as a practical matter, refuse to accept these grants, and must usually match them with local funds, the end result, from our point of view, is a dislocation with regard to Commonwealth priorities. Also, the numerous conditions and controls placed upon the receipt of these funds often work against their most effective utilization in Puerto Rico.

There are dozens of such cases, but for now let me pose just one example to illustrate the nature of the problem. Puerto Rico has available to it some $80 million in federal matching grants for the construction of waste water treatment facilities. Although a substantial proportion of the Island's population is not yet served by even primary sewage facilities, most of these federal dollars (and the 25% Commonwealth matching share) must be spent on secondary and tertiary treatment because that is the need in the continental United States. Also, less expensive treatments of waste waters, such as ocean outfalls, are not permissible, since these solutions are not feasible for the majority of the states; and the Federal Water Pollution Act, as presently drafted, offers no flexibility on the matter. Thus, we may find ourselves building overly expensive sewage facilities in parts of the Island, where the degree of need is less, because the federal authorizing legislation, drafted against mainland needs and realities, does not offer planning and programming flexibility to the grant recipient.

We would, therefore, like to have considerably greater leeway in the expenditure of the funds we do receive. Our feeling is that we can make more effective use of this federal contribution if we are able to plan these funds locally, rather than having their priority-setting and planning done in advance in Washington.

This, then, is one of the alternatives which I propose. It would not be technically difficult to negotiate yearly a total federal grant to the Commonwealth and municipal governments, taking into account factors such as the economic value of freedom from federal taxation, the Commonwealth's optimum matching capabilities, past federal expenditures, Commonweath tax efforts, economic growth in Puerto Rico, and socio-economic needs on the Island. The grants would then be made to the Commonwealth in block form, perhaps broken down into several general categories such as economic development, social welfare, education, health, etc. General plans would be submitted for each category with minimum federal review and monitoring. Similarly, yearly reports on progress achieved in each category could be rendered to the federal government as a basis for the negotiation of the subsequent year's grant.

I believe that such a system would make good sense both for the federal government and for the Commonwealth. There is a growing realization that the federal grant-in-aid system needs a structural overhaul to make it workable. This realization is embodied in the principles of the "New Federalism," which aims to move greater decision-making power to those levels of government closest to the people. What I am proposing is simply the application of these new concepts to the Commonwealth of Puerto Rico, where they make even greater sense in view of the unique constitutional status of the Island and its equally unique cultural, economic and social characteristics.

Another approach, more modest in nature, toward rationalizing federal assistance payments to the Commonwealth government, would be to impose higher matching share burdens on the Commonwealth government as a trade-off for the greater Commonwealth taxing ability made possible by the inapplicability of federal internal revenue laws. As Puerto Rico makes progress in its economic base, its relative taxing ability becomes that much greater since income, profits and products in Puerto Rico are not subject to federal taxation, and we are increasingly more able to contribute to federal programs.

This proposal would make little sense, however, if the higher matching burden were to be combined with absolute limits on federal payments to Puerto Rico which do not apply to the states, as is the case in some of the major federal programs. Higher matching payment burdens for Puerto Rico, however, would provide a more equitable ceiling consisting of our budgetary constraints.

This approach would lead to more equitable levels of federal financing of certain Federal-Commonwealth programs and would eliminate budgetary and priority distortions which occur because of absolute and arbitrary ceilings on federal matching payments. It would not, however, offer the Commonwealth flexibility in the shaping of adequate programs for the Island. Nevertheless, the federal grant-in-aid system is moving rapidly toward greater flexibility for state and local governments in the planning and programming of federal dollars, and this national reform effort may eventually produce the desired solution.

I should make clear that my suggestions refer only to federal assistance programs that operate by means of subsidies to state and local governments. In those programs where the federal government's relationship with citizens is direct, such as Social Security and the new Supplemental Security Income Program, I believe the residents of Puerto Rico have every right to treatment equal to that of American citizens residing elsewhere. This is particularly true when benefits are based on prior contributions to the system, as is the case of the OASDI program.

THE INTERNATIONAL ROLE OF PUERTO RICO

I have already pointed out that interdependence is at the heart of the principle of free association which governs the relationship between Puerto Rico and the United States. Because we are conscious of our special relationship with the United States and also of our place in the community of Hispanic American peoples, we cannot afford to be isolated from the rest of the world. We cannot stand aside from contemporary world currents and events, particularly where we can make a real contribution. We can, and should, contribute to multilateral efforts to promote understanding and friendship among peoples, especially in our own region and hemisphere. We have much to teach, and also a great deal to learn, about economic development.

Geographically, Puerto Rico belongs to the Caribbean. Culturally, it is a part of the community of Hispanic American peoples. Politically and economically, it is intimately associated with the United States. These three points of reference—and especially a political status of free association—are the points of departure for defining Puerto Rico's place in the world and its relationships with other countries and with international organizations.

While under the Commonwealth relationship the broad range of foreign affairs is a matter of federal concern, nonetheless, there is ample room for Commonwealth initiative.

Puerto Rico has a role to play in the Caribbean and a need to enter into government-to-government relationships with other countries such as Venezuela, in order to resolve effectively its needs, such as its energy requirements.

We have already had considerable experience in the international arena, and we are well prepared to make substantial contributions to international cooperation and solidarity. Since 1950, Puerto Rico has been the meeting place of more than 30,000 persons from developing countries, most of whom visited our island in order to observe and study our social and economic development programs. Most of those visitors came from Latin America and the Caribbean region, but large numbers also arrived from Africa, Asia and Oceania. In this manner, we have

been able to communicate our experiences, our successes and our problems to representatives of other areas of the world striving for social justice and political democracy. During the 1960's, the Commonwealth of Puerto Rico actively participated in matters of special concern to the peoples of the Caribbean region. Puerto Rico was a founding member, and San Juan was the headquarters, of the Caribbean Organization. This now-dissolved organization contributed greatly to the idea and practice of regional collaboration and promoted the movement for the economic integration of our region. The Commonwealth subsequently created its own specialized agency with regional concerns, the Corporación de Desarrollo Económico del Caribe, in an effort to foster regional cooperation. Our economic and regional interests have prompted the Commonwealth government to establish an active program of trade missions, whereby Puerto Rico seeks to promote trade with other areas, especially with the Caribbean and the nations of the Western Hemisphere. Our industrial promotion efforts have led the Commonwealth government to open facilities in Europe and Tokyo for the purpose of attracting investment to the Island. By bilateral agreement, Puerto Rico and the Dominican Republic, in 1967, created the Joint Dominican-Puerto Rican Commission for the purpose of developing a program of economic, cultural and technical collaboration.

Puerto Rican cultural missions to different countries of the Hemisphere have been sponsored for more than two decades by our Institute of Culture, Department of State and Department of Education. For many years, Puerto Rico has collaborated with different international organizations in a wide array of exchange programs and technical assistance projects. In addition to these official contacts, private entities in different fields have made positive contributions to the flow of information and peoples between Puerto Rico and other countries. We have accumulated valuable experience in our relations with other countries and with international organizations. Our experience is a good point of departure for future Puerto Rican roles in international matters in a manner consistent with our association with the United States.

Various courses of action are already open to the Governments of the United States and Puerto Rico which require no substantial or prolonged constitutional or legislative action, based on the longstanding recognition by the United States and the United Nations of Puerto Rico's status as an autonomous political entity. Other possibilities may require more complex procedures. An exhaustive and incisive analysis of the desirability of greater participation by Puerto Rico in international affairs and appropriate international institutions was prepared recently by Professor W. M. Reisman of Yale Law School for a conference of the United States' leading lawyers, held at the Carnegie Endowment for International Peace in New York.

With the Committee's permission, I would like to submit a typescript of Professor Reisman's study for the record, as an appendix to my statement. I will not elaborate on the constitutional and international law questions treated at length by Professor Reisman, in view of my basic agreement with the recommendations he offers. However, I would draw your particular attention to Professor Reisman's recognition of the very real advantages to both our peoples, and the practical possibilities of Puerto Rico's participation in numerous specialized international organizations—especially those dealing with education, health, culture and commerce. These offer an effective and additional dimension for greater rapport with and support to developing countries which can be a valuable supplement to U.S. policies and programs.

CONCLUSION

This Committee is charged with the historic responsibility of shaping a response to the desires of the people of Puerto Rico in the exercise of their right to free determination. This task is not made easier by the fact that the substance of Commonwealth has been widely misunderstood both to the south and to the north of Puerto Rico. In Latin America there prevails a suspicion that this concept masks the reality of a colonial relationship. In some less informed circles in the United States there is the opposite impression that we are pursuing privileges, but not responsibilities.

Both erroneous conceptions are an affront to the dignity of the Puerto Rican people. It is your task that they should not continue to bear this burden, a burden born of misunderstandings of the essence of our relationship.

I ask you on behalf of my people to shape with vision, creativity, and purpose the new Articles of Association between Puerto Rico and the United States, and to formulate in a document that will stand the test of time and invidious misinterpretations, the cherished principles upon which we shall face together the destiny of mankind.

But the challenge of this Committee is even broader in scope. You have the opportunity to frame a model of Articles of Association which will constitute a new breakthrough in the interdependent era into which the world is entering. The United States and Puerto Rico have already given the world an example of how such a relation can grow and prosper. Now our joint task is to build on our experience of 21 years, with vision and care, so that future generations will point to this as a watershed event in the inevitable transition to an interdependent world.

WORLD HUNGER

Mr. McGOVERN. Mr. President, as Members of Congress and the general public are becoming more aware, the United States and the world community are now facing almost unprecedented questions regarding the distribution of vital, basic commodities. These questions are, in turn, intimately connected with the relative economic status between the industrially developed nations and those nations now engaged in the problem of development.

In recent weeks, a major debate has been taking place at the United Nations focusing on these questions. While this debate is not providing immediate answers, it is clearly setting forth the scope of this international economic crisis and focusing world attention on the urgent necessity to deal with it.

I recently introduced into the RECORD the remarks by Secretary of State Kissinger to this special United Nations Assembly. I would now like to take note of the important leadership actions taken by our Government in proposing a 10-point, $4-billion emergency aid program to begin assisting those nations most pressed by the current situation.

One overriding fact is now clear. Only cooperation—not confrontation—can deal with these problems over the long term. Cooperation and planning are essential.

In the area of food and nutrition, the Select Committee on Nutrition and Human Needs is engaged in a detailed study of what should be national policy guidelines to deal with the world food problems, especially as they affect our own well-being. This study, to be presented in the form of hearings on June 19, 20, and 21, deals very directly with the acute relationship between the world demand for food and its effect on the American people.

These hearings are of such importance that I would like to take this opportunity to bring them to the attention of the Senate as a whole, and, more particularly, the leadership which is now turning its attention directly to these fundamental economic issues. I hope the Select Committee's study can serve as a useful vehicle by which the Congress can help develop sensible policies to avoid further crises affecting the well-being of the American people, and people living in less developed areas.

I ask unanimous consent that five articles indicating the growing public awareness of these important issues be printed in the RECORD.

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

[From the Washington Post, May 1, 1974]

TURNING TOWARD GLOBAL PROBLEMS

(By David S. Broder)

In the first three days after Congress returned from its Easter recess, at least a dozen senators and representatives put into the Congressional Record, with suitable commendations, the text of Secretary of State Kissinger's April 15 address at the United Nations on "the challenge of interdependence."

Just why Kissinger's somber challenge to the international assembly to "come to terms with the fact of our interdependence" should have struck a chord with so many legislators is hard to say. But it is at least possible to hope that it indicates that even with the current preoccupation with our domestic political crisis, there are world issues of such enormous scale that sensible people cannot ignore them.

In a series of eloquent and impassioned columns, James Reston and Anthony Lewis of the New York Times have been raising their voices to proclaim that the threat of international economic warfare turning into a global cycle of inflation and depression—to say nothing of the danger of massive famine among the million already suffering the effect of malnutrition—is slightly more consequential than Watergate.

Reston worries that the press and the politicians are ignoring "the fundamental question of the prices and resources of the earth," and he may be right. But the pages of the Congressional Record—that mirror of the politicians' minds—indicate someone is listening.

There one finds the beleaguered President taking time to remind those who sit in judgment on him that despite the national weariness with the cost of foreign aid, "it is clear that in the modern world, peace and poverty cannot easily endure side by side."

And while Mr. Nixon pleads with Congress to reverse the House's January mistake in refusing the $1.5 billion U.S. contribution to the International Development Association, his old rival, Sen. George McGovern (D-S.D.), is seconding Kissinger's pledge of American cooperation in meeting the worldwide economic crisis.

Wisdom comes late, but now it comes to people of all parties and persuasions. The old internationalists—the Hubert Humphreys, the Jacob Javitses, and the Gale McGees—fill the record, as they have for years, with pleas for foreign aid and food assistance and liberal trade policies.

But now they are joined by Sen. Robert Dole, the engagingly cynical Kansas Repub-

lican, who is moved to put into the Record a study by Church World Services of what Dole calls "the world food crisis." They are joined too, by Sen. Walter (Dee) Huddleston the freshman Democrat from Kentucky. He thinks his colleagues ought to know what he learned from the Congressional Research Service and then confirmed from Kentucky industrial leaders about "the growing U.S. reliance on imports for a large portion of raw materials."

It is a long step from the recognition of a problem to the action needed to deal with it, particularly when the problem is as massive and complex as that of the international economy. Nevertheless, it is meaningful when a variety of American politicians—pre-occupied with their parochial interests—talk as if they understood what United Nations Secretary General Kurt Waldheim meant when he said that, "The pursuit of short-term national interests by any nation or group of nations can no longer provide even a brief reprieve from the inevitable result of the present trends."

But what a task we face. Waldheim laid it out in brief form in his speech opening the General Assembly's special session on the world economy and natural resources.

There are six connected problems, Waldheim said, that must be faced and mastered to avoid the tragedy that now confronts the inhabitants of the planet: the massive poverty that still grips two-thirds of the world's people; the population growth that adds more than 1 million new claimants a week on our finite resources; the food shortage that has left literally no margin of safety against famine on a more massive scale than we have ever witnessed; the energy shortage that hampers all form of economic growth, including food production; the continued waste of an estimated $4 billion a week on producing weapons of war; and the worldwide inflation, fed by all those forces, which threaten to destroy the fragile international economic and monetary structure.

When viewed in those terms, the domestic political problems of any one nation, even our own, seem almost insignificant, as the members of Congress appear to recognize, from time to time.

[From the New York Times, Apr. 24, 1974]

FERTILIZER—OR FAMINE

When a practical solution appears possible for any aspect of the critical energy and food shortages now threatening the world, it should be executed as a matter of urgency. It happens rarely enough.

Such a prospect is now in sight to alleviate—if not fully solve—the greatest single limiting factor to increased food production, the shortage of chemical fertilizers. Norman E. Borlaug, Nobel Prize winner credited with inspiring the "green revolution" estimates that a country suffering a shortfall of one million nutrient tons in its fertilizer needs will lose ten million tons in grain production. Shortfalls of this and greater magnitude are facing many of the world's developing countries, leading to the very real threat of widespread famine within the next two to three years.

In that immediate time frame, the only way out may well be sharply limited consumption by those who are already adequately fed. But the right decisions today could start to bring relief three years hence. Increasing fertilizer production requires vast infusions of capital to build new factories and, most frustrating at this time, huge inputs of fuel to power these energy-intensive industries. By a fortunate coincidence of economics and geography, both these requirements are or soon will be at hand in Saudi Arabia and neighboring states of the Persian Gulf.

The easy availability of an appropriate fuel is the most striking fact in a situation that has often verged on the hopeless. In present technology the best energy source for the fertilizer industry is natural gas, in short enough supply in much of the industrialized world, but so plentiful in Saudi Arabia and adjacent Gulf states as to be a nuisance by-product in the more developed oil fields. For years the oil companies have simply burned away—wasted—this premium fuel for lack of economic uses.

Experts in this country estimate that if just one-quarter of the natural gas that is now wasted in the Persian Gulf fields were diverted into a fertilizer industry on the spot, the world's entire current demand for nitrogen fertilizer could be met. Sheikh Yamani, Saudi Arabia's Petroleum Minister, correctly told the United Nations General Assembly last week that it is "improper and unconscionable" that such a readily available fuel supply is not being fully exploited.

Investment in the fertilizer industry has long seemed risky; nor was the rapid growth of demand adequately foreseen. However, supported by the technological expertise of the United States, Saudi Arabia now has the opportunity to put substantially growing capital reserves and unexploited natural gas into an industrial development which quite literally would mean life or death to the world's hungry millions in years to come.

[From the New York Times]

IMPEACHING AT TURTLE BAY

(By James Reston)

UNITED NATIONS, N.Y., April 23.—There is a kind of impeachment trial going on here at the United Nations too—not of a man but of a civilization. The poor nations are drawing up the articles of impeachment every day against the rich nations. Please listen, they say:

Article One: Out of every three children born in most nations of the world today, one dies before the age of five.

Article Two: For those who survive, as Dr. Mubashir Hasan, the Finance Minister of Pakistan, put it, "it is a life of deprivation, desperation and degradation. It is an intense but, mercifully, a short struggle, as their life expectancy is no more than thirty years."

Article Three: One of the worst tragedies in human history is unfolding on the continent of Africa. The suffering caused by drought in Mauritania, Mali, Niger, Chad, Upper Volta and Ethiopia seems to be beyond the imagination of the advanced nations and a rebuke to the United Nations, which promised in its Charter (Article 55) to promote "a higher standard of living, full employment, and conditions of economic and social progress and development."

Article Four: You, in what used to be called the Christian West and is now called the Industrial West or the Developed or Advanced World, are cheating the poor countries by buying their products cheap and selling your products dear. This unequal exchange between the cost of labor in the rich nations and the poor nations is the heart of the problem.

Article Five: The rich countries are paying their workers between ten and twenty times as much as the workers are paid in the poor countries. If the wages for labor were even roughly equal; the poor countries would receive at least $250 billion more a year for their work and products, and the danger of class war between the rich and the poor nations might be eased.

The articles of impeachment go on well beyond the space of this column, but the poor nations are not only making some fundamental charges but asking some awkward questions. Dr. Hasan of Pakistan, a long, lean, highly intelligent, almost beautiful man, asked the rich nations to choose.

They could (1) increase and share production or (2) equalize the wages of labor and reduce consumption in the advanced nations, or (3) deal with the consequences of malnutrition, poverty, starvation and death in the poor nations.

"Over the last few decades," Dr. Hasan told the delegates here at the United Nations, "the developing countries have struggled successfully for their political independence. They are now struggling for their economic emancipation. It is not natural that the struggle should continue until peace on earth and goodwill among mankind are established.

"What is required," he added, "is a vision on the part of the rich, both in the oil-consuming and the oil-producing countries. In this vision lies the only chance of a peaceful solution of the current crisis. Should we fail to find a solution based on justice and equity, let us always remember that nature has its own grand design for fulfillment of the destiny of mankind"

The contrast between the impeachment debates in Washington and here at the United Nations is startling. In Washington, the issue is about handing over some tapes, whether they should be delivered this week or next, whether Chairman Rodino had authority to grant a postponement, and what they might tell anyway about the President's involvement in Watergate, or his "executive privilege," his language or his vindictive comments about members of the other and even his own political party.

All this now dominates the political mind of Washington, and people wonder about the national political consequences, and why Teddy Kennedy is holding seminars at Moscow University and talking for four hours with Chairman Brezhnev, and why President Sadat of Egypt is telling Cy Sulzberger of The New York Times that maybe he wants to buy arms from the United States instead of from Moscow, and what Itzhak Rabin will do if he becomes the new premier of Israel.

These are the front page stories, the primary news of the day, while the impeachment charges of the poor nation against the rich nations, the fundamental questions of the prices and resources of the earth are ignored. In fact, Mr. Mubashir Hasan's definition of the growing class war between the rich and the poor nations of the world was scarcely noticed.

Yet he raised a question that will probably be troubling the world even at the end of the century, long after the question of the impeachment of President Nixon is forgotten. Can the rich and poor nations go on like this? Can the advanced nations consume and waste and charge for labor as they are, and ignore the misery of the majority of the human race in the poor countries?

Will the big countries even listen? Dr. Hahan asked, and the answer is obvious.

[From the New York Times, May 1, 1974]

AN AMERICAN PROPOSAL

The $4-billion, ten-point emergency program to assist countries hardest hit by price rises which the United States suddenly proposed at the United Nations yesterday seems intended to head off a rival $3-billion emergency aid fund proposal that was gaining support among developing countries. As the formulation of Secretary of State Kissinger's April 15th pledge of a major United States effort to help meet the development crisis, it offers concrete hope for action to close what Secretary General Kurt Waldheim has called the "potentially disastrous gap" between the needs of those imperiled by steep price rises and the aid that is currently available.

The needs of the billion people who face economic disaster in the next eighteen months can only be met by a scheme that can enlist the support of those who must pay the bill—that is, the United States and other developed countries, plus—particularly—the oil-exporting nations which have benefited most dramatically from recent

price leaps. By pledging to shoulder its "fair share" of the cost, the United States has laid down a challenge that others—potential donors and beneficiaries alike—will find it impossible to ignore.

[From the New York Times, May 1, 1974]

U.S. ASKS $4-BILLION AID BY U.N. TO POOR NATIONS—PLAN FOR BROAD HELP TO THOSE STRICKEN MOST BY PRICE RISES STIRS DISPUTE IN SPECIAL ASSEMBLY SESSION

(By Kathleen Teltsch)

UNITED NATIONS, N.Y., April 30.—The United States proposed today a $4-billion program to help the most economically distressed countries.

Under the proposal, submitted to delegates at the General Assembly's special session on raw materials and development, the industralized countries and affluent oil-producing nations would provide emergency aid over the next year and a half in the form of grants and loans, as well as with such commodities as food, petroleum and fertilizers.

An American spokesman said that the United States was prepared to contribute a "fair share" if the program was approved by the Assembly.

Although the kind of American help being considered was not specified here, it is understood that it would likely include a significant contribution of cereal grains—a contribution for which the Administration would not have to get additional action by Congress.

The United States program also calls for renegotiating the debts of the countries hardest hit by the rise in prices, particularly for oil, in recent months. Estimates vary on how much such debt might be involved, but more than a billion is owed to the United States, largely by countries in Southern Asia.

The United States initiative was taken after a series of confusing delays. Qualified sources said the proposal was blocked at one point by objections by the outgoing Secretary of the Treasury, George P. Shultz. Mr. Shultz has said that the economic predicament of the poorer developing countries has essentially been caused by the steep rise in oil prices and that the solution is to get oil producers to lower prices rather than to try paliative measures such as emergency assistance.

During the night the United States delegation was understood to have received instructions to go ahead with the proposal from Secretary of State Kissinger, in Algeria.

The special Assembly session was called at the request of President Houari Boumediene of Algeria in the name of the developing countries. It was assumed here that Mr. Kissinger discussed the American proposal during his talk yesterday with President Boumediene.

Led by Algeria, the developing countries have submitted their own proposals to the Assembly, one being for emergency measures to help the countries most affected by economic problems—problems that they have asserted have been caused more by the high costs they pay for general imports from the industrialized countries than by the oil price rise.

The initial Algerian response to the American move was to characterize it as a maneuver aimed at creating dissension among the ranks of the developing countries. The Algerians and some others saw it as an American tactic to keep the Assembly from approving their own proposals, which have run into opposition mainly from the United States, but also from Western European countries.

A number of members said that they were resentful that the American recommendation was put in just as the Assembly was preparing to act on the proposals of the developing countries. Others, however, felt that the new initiative was a significant development warranting a delay by the Assembly.

Samar Sen of India, whose country has been one of the hardest hit economically, said the American reasons for acting even at this late stage were "acceptable."

The American proposal clearly sought immediate relief to tide the countries with deficits over the coming months by urging that such help be given by the end of 1975. It enumerated 10 broad categories of special kinds of assistance.

These included commodity assistance—such as food stocks on easy terms or on outright grant basis—and also provision of capital goods on favorable terms. The program envisioned easier credit terms and renegotiation of debts on a case-by-case basis.

Under the American proposal, Secretary General Waldheim would be asked to make a worldwide appeal to members for emergency relief for the countries in gravest economic difficulties.

FINANCIAL DISCLOSURE BY SENATOR BAYH

Mr. BAYH. Mr. President, I have made a public financial disclosure of my assets, liabilities, and income each year beginning with calendar year 1969. Today I am again making such a public financial disclosure for calendar year 1973 and in addition I am making public information on my joint individual income tax returns for calendar years 1969 through 1973.

The privacy of individual Federal tax returns is protected by law and has long been one of our most cherished and inviolate individual rights. I have not made the decision to make public information from my tax returns lightly.

Unfortunately, over the course of the past year, day after day, week after week banner headlines have brought disclosures which have undermined the faith of our citizens in their Government in general and shattered public confidence in the integrity of public officials and the political process in particular. The impact of the Watergate affair and related scandals on public confidence in the political process is nothing less than a national tragedy. A Vice President has resigned and admitted cheating on his income tax. The Internal Revenue Service has ruled that the President owes $465,000 in additional taxes and interest. And numerous others who served in positions of high public trust have been indicted or have pleaded guilty to charges of having violated that trust. Investigations continue and the end is not yet in sight.

As a result, all too many Americans have become convinced that the tactics and the morality of Watergate represent the norm in the political and governmental process. I, for one, believe most emphatically they do not represent the norm. Most men who seek and most men who serve in high public office are good men, honest men who desire nothing more than to make this a better world for our children and our children's children. But it is clear that when the public has more faith in its garbage collectors than it has in the U.S. Senate, the U.S. House of Representatives, or the President, those who seek or who serve in high public office have an obligation to take every step possible to help restore and assure faith in the basic honesty and integrity of our Government, our political process and our public officials.

Our democratic form of government derivenes its strength from the people. When the people lose faith in the honesty and integrity of politicians and the political system in general, the ability of government to function effectively to meet the complex problems which face us is critically impaired and we, as a nation, are balanced on the knife edge of disaster.

If making information on my Federal income tax returns public can in some measure help restore public confidence in Government, the political process and public officials, the loss of privacy which I suffer is a small price to pay. I hope others seeking or serving in high public office will agree and will act accordingly. I am encouraged in this hope by the fact that my policy of making a public financial disclosure each year has recently been adopted by the leading Republican candidate for the U.S. Senate in my own State of Indiana. At a time when the integrity of our most fundamental institutions is under attack we can no longer settle for the standards of the past.

My concern about the growing loss of confidence in our political system, our Government and our public officials is not new. I have long believed that the source of all governmental power is in the consent of the governed and, therefore, if the people are supplied with sufficient information about their elected officials and appointees, the people will fashion workable standards of conduct in the voting booth. I am convinced that the most effective means of insuring that public officials are responsive to the highest ethical standards is to make the personal affairs of public officials and those who seek high public office an open book.

That is why, long before anyone ever heard of Watergate—in 1967—I voted for legislation to require Congressmen and candidates for Congress to disclose their assets, liabilities, gifts and outside income. It was my concern for insuring integrity, basic honesty and sensitivity to conflicts of interest which might tend to undermine public confidence in our system of justice that led me to oppose the nomination of Judge Haynsworth to the Supreme Court in 1969. It was this concern which led me to introduce, in 1970 and again in 1971, a Judicial Disqualification Act and an Omnibus Disclosure Act.

The Judicial Disqualification Act called for precluding participation by a judge in any case in which he had a defined financial interest or in which his participation might give the appearance of impropriety; and it called for improved procedures under which a judge is disqualified from a case for bias or prejudice.

The Omnibus Disclosure Act which I introduced required members of all three branches of Government, including the President, the Vice President, Members of Congress, the Federal Judiciary and any Federal employee earning more than $18,000 per year, to file full and complete public financial disclosures.

In order to indicate my good faith in pressing for this legislation and my concern for the need of the voters to have access to detailed information on the financial affairs of Members of Congress and other high public officials, I have made a public financial disclosure of my assets, liabilities and my income each year beginning in 1969. I intend to continue this practice although it is still not required by law.

Most recently, in May of last year I introduced a Campaign and Election Reform Act providing not only for full public financial disclosure by public officials of all three branches of Government, but also establishing new standards, new rules and procedures to ensure open elections as free as possible of the abuses such as those which led to and were specifically involved in the Watergate affairs. When I introduced this legislation I required all members of my staff earning more than $18,000 per year to join me in filing full and complete financial disclosures each year.

The process of restoring the public's faith in politics and government will not be easy. Although many of the provisions contained in the legislation I have introduced to this end also appear in S. 3044 which passed the Senate with my support on April 12, 1974, none have yet become law. But if enough of us who hold public office and who seek public office are willing to sacrifice a measure of personal privacy to voluntarily open our financial affairs to public scrutiny we can, I believe, do much to restore politics and government to the place of honor and respect they should have in this great country.

Mr. President, I ask unanimous consent to have printed in the RECORD a copy of my personal financial disclosure for calendar year 1973 and a summary of my joint U.S. individual income tax returns for calendar years 1969 to 1973.

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

PERSONAL FINANCIAL DISCLOSURE SENATOR AND MRS. BIRCH BAYH*

Assets April 22, 1974

Cash in hand and in saving and checking accounts (approximate)	$5,500
340 acre farm Vigo County, Indiana (Basis at acquisition)	68,000
Residence, Washington, D.C.	
Cost:	
Lot	$25,000
House	75,000
Less mortgage, balance due	52,783
Net	$47,217
Securities placed in blind trust in May 1970 with Terre Haute First National Bank (based on May 14, 1970, market value: present investments and value unknown)	45,655
383 shares Vigo County, Ind., Farm Bureau Cooperative Association, Inc., patron account No. 21880	2,122
Farm Producers Marketing Association	250
Tangible personal property in Washington, D.C. (estimated)	8,000
Cash value of life insurance (approximate)	$10,716
Buick coupe 1973	
Book value	3,300
Less encumbrance	3,129
Net	171
Buick LeSabre 1974	
Book value	4,500
Less encumbrance	4,104
Net	396
Total assets	188,027

(Income 1973)

Salary as U.S. Senator	$42,500
Honoraria and writing income (net):	
Sen. Bayh	6,978
Mrs. Bayh	1,100
Farm income	16,503
Dividends, interest, and gains on investments	22,930
State income tax refunds	1,229
Total income	91,240

*Does not include property which was purchased by Mrs. Bayh in her own name with the proceeds of her father's estate.

A SUMMARY OF U.S. JOINT INDIVIDUAL INCOME TAX RETURNS AND INDIANA STATE INCOME TAX RETURNS FOR CALENDAR YEARS 1969-73

	1969	1970	1971	1972	1973
Gross income as reported in Congressional Record [1]	[2] $105,646	[3] $100,321	[4] $80,003	[5] $68,246	[6] $91,240
Total income reported in tax returns	106,100	103,772	84,406	[7] 46,488	91,106
State and local taxes paid	2,677	3,884	7,368	3,589	4,880
Federal taxes paid	37,301	36,774	25,697	7,402	31,473
Total taxes paid	39,978	40,658	33,065	10,991	36,353
Taxes paid as percent of total income reported for tax purposes	37.7	39.2	39.2	23.6	39.9

[1] As Congressional Record inserts note these figures do not reflect income to Mrs. Bayh from the proceeds of her father's estate.
[2] See Congressional Record, Aug. 7, 1970, p. 27804-5.
[3] See Congressional Record, Sept. 30, 1971, p. 34180.
[4] See Congressional Record, Sept. 28, 1972, p. 32705-6.
[5] See Congressional Record, May 17, 1973, p. 16095-6.
[6] See Congressional Record, May 2, 1974.
[7] Reflects $22,613 capital loss generated by blind trust.

FISCAL YEAR 1975 FOREST SERVICE APPROPRIATIONS

Mr. HUMPHREY. Mr. President, I recently communicated with Senator BIBLE, chairman of the Subcommittee on the Interior, of the Appropriations Committee, expressing my concern over the inadequate fiscal year 1975 funding proposed by the administration for the National Forest Service.

We must make certain that these programs are funded if we hope to have adequate timber supplies in the future.

Mr. President, I ask unanimous consent that my letter to Senator BIBLE and my attached statement be printed in the RECORD.

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

U.S. SENATE,
Washington, D.C., April 30, 1974.

Hon. ALAN BIBLE,
Chairman, Subcommittee on the Interior, Committee on Appropriations, Washington, D.C.

DEAR ALAN: I have become increasingly concerned over the inadequate FY 1975 appropriations for the Forest Service.

As we carried out our hearings on S. 2296, it was made abundantly clear that a sound program to increase our future timber availabilities would require that we provide adequate funding. The President's proposed budget for FY 1975 is just not adequate, and I am hoping that your subcommittee will give serious consideration to my suggested funding increases.

I would appreciate your including my statement as a part of the hearings record.

With best wishes.

Sincerely,

HUBERT H. HUMPHREY.

STATEMENT BY SENATOR HUBERT H. HUMPHREY

I wish to express my concern that the funding level of the Forest Service—as proposed in the Federal Budget for fiscal year 1975—is deficient in every program area and urge the subcommittee to consider providing the level required to meet timber requirements and for adequate short term and long term conservation.

The budget that has been presented to you is so woefully deficient that it fails to even take advantage of current opportunities and potential future opportunities to make money for the taxpayers via increased revenues for the sale of resources from the National Forests. I can appreciate that there might be some logic in saying that funds will not be requested for certain non-revenue producing activities. However, when present and future revenue producing opportunities are avoided, the entire rationale on which the budget rests is open to question.

I recommend that the budget for the Forest Service be increased by $193 million as outlined in the attached Schedule "A."

Earlier this year I met with representatives of the Hoerner-Walford Paper Company. The firm is headquartered in Minnesota and has operations in several states. It is not the largest paper company by far but it is a unique one. It specializes in using wood waste to make paper, both sawmill and wood waste. I gathered from the pictorial presentation that this Company gave to me that there are significant volumes of standing and down dead timber in Western Montana, for example, which this company would want to purchase if it were put on the market.

The timber sale budget for the Forest Service emphasizes the sale of standing green mature timber. I would like to see specific additional funds for timber management and with instructions to secure total utilization.

The reforestation program continues to be behind needs. You have the report of the GAO that confirms how critical the situation is. An added $17.8 million here seems to be the minimum required by sound conservation concepts.

There are real opportunities here that simply must be met if future wood supplies are going to be reasonably adequate.

I take small comfort from the fact that

the Administration's policies generally have hit the housing program so hard. We have had 5½ years of this Administration and it is possible to determine how it reacts to issues. First it declares there is no problem, and next it takes actions which exacerbate it. Finally, it says someone has created a crisis, and it must be met. What we are going to see shortly is a massive effort to get housing starts up. Lumber and plywood prices have not softened substantially and inflation continues. A solid program of added timber sales within the sustained yield and multiple use constraints, plus a fully funded reforestation and stand improvement program, will help to reduce the inflationary impact on lumber prices during FY 1975.

Likewise, I would mention that the Forest Service Road program needs at least an additional $46 million. The present road program level is grossly inadequate and it suffers from the defect of relying almost exclusively on reductions in the price of timber so that timber purchasers will construct main line roads as a part of the timber sales contract. This system results in making counties pay 25% of the "cost" of these roads and it causes road construction to be barely a step ahead of the power saws. In addition, in these last two years no multipurpose or recreation roads have been undertaken. With the continuing energy crunch and the higher cost of gas, special attention needs to be given to building better roads and especially on National Forests near centers of population.

The programs of recreation, wildlife, range soil and water, minerals, insect and disease control and land management are likewise of importance in their own right. The material I enclose deals with them in some detail. Wildlife habitat management is of particular interest to us in Minnesota.

The Forest Service Research program has also been lagging well behind its needs. Earlier this year I indicated to you a glaring deficiency in wildlife research that we in Minnesota are concerned about.

The program of State and Private Forestry cooperation certainly deserves to be strengthened. Most of the forest land in America is owned by small owners, and these programs of cooperation in improved forestry, which are in part supported by Federal funds and operated locally through the States, can render important assistance to better forest and woodland management.

One of the listed programs is the Youth Conservation Corps, where an additional $43 million of federal funds could be effectively used. Based on a $13 million matching contribution by the states, a program benefitting 37,000 young men and women could be provided at a cost of about $1,500 per participant.

On the federal lands alone 21,000 young people could be given an opportunity at a cost of $30 million and here the cost estimate is about $1,400 per participant. I would most strongly urge that the $30 million program be funded and that some funds be provided for an increased cooperative program with the States.

The programs that the Forest Service operates are investments in America for Americans. They are investments that yield dividends now and in the future. A shortsighted funding policy now will have serious ramifications for the future. I hope the subcommittee will consider these recommended funding increases. I pledge you my support when the bill comes to the floor of the Senate.

SCHEDULE "A"

With an increase of $193 million, the following information on program funding and related manpower requirements shows the Forest Service capabilities to provide the products and/or services.

Forest Land Management—total increase $61.1 million.

1. SALES ADMINISTRATION AND MANAGEMENT

Additional funding of $2.8 million with 62 permanent and 28 other man-years of employment would be used: (1) to prepare timber sales that would be available on short notice so as to avert demand-supply stress and (2) to increase silvicultural examinations that would intensify the level of forest management.

The preparation of timber sales is normally a 3–5 year process, a circumstance which limits the size of any immediate Forest Service response in terms of an increased sell offerings program to meet sudden upswings in timber demand. The Forest Service should not only be prepared to respond quickly to short-term increases in timber demand but should also be prepared to steadily increase timber sell offerings to meet higher demands for timber in the long term. The above funding increase would enable the Forest Service to prepare approximately 0.5 billion board feet additional timber needed to sell when responding to either the short- or long-term timber demands.

Intelligent and responsible management of the timber resource requires in-place examination and measurement of individual stands of timber. Silvicultural prescriptions are made for each stand following the examination and measurement. Programs for timber harvest, reforestation, and stand tending measures depend on these individual stand examinations and there must be considerable correlation among stands to meet the overall needs of the Forest-wide timber growing and harvesting programs. Additional funds are needed for increasing the annual acreage receiving silvicultural examination by 800,000 acres.

2. REFORESTATION AND STAND IMPROVEMENT

Additional funding of 17.8 million and increases of 249 permanent and 249 other man-years of employment includes increased reforestation of 30,000 acres of deforested commercial forest lands and 178,000 acres of stand improvement work including 20,000 acres of fertilization.

3. RECREATION USE

An increase of $5.5 million includes 55 permanent man-years, and 50 other man-years will in large measure move toward the currently needed maintenance level of $20.2 million for which only $8 to $9 million are annually available. This includes operation and maintenance of pollution abatement facilities and administration of recreation uses under permit required now by NEPA. It anticipates heavy use of facilities near large population areas during this period of fuel shortage which is expected to decrease long-distance driving to more remote sites. This increase will also make it possible to institute more studies of roadless areas for possible wilderness classification.

4. WILDLIFE HABITAT MANAGEMENT

Increaes to the extent of $2.7 million with 54 permanent and 13 other man-years of employment would be used for protection and development of habitat for rare and endangered species and to increase forage for wildlife in conjunction with increased efforts on rangeland in support of increased production of beef.

5. RANGE RESOURCE MANAGEMENT

An increase of $4.9 million and 93 permanent and 34 other man-years of employment will be applied to increasing the capacity of National Forest rangeland and, thus, the production of beef.

6. SOIL AND WATER MANAGEMENT

The $5.4 million, 102 permanent, and 32 other man-years of employment in soil and water programs would be used for the following purposes:

(1) Respond to upstream land treatment activities on National Forest lands tributary to PL 566 small watershed projects and to expedite reservoir sweeping and clearing where the Forest Service has water surface management responsibility.

(2) Reclamation of critical disturbed lands resulting from mining and other related activities.

(3) Soil, hydrologic, and geology technical support and services for the intensified timber, range, and road and trail programs and land-use planning, especially related to the roadless area studies.

7. MINERALS MANAGEMENT

With the advent of new mining regulations, $3.2 million with 132 permanent and 12 other man-years of employment can effectively be applied in the minerals program.

8. FOREST FIRE PROTECTION

An increase of $8.1 million, adding 81 permanent and 81 other man-years of employment would enable the Forest Service to mount an aggressive program to lower the flammability of forest lands through fuel treatment, to provide for availability of specialized fire equipment, and to strengthen fire prevention.

9. GENERAL FOREST LAND MANAGEMENT

An increase of $6.4 million with 64 permanent and 25 other man-years of employment would be used for the following purposes:

(1) $300,000 for land classification activities in critical land areas.

(2) $700,000 for landline location to prevent trespass, urban sprawl on National Forests, and for support for timber.

(3) $800,000 for maintenance of improvements for fire and general purposes—the physical plant upon which all Forest Service programs depend.

(4) $1,500,000 for increased administrative load for occupancy and use permits, easements, and memoranda of understanding on about 5.8 million acres of National Forest lands occasioned by NEPA and resulting litigation, and the need to comply with air, water, and solid waste disposal standards.

(5) $3,100,000 for a multi-layer map system providing functional overlays of base maps now needed for all major new planning and implementation efforts.

11. INSECT AND DISEASE CONTROL

Additional funding of $3.7 million, 26 permanent and 19 other man-years of employment would be used to intensify the suppression programs so that losses from disease, Bark Beetles, and defoliators can be held to tolerable levels. This increase would also assist the States on a cost-share basis.

12. COOPERATIVE LAW ENFORCEMENT

An increase of $600,000 will be used for costs of cooperative efforts by law enforcement agencies that assist in the control of violations of law on the National Forests.

Forest Research—Total increase $25.0 million.

13. TIMBER MANAGEMENT RESEARCH

An increase of $2.8 million with 32 permanent and 4 other man-years of employment would be used to accelerate the development of new and innovative practices for increasing timber supply through shorter rotations, increasing growth and improved management planning.

14. WATERSHED MANAGEMENT RESEARCH

An increase of $2.1 million with 28 permanent and 7 other man-years of employment to expand research on sewage sludge and effluent recycling using forest areas and to initiate a major program of resource management research which would provide new information and techniques to more fully manage the soil, water, timber, other vegetation, wildlife, and recreation resources, in-

cluding restoration of strip mined land in the East.

15. WILDLIFE HABITAT AND RANGE RESEARCH

An increase of $2.7 million with 30 permanent and 11 other man-years of employment includes $1.5 million for research to maintain quality wildlife habitat under conditions of intensified timber production and more effective range management. Included also is $1.2 million for research into improving forage on rangelands for production of beef and mutton.

16. FOREST RECREATION RESEARCH

An increase of $1.0 million with 13 permanent and 3 other man-years of employment would be directed toward research into planning and management of outdoor recreation opportunities.

17. SEAM (SURFACE ENVIRONMENT AND MINING)

An increase of $7.5 million with 60 permanent and 23 other man-years of employment would be used to accelerate research and development in the restoration and management of lands affected by minerals extraction. This brings the full effort to $9.2 million.

18. FIRE AND ATMOSPHERIC SCIENCES RESEARCH

An increase of $600,000 with 6 permanent and 1 other man-years of employment would be used for research on fire control technology and wildlife prevention in the North Central and Northeastern States and to strengthen research in the Southeast on smoke management in relation to prescribed burning.

19. FOREST INSECTS AND DISEASE RESEARCH

An increase of $3.8 million with 61 permanent and 11 other man-years of employment includes $2.9 million for research in an overall USDA effort to develop environmentally acceptable control systems for the Douglas fir tussock moth, gypsy moth, and southern pine beetle. Also included is $0.9 million for research on spruce budworm, western bark beetles, diseases of high-value hardwoods and trees in relation to air pollution.

20. FOREST PRODUCTS UTILIZATION RESEARCH

An increase of $1.6 million with 19 permanent and 3 other man-years of employment would be used in research to extend the timber supply through improved lumber recovery, advanced processing systems, and effective utilzaton of residues.

21. FOREST ENGINEERING RESEARCH

An increase of $900,000 with 7 permanent and 5 other man-years of employment will provide for research on advanced harvesting systems with emphasis on harvesting environmentally sensitive sites.

22. FOREST RESOURCES EVALUATION

An increase of $1.1 million with 19 permanent and 3 other man-years of employment would accelerate Forest Survey toward the objective of more frequent resurvey, thereby more fully meeting the needs for these data.

23. FOREST ECONOMICS AND MARKETING RESEARCH

An increase of $900,000 with 13 permanent and 1 other man-years of employment will provide for research on the economics of highly intensified forest management practices and the economics of more effective resource utilization.

State and Private Forestry Cooperation—total increase of $9.2 million.

25. COOPERATION IN FOREST TREE PLANTING

An increase of $1.0 million with 3 permanent and 1 other man-years of employment will be used to provide additional tree planting stock which is urgently needed to meet the expanded requirements resulting from the Forestry Incentives Program.

26. COOPERATION IN FOREST MANAGEMENT AND PROCESSING

With added funding of $4.9 million, there would be 5 permanent and 2 other man-years of employment. Fundng increases will be used in the following manner: $2 million to implement the authority for urban and community forestry contained in PL 92–288; $2.9 million to States under the Cooperative Forest Management Program to accelerate assistance to private forest landowners and to provide more intensive multiple use management of nonindustrial private forest lands.

27. GENERAL FORESTRY ASSISTANCE

An increase of $3.3 million with 20 permanent and 3 other man-years of employment would be used to accelerate the rate of adoption of new technology developed by forestry research activities. Specialized assistance is provided to States, private landowners, wood processors, and consumers of wood products. Examples are:

a. Accelerate training in new computerized forest inventory techniques throughout this country and to honor requests from Mexico, Iran, and other foreign countries which have outstripped our current capacity to provide this training.

b. Accelerate the implementation of emerging research technology on the improved protection of wood in use from insects and fungus attack.

c. Implement a program of forest rangeland management to increase the production of red meat which is an emerging trend that requires range and forest management technical assistance in order to ensure that environmental, timber, and wildlife values of the forest are not destroyed.

d. Land-use planning assistance to State and local planning groups is an increasing impact upon forestry programs. Until there are funds available from other sources, General Forestry Assistance funding will need to carry the burden of this assistance effort.

Construction and Land Acquisition—total increase $8.3 million.

30. FIRE, ADMINISTRATION, AND OTHER PURPOSE CONSTRUCTION

An increase of $4.2 million with 42 permanent and 25 other man-years of employment would be used to accelerate acquisition of multiple channel radio communication systems for high fire danger areas and construction of critically needed administrative facilities.

31. RESEARCH CONSTRUCTION

Adding $4.1 million and 4 permanent man-years of employment would be used for construction of needed research facilities for which planning has already been completed at Corvallis, Oregon, and Auburn, Alabama.

34. AND 35. FOREST ROADS AND TRAILS—TOTAL $45.9 MILLION

Increases are for construction and maintenance totaling $45.9 million with 510 permanent and 479 other man-years of employment.

Funds will be used for timber support in road construction and reconstruction and bridges for the timber program in fiscal year 1975 and later years. In addition, funds would be used for construction and reconstruction of roads and trails in support of other programs. Construction funds will be used to complement development at National Recreation Areas, at reservoir projects, such as Cave Run and Laurel, and to meet the objectives of the National Trails Act.

38. ASSISTANCE TO STATES FOR TREE PLANTING—TOTAL INCREASE $0.5 MILLION

An increase of $0.5 million with 1 permanent and 1 other man-years of employment will be used to accelerate tree improvement and the availability of quantities of improved trees needed to increase short- and long-term productivity of private forest lands.

39. YOUTH CONSERVATION CORPS

No increase is requested here. However, a $43 million program could be accomplished.

The Department of Agriculture and the Interior have conducted a survey which identified a capacity to accommodate 21,363 youth on 554 projects on Federal land. This would require $30 million. The States could accommodate 15,667 youth for $13 million Federal funds. The States match Federal funds on a 50–50 basis.

12. *Cooperative Law Enforcement*—an increase of $600,000 is requested. However, to more fully implement the State and local Law Enforcement in National Forests Act, P.L. 92–82, an additional increase of $1.5 million could be used effectively to increase the cooperative effort with State and local law enforcement agencies and extend the protection from weekends, holidays, and problem areas to other high use periods during the busiest seasons of the year.

FOREST SERVICE

		Fisca lyear 1975 President's budget	Alternative requested: Fiscal year 1975	Alternative requested: Increase above President's budget	Man-year increase above President's budget: Permanent	Other	Tota
	FOREST PROTECTION AND UTILIZATION						
	FOREST LAND MANAGEMENT						
	Nationalf orest protection and management:						
	Timber resource management:						
1.	(a) Sales administration and management	84.3	87.1	2.8	62	28	90
2.	(b) Reforestation and stand improvement	35.3	53.1	17.8	249	249	498
3.	Recreation—public use	46.5	52.0	5.5	55	50	105
4.	Wildlife habitat management	9.2	11.9	2.7	54	13	67
5.	Range resource management (includes CRI)	16.5	21.4	4.9	93	34	127
6.	Soil and water management	15.2	20.6	5.4	102	32	134
7.	Minerals management	3.6	6.8	3.2	132	12	144

Footnotes at end of table.

FOREST SERVICE—Continued

		Fiscal year 1975 President's budget	Alternative requested: Fiscal year 1975	Alternative requested: Increase above President's budget	Man-year increase above President's budget: Permanent	Man-year increase above President's budget: Other	Man-year increase above President's budget: Total
	FOREST PROTECTION AND UTILIZATION						
	FOREST LAND MANAGEMENT—Continued						
8.	Forest fire protection	36.5	44.6	8.1	81	81	162
9.	General forest land management activities including BEC	26.5	32.9	6.4	64	25	89
	Total, national forest protection and management	273.6	330.4	56.8	892	524	1,416
10.	Fighting forest fires	4.3	4.3	0			
11.	Insect and disease control	11.3	15.0	3.7	26	19	45
12.	Cooperative law enforcement	1.6	2.2	.6			
	Total, forest land management	290.8	351.9	61.1	918	543	1,461
	FOREST RESEARCH						
	Forest and range management research:						
13.	Timber management research	13.6	16.4	2.8	32	4	36
14.	Watershed management research	7.0	9.1	2.1	28	7	35
15.	Wildlife habitat and range research	3.9	6.6	2.7	30	11	41
16.	Forest recreation research	1.2	2.2	1.0	13	3	16
17.	SEAM	1.7	9.2	7.5	60	23	83
	Total, forest and range management research	27.4	43.5	16.1	163	48	211
	Forest protection research:						
18.	Fire and atmospheric sciences research	8.1	8.7	.6	6	1	7
19.	Forest and insect disease research	10.9	14.7	3.8	61	11	72
	Total, forest protection research	19.0	23.4	4.4	267	12	79
	Forest products and engineering research:						
0.	Forest products utilization research	9.9	11.5	1.6	19	3	22
21.	Forest engineering research	1.6	2.5	.9	7	5	12
	Total, forest products and engineering research	11.5	14.0	2.5	26	8	34
	Forest resource economics research:						
22.	Forest resources evaluation	3.8	4.9	1.1	19	3	22
23.	Forest economics and marketing research	3.8	4.7	.9	13	1	14
	Total, forest resource economics research	7.6	9.6	2.0	32	4	36
	Total, forest research	65.5	90.5	25.0	288	72	360
	STATE AND PRIVATE FORESTRY COOPERATION						
24.	Cooperation in forest fire control	20.2	20.2	0			
25.	Cooperation in forest tree planting	.3	1.3	1.0	3	1	4
26.	Cooperation in forest management and processing	5.6	10.5	4.9	5	2	7
27.	General forestry assistance	3.7	7.0	3.3	20	3	23
	Total, State and private forestry cooperation	29.8	39.0	9.2	28	6	34
	Total, forest protection and utilization	386.1	481.4	95.3	1,234	621	1,855
	CONSTRUCTION AND LAND ACQUISITION						
	Forest land management:						
28.	Recreation—public use	1.9	1.9	0			
29.	Water resource development	2.2	2.2	0			
30.	Fire, administration, and other purposes	1.7	5.9	4.2	42	25	67
	Total, forest land management	(5.8)	(10.0)	(4.2)	(42)	(25)	(67)
31.	Research construction	0	4.1	4.1	4		4
32.	Pollution abatement	16.7	16.7	0			
33.	Land acquisition, Weeks Act	1.6	1.6	0			
	Total, construction and land acquisition	24.1	32.4	8.3	46	25	71
	FOREST ROADS AND TRAILS						
34.	Construction	107.8	148.8	41.0	451	410	861
35.	Maintenance	39.2	44.1	4.9	59	69	128
	Total	147.0	192.9	45.9	510	479	989
36.	Acquisition of lands for national forests, special acts	.2	.2	0			
37.	Acquisition of lands to complete land exchanges						
38.	Assistance to States for tree planting	1.4	1.9	.5	1	1	2
39.	Youth Conservation Corps	10.2	10.2	0			
	Total, regular funds	569.0	719.0	150.0	1,791	1,126	2,917
	End-of-year employment				1,800	2,200	4,000

ENVIRONMENTAL GOALS

Mr. FANNIN. Mr. President, in recent years the Congress has enacted legislation establishing unrealistic environmental goals for the Nation. This legislation too often has been based on wishful thinking rather than on facts.

Congress had not had adequate technical information on what can be achieved and at what cost. It is not that this information is not available or cannot be attained. It is, rather, that political expediency has dictated that Congress not seek out information which might prove contrary to expectations. Ironically, these expectations are generated by unrealistic and demagogic rhetoric.

Dr. Frank D. Schaumburg has written an interesting article which appears in the current issue of the National Observer. He points out that Congress and our governmental machinery in general has very little technological expertise. We are dominated by those who think in terms of legal procedures rather than technological reality.

Mr. President, the Congress is doing this Nation a great disservice when we enact legislation that is economically or technologically unsound. When Government tries to promise low prices for goods, or "zero pollution," and when these promises are not consistent with technological or economic fact, we are building disillusionment with Government.

Dr. Schaumburg makes some excellent points in his article, and I regret that we cannot reproduce in the RECORD the diagram, which accompanies his presentation in the Observer. I ask unanimous consent that the article be printed in the RECORD so that my colleagues may consider these important points.

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

[From the National Observer, May 4, 1974]

"ENVIROPOLITICS" IS A POLLUTANT TOO

(By Frank D. Schaumberg*)

In the fall of 1972 Congress passed by a near-unanimous vote a very crucial piece of environmental legislation, the 1972 amendments to the Water Pollution Control Act. It is not surprising that the act received such strong congressional support, since a "nay" vote on any environmental measure could constitute political suicide.

Americans most often look to their political leaders in Washington, D.C., for remedies or solutions to technological and all other domestic problems. But why? Is it because politicians are considered omniscient, or because they possess the authority to legislate? Throughout recent history Americans have been lulled into the belief that laws and large appropriations can serve as a panacea for all ills. The public will soon come to the realization, however, that laws cannot create energy nor can they magically cleanse the environment. Yet Congress proceeds undauntedly in its efforts to legislate away all ills.

This article will explore the interrelationship among politics, laws, and the environment. This will enable the reader to better understand why some of our nation's problems are being intensified rather than attenuated by political involvement.

The 1972 Water Pollution Control Act is based upon many elements of unsound scientific reasoning and fact. For example, it elucidates a national goal of "zero water pollution" by 1985, a goal that is thermodynamically, technologically, and economically unrealistic and in fact impossible to achieve. If interpreted literally, this act might be viewed as an attempt by Congress to amend the basic laws of science and nature.

Another serious shortcoming of this act is the obvious lack of concern for its many negative impacts on the air and land phases of the environment. Should the act continue to be implemented as the Environmental Protection Agency (EPA) administrator is currently directing, the sparkling waters achieved will be masked by polluted air and debris-laden land. Of course, laws could be passed to deal with these problems once they become manifested in critical proportions. This issue of concern for the *total* environment has been addressed in my paper, "Nature—An Important Factor in Management of the Total Environment," which will be presented at the seventh annual conference of the International Association on Water Pollution Research in Paris next fall.

ADVICE WITHOUT EXPERTISE

While preparing this technical paper I carefully reviewed the content and early consequences of the 1972 act. Several perplexing questions surfaced. For instance, how could such a technically unsound piece of legislation be promulgated? And why has this act resulted in an implementation program based upon adversary procedures wherein dischargers are dealt with like criminals and given only the guilty or not-guilty alternatives?

Answers to these and related questions become readily apparent when the political fabric and framework of our legislative processes is examined. Of particular interest is the expertise (or lack of expertise) of the President, our senators and representatives, and members of the commissions, committees, and boards appointed by the President or Congress. The remarks and explanations that follow should be referenced with the adjoining diagram, which illustrates the political maneuvering involved with implementing the 1972 act.

Consider first the composition of our Government's legislative branch. Of the 100 U.S. senators, 98 have nontechnical backgrounds; 60 are lawyers. Only 10 of 435 representatives have technical backgrounds; 208 are lawyers. Little improvement is found in the executive branch. Not only is the President a lawyer, but he leans almost exclusively on lawyers for advice and counsel, even on technical matters.

Though constrained by a deficiency in technical experience and expertise, the 92nd Congress created the highly technical—and in my view politically expedient—1972 Water Pollution Control Act. The act did, however, clearly reveal Congress' concern that its rigorous provisions and goals might have a serious impact upon technology, ecology, economics, and society. To quell this concern, Congress created through the act the National Commission on Water Quality (also known as the Rockefeller Commission) to evaluate the act's impacts. The commission is to report its findings back to Congress by 1975.

A rational person might logically assume that appointments to this 15-member advisory commission would include representation from industry, ecology, engineering, economics, and perhaps even a politician or two. Though rational, such an assumption demonstrates political naivete. After all, why should Congress permit its publicly popular environmental act to be open for criticism by a knowledgeable segment of society?

As a consequence, the *act specifies* that five commission members shall be appointed from the Senate, five from the House, and five shall be selected by the President. Twelve of the 15 commissioners have nontechnical backgrounds, including its chairman, former New York Gov. Nelson Rockefeller. It becomes all too apparent that Congress assigned a segment of itself to advise itself on matters beyond its intrinsic expertise. This provision of the act clearly illustrates the political game that is being played at the expense of the environment.

From a citizen's perspective, the needs and concerns for environmental quality should transcend partisan politics. But then consider the aspirations of some of the commissioners. Chairman Rockefeller, a likely Republican Presidential contender, is matched against vice chairman Edmund Muskie, a Democratic Presidential hopeful. Since Senator Muskie introduced this legislation, he is committed to defend it before Congress and the public. It is very likely that he will attempt to divert the commission, its staff, and its consultants from any consideration of the act's highly unrealistic 1983 and 1985 goals. On the other side of the political fence, it might be politically expedient for Nelson Rockefeller to discredit the act and with a political opponent, Senator Muskie.

Congress provided the commission with a $15 million budget to undertake its important mission. One of the major expenditures to date has been the assembling of a large, predominantly nontechnical staff to assist and advise the commission.

The act stipulates that the commission can retain as consultants such eminent technical groups as the National Academy of Sciences, the National Academy of Engineering, and the National Institute of Ecology. I have been an adviser to the Institute of Ecology relative to its assignment with the commission.

INSULATED BY POLITICS

It can be noted on the diagram that the technical groups have been relegated to the periphery of the decision-making process. Their reports will be routed to the commission staff, which will report to the commissioners, who will report to the public-works committees of the House and Senate, which will make the final report to Congress. The amount of technical input that can pass or filter through these many layers of nontechnical, political insulation will very likely be minimal.

The act provides a conceptual blueprint for the development of an implementation and enforcement program by the EPA. It is not surprising that President Nixon entrusted this tremendous environmental assignment as EPA administrator to a fellow lawyer, Russell Train. Before Train, fellow lawyer William Ruckelshaus was our nation's environmental leader.

Recognizing that professional, technical input should be made available during implementation, Congress provided in the act for two committees to advise the EPA administrator. One committee, the Effluent Standards and Water Quality Advisory Committee, was required by law to be comprised entirely of technical experts—which it is. Unfortunately, Congress failed to provide *any* budget for this committee to meet and function. Consequently, its effectiveness has nearly paralleled its budget level.

The second committee, the Water Pollution Control Advisory Board, is also nearly defunct, but for another reason: Its chairman, as specified by the act, is the EPA administrator. The administrator rarely, if ever, calls the board together for a meeting. It is doubtful that the board could provide much counsel, since eight of its nine Presidentially appointed members have nontechnical backgrounds.

AN UNREALIZED INTENT

After the EPA has developed specific standards for municipal and industrial waste discharges, the task for enforcement is delegated through its regional offices to the 50 states. Even though the act purports to increase state control on environmental matters, the reverse situation has actually resulted. As a consequence of this act and the implementation programs specified by the EPA, many previously effective state programs have been destroyed or seriously weakened. State regulatory agencies now serve only as puppets and policemen for the EPA and are buried in a bureaucratic quagmire of forms and paper work.

The predominance of lawyers in all phases of our political framework has resulted in adversary procedures and problem oversimplification. It must be remembered that laws alone cannot solve technical problems; they can only provide avenues to seek solutions. Voters all too often equate laws, lawyers, and politics. They must recognize that a law consists of basically two elements, substance and form. Lawyers are skilled primarily in the latter.

As a consequence, many of our laws, especially technical laws, may sound appealing but frequently are shallow and ineffective. For example, the obvious intent of the 1972 act's sponsor was a cleaner environment. However, that intent was not transformed into a substantive and workable law, owing in part to the obvious lack of reliable technical input.

The tenor of my remarks might suggest opposition to nontechnical persons, especially

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lawyers, being entrusted with lawmaking, law implementation, and law enforcement. This is certainly not my intent. I am confident that many of the engineers, scientists, physicians, and others in the technical segment of society would fail miserably in the political arena. My thesis is simply that politicians and their appointees must recognize their technical limitations and seek counsel from those who are knowledgeable rather than from those who will say what the politician wishes to hear. Our environment will not be effectively managed until our politicians become more technically sensitive and our technologists more politically sensitive.

REDUCED SPEED LIMITS MUST BE CONTINUED—SENATOR ROBERT C. BYRD STRESSES HIGHWAY SAFETY BENEFITS—CONSERVATION IS NEEDED

Mr. RANDOLPH. Mr. President, the shortage a few months ago imposed personal hardship and inconvenience on many of our citizens. The adverse impact of the shortage, however, was softened considerably by the variety of conservation measures instituted and willingly observed throughout the United States.

The acute shortage of petroleum has been alleviated, at least temporarily, by the lifting of the Arab embargo on this country. I regret that this situation is causing many of our citizens to forget the lessons of last winter and early spring to return to their old ways of using precious fuels wastefully.

The energy shortage is not over. Just as it did not suddenly materialize last autumn with the imposition of the embargo, it did not magically melt away with the winter snow. Even with the resumption of large oil imports we face the very real prospect of shortages of petroleum during the summer months and perhaps again next winter. It is, therefore, incumbent on every American to continue conservation consciousness. The days of energy extravagance are over—they are over for good. We can continue to enjoy a high standard of living in an economically strong country. But we must use energy wisely.

One of the most beneficial measures brought into operation last winter was the reduced speed limits for motor vehicles using our highways, a proposal which I first made in late spring of 1973 and was incorporated in legislation enacted several months later. The Department of Transportation estimates that the uniform 55-mile-per-hour limit can save from 130,000 to 160,000 barrels of fuel each day. This is a significant percentage of the 250,000 barrels the Federal Energy Office says have been cut from the average daily consumption.

Mr. President, the Committee on Public Works accepted the Emergency Highway Energy Conservation Act early last December and I reported it to the Senate on December 13. This speed limit measure, which became law on January 2 of this year, eliminated a certain amount of confusion and permitted the fuel savings we enjoy today.

Lower speed limits also triggered a dramatic decrease in the number of highway fatalities. It was an unusual opportunity to measure the effect of speed on traffic deaths. In March of this year traffic fatalities were 25.5 percent below the figure of the preceding March. More important, this was a saving of 1,091 lives and was the fifth consecutive month that highway deaths declined compared with last year.

So there are two compelling reasons—lives saved and fuel conserved—for continuing to observe lower speed limits. The law is still in effect, and law enforcement agencies must not be lax in requiring its observance.

Mr. President, my able colleague from West Virginia, Senator ROBERT C. BYRD, discussed the lifesaving benefits of lower speed limits in his newspaper column, read by thousands of citizens each week. I ask unanimous consent that his observations, as they appeared in the News-Tribune of Keyer, W. Va., be printed in the RECORD.

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

[From the Keyser (W. Va.), News-Tribune, Apr. 29, 1974]

BYRD'S-EYE VIEW—REDUCED SPEED LIMIT SAVING LIVES

(By U.S. Senator ROBERT C. BYRD)

For the first time in many years the nation's highway death toll is declining throughout the country. The 55-mile speed limit, imposed to reduce gasoline consumption, is given the credit. The total miles Americans drive has declined too, and that is a factor; but the drop in fatalities is considerably greater than is the decrease in driving.

The average driver may not realize it, but some 17 million automobile accidents a year have been occurring in the United States. Better known, perhaps, is the fact that these accidents have sent deaths in car crashes soaring above 56,000 a year.

Now, according to the National Safety Council, the monthly death totals are dropping. They were 9% lower in November 1973—the first month for the lower speed limits—than they were in November 1972. They were 19% lower in December than a year earlier. And in both January and February 1974 they were an impressive 25% below last year.

This is good news indeed for all who drive automobiles—including those who chafe at the reduced speed limits.

Safety experts say that one's chances of being killed in an automobile wreck double with each 10-mile-an-hour increase above 50. The risk of being fatally injured is twice as great at 60 as it is at 50, and at 70 it is four times greater.

Reducing speed limits is not the whole answer to solving the highway death problem. But experience with the 55-mile speed limit thus far would seem to point up one aspect of the situation about which disagreement has existed in the past: Speed does kill.

A case can be made for a 70-mile-an-hour limit for competent, sober drivers on limited-access divided four-lane highways, such as the interstates. But, unfortunately, not all drivers are competent and sober.

Until all drivers are licensed, and their licenses are renewed, on the basis of their driving skills and physical condition and their ability to react properly in emergency situations, and until we get the drunk drivers off the roads, then speed can only multiply one's chances of being killed—even when an accident is not one's own fault.

"ABILITY COUNTS" CONTEST

Mr. HATFIELD. Mr. President, Miss Jane Johnson of Coos Bay, Oreg., recently wrote an article on the problems many handicapped individuals must overcome if they are going to become self-sufficient members of society. Miss Johnson's paper reviews the progress or the lack of progress made in Coos Bay in helping handicapped people.

For her efforts, Miss Johnson won first prize in the "Ability Counts" Contest and a trip to Washington. I had the opportunity to meet with Miss Johnson today and know that she deserves the recognizition.

Mr. President, I ask unanimous consent that Miss Johnson's paper be printed in the RECORD.

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

COMMUNITY CHALLENGE: BARRIERS TO THE HANDICAPPED

(By Jane Johnson)

The nature of human beings is to be self-sufficient, even though we do depend on each other to a certain extent. Funk and Wagnall's *Standard College Dictionary* defines handicapped as, ". . . any disadvantage that makes achievement or success difficult."[1] Being handicapped does not take away the need to be self-sufficient, it just makes it a little harder. In today's world, a person who is handicapped either mentally, physically, or socially faces overwhelming obstacles when trying to make of himself a useful, productive person instead of a charity-seeker or just a direction for a multitude of insincere sympathies.

In the community of Coos Bay, Oregon little has already been done in helping the handicapped help themselves. This town is just beginning to realize the potential of these people who, for hundreds of years have been shunned by the world just because they were different in some way, or disabled to the point where community involvement was simply out of the question. The sad part is that this town is not alone in its ignorance. Very few towns or cities have educated their employers or personnel managers in hiring the able disabled.

Coos Bay's City Manager Mr. Richard Kahanek[2] stated that the city was now in the process of cutting curbs for wheelchair victims and elderly people who have difficulty in mounting or dismounting the sidewalks. He also said that the Coos Bay City Council was in the process of researching the need for public transportation of the handicapped and the elderly to and from work, for medical reasons, or just around town. The present gas shortage is one detriment to this project, as it is to any inter-city travel. The City has just recently approved parking permits for five severely handicapped workers for the Southwestern Branch of Goodwill Industries of Lane County. This need for special parking permits, has brought about the design of a special license plate for handicapped workers whereby they will not be ticketed for overtime parking.

The city of Coos Bay is a heavy industry area concerned mainly with the logging industry and shipping of related products. Mr. Robert Boak,[3] Director of the Vocational Rehabilitation Department in Coos Bay stated that if Coos Bay had some sort of assembly line industry locally, there would be more to offer a handicapped person in the way of

[1] Funk and Wagnall, *Standard College Dictionary* (Text ed; New York: Harcourt, Brace and World, Inc., 1963), p. 608.

[2] Richard Kahanek, City Manager of Coos Bay, Oregon. Interviewed February 5, 1974.

[3] Robert Boak, Director of Vocational Rehabilitation in Coos Bay, Oregon. Interviewed February 6, 1974.

work. As it is now, the only work available for the mentally retarded is some mill work, custodial work, and such, the extent of which depends on the severity of the mental disability. Usually the handicapped must go to some other area to locate a suitable job. The Vocational Rehabilitation Department reported having two hundred of their case load as having handicaps, with about eighty-five percent successful in finding employment.

When asked about some of the misconceptions and misunderstandings on the part of the employers, Mr. Boak replied that the employers are sometimes just sensitive to the idea of having a handicapped employee. It bothers the employer to have him or her around. They, the employers, feel that the handicapped drive business away. Another misconception that interferes with the hiring of the handicapped is that the employer doesn't want to get involved, should the handicapped be the victim of an on-the-job mishap. Insurance protects the employer through a second injury clause, but often the employer just doesn't want to get involved in all that red tape, they think it effects their premiums.

Another reason employers feel it's unwise to hire the handicapped is because of unions. Mr. Don Smith, District Manager of General Telephone,[4] explained that some unions are not explicit enough in the labor union laws and thereby protecting the handicapped in his present job, but preventing him a raise within the company from one job to another. The employer must evaluate the person and allow for the handicap, which is, in some cases, discrimination. The handicapped can then turn around and sue the employer for discrimination. Economically, it is also unheard of to tailor a job to the handicapped, like employers feel they have to. Also, the company or employer cannot afford to build a special auto, or to reconstruct the place of work so that the handicapped can move around easier. Economically, the telephone booths in Coos Bay cannot be structured for the few handicapped people who live in this town. The telephone company is, however, remaking the booths in covered areas into phones with bubble tops. Rain and windwise there is little else they can do.

Mr. Bill Johnson,[5] Branch Manager for the Southwestern Branch of Goodwill Industries of Lane County, feels that the plight of the employable handicapped has not been widely enough publicized. Goodwill is the first real step that has been taken in involving the handicapped of the area. Mrs. Jean Banks,[6] a physical therapist with Easter Seals, and Ms. Roseanne Jones, of Mental Health,[7] both feel that another real need of the handicapped is the one for more vocational counselors. These people all realize the need to educate the public before the handicapped themselves can take their place in the world of work. People are beginning to listen. Now, maybe, the handicapped can get some action.

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2. Boak, Robert. Director; Vocational Rehabilitation, Coos Bay, Oregon.

3. Johnson, Bill. Branch Manager; Southwestern Branch of Goodwill Industries of Lane County.

4. Jones, Roseanne. Mental Health Department, Coos Bay, Oregon.

5. Kahanek, Richard, City Manager; Coos Bay, Oregon.

6. Smith, Don. District Manager; General Telephone Co.

[4] Don Smith, District Manager; General Telephone, Interviewed February 5, 1974.

[5] Bill Johnson, Branch Manager; S. W. Branch of Goodwill Industries of Lane County. Interviewed February 7, 1974.

[6] Jean Banks, Physical Therapist; Easter Seals. Interviewed February 4, 1974.

[7] Roseanne Jones, Mental Health. Interviewed February 4, 1974.

YELLOWSTONE NATIONAL PARK—ITS EXPLORATION AND ESTABLISHMENT

Mr. McGEE. Mr. President, the U.S. Department of Interior has just released a new book entitled "Yellowstone National Park—Its Exploration and Establishment."

The Interior Department is to be commended for compiling this excellent and stimulating literary work on the Nation's first national park, established in 1872. Wyomingites take immense pride in one of our Nation's major tourist attractions.

The Yellowstone National Park area has had a very stimulating history; one which abounds with the sense of adventure associated with the opening of the West. This aspect of Yellowstone is captured eloquently in the book.

I would hope that my colleagues would read this publication, for it is well worth the time of anyone who has a fascination with, and interest in, our heritage and one aspect of our development as a Nation—Yellowstone National Park.

THE PRESIDENT'S TAPE TRANSCRIPTS—SUMMARY MEMORANDUM

Mr. THURMOND. Mr. President, there has been prepared a memorandum of excerpts of taped conversations between the President and John Dean which clearly reveal important contradictions of Mr. Dean's sworn testimony before the Senate Select Committee. When I learned of this memorandum I requested a copy, and feel that it would be of interest to my colleagues in the Congress.

Therefore, I ask unanimous consent that it be printed in the RECORD following these remarks.

There being no objections, the memorandum was ordered to be printed in the RECORD, as follows:

SUMMARY MEMORANDUM

The attached excerpts of taped conversations between the President and John Dean contain a number of important contradictions of Mr. Dean's sworn testimony before the Senate Select Committee.

Some of the contradictions are especially important because they involve misstatements as to dates, and therefore bear directly and materially on the central issue of the hearings: "What did the President know, and when did he know it?"

The President has consistently stated that he first learned of the alleged cover-up on March 21, 1973. The main thrust of the Dean testimony, however, was that the President had known of the alleged cover-up before March 21—indeed as early as September 15, 1972. Dean supported this contention by testimony which recited certain alleged statements by the President and by Dean in meetings between them on September 15, 1972, February 28, 1973 and March 13, 1973.

The tapes establish that these things were not said in the earlier meetings, as sworn to by Mr. Dean, and that is important of course. However, the fact that certain of Dean's misstatements appear to be a pre-dating of what was actually said on March 21, makes their impact on the central issue of the hearing all the more serious.

The portions of Dean's testimony which alleged Presidential knowledge of the cover-up prior to March 21, 1973 were among the most widely publicized portions of Mr. Dean's testimony during his five days on the witness stand.

None of Mr. Dean's statements implying presidential knowledge on September 15th—the allegation that Mr. Dean said "it had been contained," the alleged presidential compliment, "Bob told me what a good job you have been doing," Dean's claim that he told the President he could not guarantee that the cover-up might not unravel, and others—is confirmed in the tape of September 15.

As for the tape of February 28th, there is no record whatsoever of Mr. Dean's having discussed his role in the cover-up, and his potential criminal liability as Mr. Dean testified.

On March 13th, Mr. Dean said the question of "money demands," the possibility of raising $1 million, and the subject of clemency came up in a "casual" way at the end of the conversation. Being pressed, Mr. Dean insisted this was March 13th, not the 21st. That proves to have been false. None of these matters, which would have implied presidential knowledge of a cover-up, was raised on the 13th of March, contrary to Mr. Dean's testimony.

Elsewhere, the tape of March 22nd contradicts Mr. Dean's repeated assertion that the President never directed him to Camp David to write a report.

Indeed, in sixteen separate areas—on dozens of occasions—Mr. Dean made substantive statements concerning the President that do not accord with the tapes; indeed they appear in direct contravention of what the tapes contain.

Again, the significance of the earliest of these is that the question, "What did the President know and when did he know it," was the focal point of the Watergate hearings. Mr. Dean contended Presidential knowledge of, and involvement in that cover-up, based on what transpired in three meetings with the President. In none of those meetings can it be said that the tapes bear out what Mr. Dean testified to under oath.

ITEM NO. 1: SEPTEMBER 15, THE TESTIMONY

DEAN. "The President asked me to sit down. Both men appeared to be in very good spirits and my reception was very warm and cordial. *The President then told me that Bob—referring to Haldeman—had kept him posted on my handling of the Watergate case.*" Dean Testimony, Opening Statement, p. 957.

Senator GURNEY. "Did he say that 'Bob has been telling me everything you have been doing.' "

DEAN. He (the President) said *'Bob has been reporting to me,' something of this nature.*" Dean Testimony, p. 1373.

DEAN. ". . . There was some preliminary pleasantries, and then the next thing that I *recall the President very clearly saying to me is that he had been told by Mr. Haldeman that he had been kept posted or made aware of my handling of the various aspects of the Watergate case . . .*" Dean Testimony, p. 1475.

THE TAPES

All three statements are false. Nowhere in the tape of September 15th does the President make any reference whatsoever to Bob Haldeman's having reported to him on John Dean's investigations or efforts in Watergate. (Incidentally, the President did not even ask Mr. Dean to "sit down.")

SEPTEMBER 15, ITEM NO. 2: THE TESTIMONY

DEAN. "The President told me I had done a good job and he appreciated how difficult a task it had been and the President was pleased that the case had stopped with

Liddy." Dean Testimony, Opening Statement, p. 957.

Senator BAKER. "Did he say that though?"

DEAN. Did he say that no one in the White House had been handed down? I can't recall it. *I can recall a reference to the fact that the indictments were now handed down and he was aware of that and that the status of the indictments and expressed what to me was a pleasure to the fact that it had stopped at Liddy."* Dean Testimony, p. 1475.

THE TAPES

The statement is false. The President never in this conversation in any way, expressed pleasure the "case had stopped with Liddy."

SEPTEMBER 15, "ITEM NO. 3: "IT HAS BEEN CONTAINED" THE TESTIMONY

DEAN. "I told him (the President) that all that I had been *able to do was to contain the case and assist in keeping it out of the White House."* Dean Testimony, Opening Statement, p. 957.

DEAN. "All right. He was interested in knowing if it was likely—well, let me, before I go on to that, let me say something else that I recall. When we talked about the fact that the indictments had been handed down. at some point, and after the compliment *I told him at that point that we had managed, you know, that the matter had been contained,* it had not come into the White House, I didn't say that, *I said it had been contained.*

Senator BAKER. Did you say anything beyond that it had been contained?

DEAN. No, I did not. I used that. *I recall very clearly using that expression that it had been contained.*

Senator BAKER. That is an important word; it has been contained.

DEAN. That is right." Dean Testimony, p. 1476.

THE TAPES

According to the transcript of tape of September 15th, John Dean never used the word "contained", never used the expression "it has been contained," never made any statement even similar to that.

SEPTEMBER 15, ITEM NO. 4: "MORE DIFFICULT THINGS" THE TESTIMONY

DEAN. "I responded that I could not take credit because others had done much more difficult things than I had done."—Dean Testimony, Opening Statement, p. 957.

Senator BAKER. "Can you give us any information, can you give us any further insight into what the President said?

DEAN. Yes, I can recall he told me that he appreciated how difficult a job it had been for me.

Senator BAKER. Is that close to the exact language?

DEAN. Yes, that is close to the exact language. That stuck very clearly in my mind because I recall my response to that was that I didn't feel that I could take credit. I thought that others had done much more difficult things and by that I was referring to the fact that Mr. Magruder had perjured himself. [Laughter]"—Dean Testimony, p. 1476.

THE TAPES

Nowhere in the discussion of September 15th did Mr. Dean say that he could "not take credit" or that others had done "more difficult things." Both statements are false.

SEPTEMBER 15, ITEM NO. 5: MAINTAINING THE COVERUP, THE TESTIMONY

DEAN. "I also told him that there was a long way to go before this matter would end and that I certainly could make no assurances that the day would not come when this matter would start to unravel."—Dean Testimony, Opening Statement, p. 957.

DEAN. "I left the meeting with the impression that the President was well aware of what had been going on regarding the success of keeping the White House out of the Watergate scandal and I also had expressed to him my concern that I was not confident that the coverup could be maintained indefinitely."—Dean Testimony, Opening Statement, p. 959.

DEAN. ". . . I said that this, you know, there are a lot of hurdles that have to be leaped down the road before it will definitely remain contained and I was trying to tell the President at that time that I was not sure the coverup even then would last indefinitely."

Senator BAKER. "This, once again, is a terribly important area of inquiry, so let me interrupt you again and take you over it one more time. You told the President, I don't think it can continue to be contained?"

DEAN. "That is correct."

Senator BAKER. "Are those close to your exact words?"

DEAN. "That is very close to my words, because I told him it had been contained to that point and I was not sure that it would be contained indefinitely." Dean Testimony, p. 1477.

THE TAPES

Mr. Dean's statement about warning the President of the possibility that the matter might "unravel", of warning him that there was no guarantee it would "be contained indefinitely", is not only false. It is 180 degrees from the truth. Here is John Dean's statement from the tape of September 15, regarding the future of the Watergate investigation:

Mr. DEAN. Three months ago I would have had trouble predicting there would be a day when this would be forgotten, but I think I can say that 54 days from now nothing is going to come crashing down to our surprise.

The PRESIDENT. That what?

Mr. DEAN. Nothing is going to come crashing down to our surprise. Transcript, p. 62.

ITEM NO. 6: SEPTEMBER 15, DISCUSSING THE CRIMINAL CASE

THE TESTIMONY

The President asked me when the criminal case would come to trial and would it start before the election. I told the President that I did not know. I said that the Justice Department had held off as long as possible the return of the indictments, but much would depend on which judge got the case. The President said that he certainly hoped that the case would not come to trial before the election. Dean Testimony, Opening Statement, p. 958.

Senator BAKER. All right, go ahead.

Mr. DEAN. It was then we turned to the status of the litigation. The criminal case, as I recall the sequence of the conversation, and he wanted to know when this matter was likely to come to trial. I told him very much would depend upon which Judge the case was assigned to. Dean Testimony, p. 1477.

THE TAPES

The entire statement is false; not a word of truth is contained in it. The President did not ask when the criminal case would come to trial. Most important, nowhere in the conversation did John Dean say that the Justice Department had held off the indictments as long as possible. The President nowhere in the conversation expressed the hope that the case would not come to trial before election.

SEPTEMBER 15, ITEM NO. 7: "WELL, THAT'S HELPFUL," THE TESTIMONY

DEAN. ". . . I then told the President that the lawyers at the re-election committee were very hopeful of slowing down the civil suit filed by the Democratic National Committee because they had been making ex parte contacts with the judge handling the case and the judge was very understanding and trying to accommodate their problems. The President was pleased to hear this and responded to the effect that, 'Well, that's helpful'." Dean Testimony, Opening Statement, p. 958.

Mr. DASH. "You would soften the word to 'influence' rather than 'fix'?"

DEAN. "Yes, I would."

Mr. DASH. "All right. Now, according to your statement, did the President not say to you, on being apprised of this special influence with the judge, 'Well, that is helpful'?"

DEAN. "He said something to that effect; yes, that is correct." Dean Testimony, p. 1028.

DEAN. ". . . It was also as a result of this conversation that we got into a discussion, or I told him that I had learned from the lawyers at the re-election committee that they had been making or they had somebody who was making an ex parte contact with the judge who had jurisdiction over the principal suit of the greatest concern, which was the suit by Mr. O'Brien, Larry O'Brien and the DNC."

Senator BAKER. "Is this, once again, close to the exact language you used?"

DEAN. "Yes, that was—I did not know who it was that was making the contacts at that time for certain, so I just told him that the lawyers at the re-election committee are making ex parte contacts or have made ex parte contacts and are hoping to get some favorable rulings."

Senator BAKER. "Did the President make any remarks at that point, or did Mr. Haldeman?"

DEAN. "I recall the President said something to the effect, well, that is helpful."

Senator BAKER. "Is that close to the exact language?"

DEAN. "Yes, sir." Dean Testimony, p. 1478.

THE TAPES

Within the above remarks there are three false statements, First, John Dean did not on September 15th say that lawyers for the Committee To Re-Elect had made "ex parte" contacts with the Judge, to influence the case. He said, on the contrary, that Judge Ritchie had made entrees off the bench.

Secondly, Mr. Dean knew exactly who was in communication with the Judge, and named the individuals to the President. Finally, the President did not say "That is helpful," or anything of the sort. Here is the relevant transcript:

Mr. DEAN. You might be interested in some of the allocations we got. The Stans' libel action was assigned to Judge Ritchie.

The PRESIDENT. (Expletive deleted.)

Mr. DEAN. Well now that is good and bad. Judge Ritchie is not known to be one of the inaudible on the bench, that is considered by me. He is fairly candid in dealing with people about the question. He has made several entrees off the bench—one to Kleindienst and one to Roemer McPhee to keep Roemer abreast of what his thinking is. He told Roemer he thought Maury ought to file a libel action.

The PRESIDENT. Did he?

Mr. HALDEMAN. Can he deal with this concurrently with the court case?

Mr. DEAN. Yeah. The fact that the civil case drew to a halt—that the depositions were halted, he is freed. Transcript, p. 60.

Mr. Dean's suggestion that the President greeted with pleasure a statement that improper contacts were being made with a Federal Judge turns out, on inspection of the tapes, to be false.

FEBRUARY 28, ITEM NO. 8: THE TESTIMONY

DEAN. "I told him that I thought he should know that I was also involved in the post-June 17 activities regarding Watergate. I briefly described to him why I thought I had legal problems, in that I had been a conduit for many of the decisions that were made and, therefore, could be involved in an obstruction of justice. He would not accept my analysis and did not want me to

get into it in any detail other than what I had just related. He reassured me not to worry, that I had no legal problems." Dean Testimony, Opening Statement, p. 992.

DEAN. "When I discussed with him the fact that I thought he ought to be aware of the fact that I had been involved in obstruction of justice, when I made known to him that I had been made a conduit for decision. He said, John, you don't have any legal problems to worry about, I just don't believe you have any problems at all, and it was left hanging at that." Dean Testimony, p. 1401.

Senator GURNEY. "But I am not talking about impressions. That is what I am trying to get away from. I am talking about specific instances.

DEAN. All right, I told him that I had been a conduit for a lot of decisions regarding support and for silence and things of this nature, and I felt that involved me in an obstruction of justice. The President didn't think it did.

Senator GURNEY. Did you mention any of these decisions specifically?

DEAN. I beg your pardon?

Senator GURNEY. Did you mention any of these incidents specifically?

DEAN. I did not get into specific instances. *I rather gave him a general outline or picture of my conduit activities.*" Dean Testimony, p. 1402.

THE TAPES

Below is the "outline" or "picture" of his conduit activities for decision regarding silence and support; below is how Mr. Dean briefed the President on his liability for "obstruction of justice" in the last minute of the conversation of the 28th of February.

"PRESIDENT. . . . There is no question what they are after. What the Committee is after is somebody at the White House. They would like to get Haldeman or Colson, Ehrlichman.

DEAN. Or possibly Dean—You know, I am a small fish.

PRESIDENT. Anybody at the White House they would—but in your case I think they realize you are the lawyer and they know you didn't have a (adjective deleted) thing to do with the campaign.

DEAN. That's right.

PRESIDENT. That's what I think. Well, we'll see you.

DEAN. Alright, Sir, Goodbye." Transcript, p. 110.

Nowhere else in the 72 minutes of conversation does John W. Dean refer to any legal problems or liability of his own. Indeed, the conversation is one long series of reassurances, given to the President by Mr. Dean, on matters related to Watergate.

As for Mr. Dean's suggestion that February 28th was one of those dates that convinced him of Presidential involvement, the following passage from that tape is apposite:

"DEAN. Well I was — we have come a long road on this thing now. I had thought it was an impossible task to hold together until after the election until things started falling out, but we have made it this far and I am convinced we are going to make it the whole road and put this thing in the funny pages of the history books rather than anything serious because actually —

PRESIDENT. It will be somewhat serious but the main thing, of course is also the isolation of the President.

DEAN. Absolutely! Totally true!

PRESIDENT. Because that, fortunately, is totally true.

DEAN. I know that sir." Transcript, p. 108.

MARCH 13, ITEM NO. 9: MONEY DEMANDS, THE TESTIMONY

DEAN. "Toward the end of the conversation, we got into a discussion of Watergate matters specifically. I told the President about the fact that there were money demands being made by the seven convicted defendants, and that the sentencing of these individuals was not far off. Dean Testimony, p. 995.

DEAN. "I do not know what the President knew on March 20 . . . We had also had a discussion on March 13 about the money demands that were being made." Dean Testimony, p. 1423.

THE TAPES

The truth: The issue of money for the defendants was never raised by John Dean, in the Watergate discussion of March 13.

MARCH 13, ITEM NO. 10: "THE $1 MILLION," THE TESTIMONY

DEAN. ". . . I told the President about the fact that there was no money to pay these individuals to meet their demands. He asked me how much it would cost. I told him that I could only make an estimate that it might be as high as $1 million or more. He told me that that was no problem, and he also looked over at Haldeman and repeated the same statement. He then asked me who was demanding this money and I told him it was principally coming from Hunt through his attorney." Dean's Opening Statement, p. 995.

DEAN. ". . . We also had a discussion on March 13 about the money demands that were being made. At that time he discussed the fact that a million dollars is no problem. He repeated it several times. I can very vividly recall that the way he sort of rolled his chair back from his desk and leaned over to Mr. Haldeman and said, 'A million dollars is no problem.' And then he came back and asked, 'Well, who is making these demands . . .'" Dean Testimony, p. 1423.

THE TAPES

Repeatedly, Mr. Dean testified that the President asked the questions and made the comments about the 1 million dollars on March 13—not March 21, as the President had stated. In point of fact, there is no mention of the $1 million demand or the fact that the money demands were coming from Mr. Hunt, on the tape of March 13th.

What makes this of significance is that—before the existence of White House tapes was known or made public—John Dean insisted, under oath, that this had transpired on the 13th of March not the twenty-first.

DEAN. ". . . Now, according to the memorandum that Mr. Thompson prepared based on that call, this meeting, when the discussion, according to the White House, on the million dollars and the Executive clemency took place was March 21 rather than March 13.

DEAN. That is not correct. That is not my recollection. In fact I am very clear on the fact that it occurred on the 13th, because the meeting on the 21st was a totally different range of topics than the way this rather casually came up on the 13th." Dean Testimony, p. 1567.

MARCH 13, ITEM NO. 11: THE PROMISE OF CLEMENCY, THE TESTIMONY

DEAN. "The President then referred to the fact that Hunt had been promised executive clemency. He said that he had discussed this matter with Ehrlichman and contrary to instructions that Ehrlichman had given Colson not to talk to the President about it, that Colson had also discussed it with him later. He expressed some annoyance at the fact that Colson had also discussed this matter with him." Dean Testimony, Opening Statement, p. 995–6.

Senator GURNEY. "Twenty-eight, all right. Then one other meeting on March 13 you had another conversation with him that involved this Executive clemency business, isn't that correct?

DEAN. On March 13 we discussed both clemency and the fact that this was no money. The way the clemency discussion came up as you will recall is that at the end of another conversation I raised with him the fact that there were demands being made for money . . .

I said they were coming principally from Mr. Hunt through his attorney, and he turned to the discussion of the fact that he had talked with Mr. Ehrlichman and Mr. Colson about clemency for Mr. Hunt and he expressed annoyance at the fact that Mr. Colson had come to him contrary to an instruction that the President was aware of that Colson wasn't to raise this with him." Dean Testimony, p. 1521–1522.

Mr. DASH. "Now according to the memorandum that Mr. Thompson prepared based on that call, this meeting when the discussion, according to the White House on the million dollars and the Executive Clemency took place was March 21 rather than March 13.

Mr. DEAN. That is not correct. That is not my recollection. In fact I am very clear on the fact that it occurred on the 13th, because that meeting on the 21st was a totally different range of topics than the way this rather casually came up on the 13th." Dean Testimony, p. 1567.

THE TAPES

The truth: The subject of clemency—contrary to John Dean's sworn testimony and his insistence—did not arise on March 13; no mention was made of it in the meeting.

In its request for the tape of the conversation of March 13, 1972, the Special Prosecutor wrote as follows:

"Dean, on the other hand, testified that respondent told Dean that respondent had approved executive clemency for defendant Hunt and that there would be no problem about raising $1 million to buy all defendants' silence. (S TR 2324) Unquestionably, confirmation of Dean's testimoney would aid the Grand Jury in determining the existence, membership and scope of a cover-up conspiracy. Conclusive disproof, on the other hand, would raise a question of perjury by Dean before the Senate Committee, a matter directly within the Grand Jury's jurisdiction."

MARCH 21, ITEM NO. 12: OMISSIONS, THE TESTIMONY

DEAN. "And certainly, this statement was issued on May 22, 1973, and on March 21 I certainly told the President everything I knew at that point in time." Dean Testimony, p. 1078.

THE TAPES

According to the transcript of the tape of March 21, Mr. Dean did not tell the President everything he knew—especially concerning his own involvement.

(1) He withheld the fact that he himself had directed John Caulfield to offer executive clemency to Mr. McCord;

(2) He failed to advise the President that he himself had shredded documents, destroyed evidence from Mr. Howard Hunt's safe.

MARCH 21—AFTERNOON, ITEM NO. 13: "ALL INDICTABLE," THE TESTIMONY

DEAN. "The meeting with the President that afternoon with Haldeman, Ehrlichman, and myself was a tremendous disappointment to me because it was quite clear that the coverup as far as the White House was concerned was going to continue. I recall that while Haldeman, Ehrlichman, and I were setting at a small table in front of the President in his Executive Office Building office that I for the first time said in front of the President that I thought that Haldeman, Ehrlichman, and Dean were all indictable for obstruction of justice and that was the reason I disagreed with all that was being discussed at that point in time.

I could tell that both Haldeman, and particularly Ehrlichman, were very unhappy with my comments." Dean Testimony, Opening Statement, p. 1000.

DEAN. "Now, during that meeting [March 21, afternoon], I recall a number of ideas

were being suggested and the like. At that point, it was the first time I had ever mentioned in front of Haldeman, Ehrlichman, and the President the fact that I thought they were all indictable—not including the President. I said that Haldeman, Ehrlichman, and Dean could be indicted. For that reason, I disagreed with whatever they were talking about. The President on a number of occasions turned to me and said, Do you agree? I said, No Sir, I do not.

After doing this a number of occasions, I finally said I think that Haldeman, Ehrlichman, and Dean are indictable and got a very, I might say a chilling look from Mr. Ehrlichman." Dean Testimony, p. 1383.

THE TAPES

No such statement by Mr. Dean, of Haldeman, Ehrlichman and Dean all being indictable took place on the afternoon of March 21. In the morning of March 21, when Mr. Dean does relay his feeling that Mitchell, Dean, Haldeman and Ehrlichman are involved in what may be an "obstruction of justice," neither Haldeman nor Ehrlichman was in the room—thus, there could have been no "chilling look."

MARCH 22, ITEM NO. 14: THE CAMP DAVID REPORT, THE TESTIMONY

DEAN. "Yes, sir. The first time I heard about writing a report again occurred when I arrived at Camp David on the afternoon of the 23rd. The telephone was ringing as I walked into the cabin my wife and I were staying in. The operator told me it was the President on the phone. It was not the President. It was Mr. Haldeman on the phone and he said, while you are up there, why don't you sit down and write a report on this thing." Dean Testimony, p. 1384.

Senator GURNEY. "At any rate, you did go to Camp David, sort of understanding that you were going to write a report about Watergate, is that right?

DEAN. No sir. . . . The President said, 'Well, go on ahead. You need the break, you have been under a lot of pressure,' and the like. He never at any time asked me to write a report, and it wasn't until after I had arrived at Camp David that I received a call from Haldeman asking me to write the report up." Dean Testimony, p. 1385.

THE TAPES

This statement by Dean—denying twice that the President sent him to Camp David to write a written report—is untrue. The transcript of March 22 shows precisely when, and why, the President sent Dean to Camp David to write a report. Relevant passages from the conversation of March 22 are below:

DEAN. I don't think I can do it until I sit down this evening and start drafting.

HALDEMAN. I think you ought to hole up for the weekend and do that and get it done.

PRESIDENT. Sure.

HALDEMAN. Give it your full attention and get it done.

PRESIDENT. I think you need—why don't you do this? Why don't you go up to Camp David?

DEAN. I might do it, I might do it.

PRESIDENT. Completely away from the phone. Just go up there and (inaudible) I want a written report. Transcript, pp. 282–283.

ITEM NO. 15: APRIL 16 (MORNING), THE TESTIMONY

After reading the letters, I looked the President squarely in the eyes and told him I could not sign the letters. He was annoyed with me, and somewhat at a loss for words. He said that maybe I would like to draft my own letter. I told him that the letters that he had asked me to sign were virtual confessions of anything regarding the Watergate. Dean Testimony, p. 1018.

THE TAPES

While this appears a moment of dramatic confrontation, where Mr. Dean challenged the President, the transcript of the tape of that conversation reveals no such heroics, no such statements.

P. First, what I would suggest is that you sign both. That is what I had in mind. And then we'll talk about after—you don't know yet what you're. For example, if you go in and plead guilty you would have to resign.

D. That is right.

P. If on the other hand, you're going in on some other basis, then I think the leave of absence is the proper thing to do.

D. Uh, huh, I would think so.

P. And that is the way I would discuss it with others, too. If you have any other thoughts, let me know. I am not trying to press you on the thing. . . .

D. I think it is a good idea. I frankly do. But I think if you do it, for one, I think you have problems with others too Mr. President.

P. I already have the others. Transcript, pp. 789–790.

And after Mr. Dean indicated he "would like to prepare something himself," this is how the colloquy followed:

DEAN. Well, you will have something within a couple of hours.

PRESIDENT. I won't be back. Yes, you draft what you want me to. In other words you can——

DEAN. And if you don't like what I draft, you can tell me and I will change it in any way that you want. Transcript pp. 791–792.

ITEM NO. 16: APRIL 16 (AFTERNOON), THE TESTIMONY

DEAN. The President called me to come to his EOB office about 4 that afternoon. He asked me if I had drafted a letter. I said that I had as well as I had prepared some thoughts for his statement. He asked to see the letter, a copy of which I have submitted to the committee—but again shall read it because it is very brief:

DEAR MR. PRESIDENT. You have informed me that Bob Haldeman and John Ehrlichman have verbally tendered their requests to be given an immediate and indefinite leave of absence from your staff. By this letter I also wish to confirm my request that I be given such a leave of absence from your staff.

DEAN. *After the President read the letter, he handed it back to me and said it wasn't what he wanted.* [Laughter.] Dean Testimony, p. 1018.

THE TAPES

Mr. Dean read the letter aloud to the President, in that meeting—and the President made no such statement as underlined. [underlined wording changed to italic]. The President expressed no opinion on the letter whatsoever.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The time for the transaction of routine morning business has expired.

FEDERAL ENERGY ADMINISTRATION ACT OF 1974—CONFERENCE REPORT

Mr. RIBICOFF. Mr. President, I submit a report of the committee of conference on H.R. 11793, and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore (Mr. ALLEN). The report will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11793) to reorganize and consolidate certain functions of the Federal Government in a new Federal Energy Administration in order to promote more efficient management of such functions, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The ACTING PRESIDENT pro tempore. Is there objection to the consideration of the conference report?

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

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of April 23, 1974 at pp. 11462–11468.)

The ACTING PRESIDENT pro tempore. Under a previous order, the conference report will be considered under a time limitation of 30 minutes, the time to be equally divided between the distinguished Senator from Connecticut (Mr. RIBICOFF) and the minority leader or his designee.

Who yields time?

Mr. RIBICOFF. Mr. President, the conferees have reconciled by unanimous vote all differences between the legislation of the two Houses creating a new Federal Energy Administration (S. Rept. No. 93–788). I strongly urge the Senate to agree to the conference report.

The new Federal Energy Administration created by this act will be charged with the crucial responsibility for seeing to it that this Nation's demand for energy does not exceed its supply of energy. To meet this challenge, the legislation collects functions exercised by officials in the Department of Interior, the Federal Energy Office, and the Cost of Living Council, and reorganizes them into a new 2-year agency with an initial size of some 3,500 employees and an initial budget of about $100 million. It also grants the Federal Energy Administration the necessary authority and direction it must have to effectively fulfill its mission.

The conference report resolves some 63 areas of technical or substantive differences between the House and Senate bills. Except for the fact that the Senate provision creating a Council on Energy Policy is no longer a part of the act, the conference report retains, in almost every other major respect, the provisions of the bill passed by the Senate on December 19 by a vote of 86 to 2.

The pressing need for this legislation has not been diminished by the lifting of the Arab embargo. Because we are dependent on foreign imports for one-third of our oil, we remain constantly vulnerable to shortages caused by interruptions in our supplies. The Arab countries have already made it clear that they will not continue to feed our insatiable appetite for more and more oil. Even assuming that the Arabs do not impose another embargo, this Nation may have an estimated gasoline shortage this summer of between 4 percent and 6 percent. A recent Associated Press survey, and preliminary FEO figures, both indicate

that Americans are beginning to relax their conservation efforts. The country is driving more, riding the bus less, and leaving lights on longer. If this trend continues, shortages can only get worse.

Project Independence may successfully reduce our dependence on foreign oil, but its effects will not be felt for at least 5 to 10 years. In the meantime, this country must learn to do more with less. The yearly 5 percent unrestrained growth in demand for energy must be eliminated, or at least cut dramatically. That will be the Administration's job. If conservation efforts fail, and demand continues to rise at the normal rate over the next few years, our experiences last winter will only be the first act in a tragedy of incalculable dimensions.

The decisions the Federal Energy Administration makes in the next few years can affect the quality of our life for years to come.

The problems are great, but so are the opportunities.

These are just some of the issues FEA must try to resolve:

How to balance our desire for clean beaches, clean air, and unspoiled countryside against the need for more energy;

How to maximize conservation by motorists, while preventing sky-high gasoline prices that could destroy people's personal incomes, or cripple such important segments of the economy as the tourist industry;

How to verify data on the oil companies so that the agency has the facts it needs, and the public has the confidence it must have in the Administration's statements;

How to increase oil production while avoiding windfall profits for oil companies;

How to break the logjam now slowing down full utilization of currently available supplies of coal or oil;

How to balance the energy needs of one industry or one part of the country against the equally pressing needs of another industry or another part of the country;

How to redesign the houses and offices we live in to stop the wasteful use of energy to run our furances and air conditioners;

How to coordinate our need for energy with our other foreign policy needs and objectives.

In the most fundamental way, FEA will be charged with changing the way we live so that this country no longer squanders a third of the total energy consumed annually by the world as a whole.

Up to now, FEO has been operating as a temporary office of the President. It has been forced to borrow money, personnel, and even operating authority from other agencies. As a temporary office, it has been unable to attract the personnel, or pay the salaries, necessary to meet its responsibilities. The Federal Energy Office has not even been able to enter into contracts in its own name.

But most importantly, the Federal Energy Office has neither been armed with the necessary substantive authority nor directed by the necessary policy guidelines.

Enactment of H.R. 11793 as approved by the conferees will fully meet, I believe, all these needs. The act creates an administration with only a 2-year life, Congress can reexamine the problem at that time and amend the act in any way experience dictates.

The joint statement of managers explains in considerable detail how the conferees resolved the numerous differences between the act as passed by the two Houses.

I will not attempt at this time to detail how each of these differences were resolved. In addition to transferring the necessary offices and functions to the new agency, the conference report gives the administration contractual and other incidental authority any agency must have to operate effectively. Further, the act grants the administration the authority to gather information from private persons, to issue subpenas, and to inspect oil refineries and other oil company properties in order to verify information. In these basic respects the House and Senate versions were very similar to each other.

The Senate bill, alone, however, contained a number of significant—and often novel—provisions designed to make the administration fully responsive to the needs of the public.

The conference report, I am happy to report, retained these very important provisions. The act as a result contains these safeguards:

First. To provide an effective, independent review of FEA's actions, the act grants GAO broad responsibility for monitoring the actions of FEA. GAO is authorized to request an unprecedented range of data from oil companies where needed to evaluate effectively FEA's performance. For the first time, GAO can also issue subpenas requiring the production of such information. In order, however, to satisfy the concerns of the House conferees about this section, the conference report provides that an appropriate committee of Congress must first approve the issuance of such subpenas.

Second. To insure effective participation by State governments in the Agency's decisionmaking process, the act requires the administration to consult with State government officials before taking actions affecting their regions. In order to emphasize the importance of State and Federal coordination, the act requires that a Presidential appointee, confirmed by the Senate, be placed in charge of State and Federal coordination.

Third. To insure that the administration will fully consider the possible environmental effects of its actions, FEA must submit any proposed action affecting the environment to the Environmental Protection Agency for their comments. Such EPA comments must be published along with the first notice to the public that FEA is considering taking the action in question.

Fourth. The act provides that if the Cost of Living Council continues in existence, this office will have the authority to veto pricing decisions taken by FEA. This provision is designed to prevent the Administration's decisions on prices from being overly influenced by a desire to conserve energy, or increase supplies.

Fifth. Another provision assures that advisory committees will neither be held in secret, without the public in attendance nor dominated by industry representatives.

Sixth. To prevent oil companies from unduly influencing the government's energy policy, the administration is prohibited from accepting uncompensated services from private companies. State and local governments may still provide services to FEA with or without reimbursement. If such services are reimbursed, compensation may not be by grants, but may be by other forms of Federal payments.

Seventh. To provide special procedures for persons whose needs may become lost in the administrative morass, the act creates an Office of Private Redress and Grievances. The Director of this Office shall make recommendations to the Administrator who may, in turn, grant extraordinary relief or other assistance to persons with special needs.

Eighth. Another provision requires the Administrator to study the impact of his proposed actions on the economy. As provided in the act, and emphasized in the conference report, this section does not give the public a new right of review to challenge the adequacy of any such economic studies made by the Administrator. A separate part of this section specifically requires the Administrator to act in a way which does not unfairly discriminate against any segment of the country or the economy.

Ninth. Yet other sections mandate that the Administrator keep the public and Congress fully informed about all aspects of the energy shortage. The Administrator must prepare a comprehensive energy plan that lays out the administration's proposed course of action for the next 2 years.

He must also report each year on his actions and prepare reports on specific aspects of the energy shortage. Finally, another provision requires the Administrator to disclose financial data concerning oil company incomes, base period profit margins, annual sales, and the like.

Both the House and Senate bills restricted the ability of the Administrator to waive the conflict of interest laws governing Federal employees. The conference report reconciles the differences in the specific wording of the two provisions by requiring that a detailed statement justifying the proposed waiver be provided both to Congress and the public. It also limits the persons who can authorize such waivers to the Administrator alone.

Similarly, the House provisions imposing standards of administrative due process on the Administrator were slightly more complete than the Senate's procedures. The House version was adopted, along with certain clarifying amendments.

The conference report improves upon

the Senate bill by adopting two additional safeguards contained in the House version alone. One such provision governs FEA's treatment of data which pertains to an individual in his personal capacity. Another provision prohibits discrimination on the basis of sex.

The chief difference between the Senate-passed bill and the conference report is the deletion of the Senate provisions for a Council on Energy Policy. The idea of a Council to coordinate Federal energy policy certainly has great merit. However, the House conferees felt that legislation creating such a permanent council should not be included in legislation creating a temporary agency with a life of only 2 years.

Also absent from the conference report is the Senate provision permitting the President to transfer additional functions from existing departments to the new agency.

Congress would have had to approve such transfers under procedures providing for expedited consideration of the proposals. The conferees agreed to delete the provision since the need for such additional transfers during the next 2 years no longer appeared as great as when the Senate bill first passed in December.

The conferees recommend adoption of House guidelines governing the type of actions the Administrator may perform pursuant to authority provided him by the other provisions of the act. One of the guidelines provides that in setting propane prices, the Administrator may permit companies to charge only the rates charged on May 15, 1973, plus any additional amount justified by actual cost increases.

The House wording providing for two rather than one Deputy Administrator was also adopted.

Additional differences between the House and Senate bills on such matters as the Administrator's powers to gather information and public disclosure of information by the Administrator were resolved in a way that sought to reflect the intent of both Houses.

Mr. President, I wish at this time to thank Senator PERCY and my other colleagues who were Senate conferees. They contributed greatly to the work of the conference and to its successful outcome.

I also wish to commend Mr. Dick Wegman and Mr. Paul Hoff of my staff. The staffs of the other Senate conferees are commended as well. I have the highest praise for the long hours they spent on this legislation and the outstanding job they did.

It is the unanimous recommendation of the conferees that the Senate agree to this report.

Mr. President, I ask unanimous consent that Dick Wegman, Dan Dreyfus, Paul Hoff, Eli Nobleman, Bob Vastine, and John Pearson may be granted the privilege of the floor during the consideration of the conference report.

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

Mr. AIKEN. Mr. President, in order to make the report clear, I ask the Senator from Connecticut the following question:

The Vermont Energy Office in Montpelier did a great deal of work last winter in implementing the mandatory allocation program. Because Vermont is a rural State and sparsely populated and businesses are small, a great responsibility fell to these officials in handling the allocations of home heating oil and gasoline and finding supplies for people who needed petroleum products. The mandatory allocation program is a Federal program but the money that supported the operation of the Vermont Energy Office was State money. In a sense of fairness, it would appear that some reimbursement should be provided to an office which does a lion's share of work in implementing the mandatory allocation program. Am I right in understanding that this legislation has sections providing the administration with the authority to reimburse agencies, such as this State office, for its costs in carrying out its work?

Mr. RIBICOFF. Let me respond to the question of the distinguished Senator from Vermont by saying his understanding is perfectly correct. Section 7(d) of the act specifically provides that the Administrator may reimburse State, regional and local governments for the help they provide the Federal Government in implementing Federal energy programs. States may be reimbursed for use of their services, personnel, equipment, and facilities.

The report the FTC prepared in March on FEO's activities pointed out that the States provided great assistance to FEO in making the allocation program work last winter. It is entirely appropriate, and desirable, that FEA use section 7(d) of the act to compensate the States for all the work they do for the Federal Government in this area.

The act's language leaves indefinite the actual form that the reimbursement to the States may take in order to give the Administrator maximum flexibility.

It is our intention that Vermont, and all the other States, should be reimbursed in accordance with the question raised by the distinguished Senator from Vermont.

Mr. AIKEN. I thank the Senator from Connecticut. I had no doubt in my own mind, but I thought we had better make the matter clear for the record.

Mr. RIBICOFF. I am pleased that the Senator raised the question, not only for Vermont, but for all the other States.

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

The ACTING PRESIDENT pro tempore. The time to be charged to which side?

Mr. RIBICOFF. The time to be charged equally to both sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will please call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Who yields time?

Mr. RIBICOFF. Let me say to my distinguished colleague from Illinois that his comments would be welcome.

Mr. PERCY. Mr. President, I commend to the Senate the conference report on H.R. 11793, the Federal Energy Administration Act of 1974, and urge a favorable vote on it. This bill would establish the Federal Energy Administration as an independent agency and vest the Administrator with important powers for meeting the Nation's energy needs.

The Senate can be justly proud of this conference report. Most of the significant provisions of the Senate bill, S. 2776, were retained in conference. I should like to mention briefly just four of these provisions which I consider especially important.

First, there is a very strong provision for collecting energy information from corporations and other Federal agencies, and for making energy information public. Section 13 requires the Administrator to collect and analyze energy information in a form comprehensive and detailed enough to permit fully informed monitoring of energy activities. The owners and operators of business premises engaged in any phase of energy supply or major energy consumption are required to supply the Administrator with reports and data as requested.

The Administrator is authorized to conduct on-site inspections of energy facilities and business premises to verify the accuracy of the information he receives. He may also compel information by subpena if necessary.

Section 12 gives the Comptroller General responsibility for monitoring and evaluating the operations of the Federal Energy Administration, including its data gathering functions. The Comptroller General is given total access to data within the possession of the FEA, and may request documents directly from energy-related business establishments. If necessary, he also may subpena material if he obtains the concurrence of the interested congressional committee.

Section 14 imposes upon the Administrator an affirmative duty to keep the public fully and currently informed as to the nature, extent, and projected duration of energy supply shortages, and the steps being taken to minimize the impacts of these shortages. Appropriate protection is provided against indiscriminate disclosure of personal data and trade secrets.

These provisions for collecting energy information not previously available to the Government, and for keeping the public fully informed, are of major significance. Throughout the current fuel shortage, it has been widely acknowledged that the first essential step toward reasoned energy policymaking must be the acquisition of complete and fully reliable data on energy reserves, production, and consumption.

Mr. President, this bill provides the means to obtain that data. It will give the Government all the authority it needs to obtain vital energy information and to disseminate it to the public.

A second important provision of the Senate bill, which I am delighted was retained in conference, is the Roth

amendment to establish in the FEA an Office of Private Grievances and Redress.

Section 21 permits any person adversely affected by an order, rule, or regulation of the Administrator to petition for special relief or assistance through the Office of Private Grievances and Redress.

This provision is designed to insure that the all-important human dimension is present in the FEA's dealings with affected citizens. I again congratulate my distinguished colleague, the Senator from Delaware (Mr. ROTH) on his amendment, which was accepted by the conferees with only minor modifications.

A third provision of the Senate bill which I am pleased was retained by the conference is the Kennedy-Javits-Percy amendment. This amendment, which is contained in section 18, requires the Administrator to thoroughly analyze the potential economic impacts of his proposed regulatory actions on low- and middle-income families.

This was an important addition to the bill which was made on the Senate floor, and I commend my colleagues, Senators KENNEDY and JAVITS, for its inclusion in the conference report.

Finally, the Senate provision requiring a report on future energy reorganization is included in section 15 of the conference report. Six months before the expiration of the act, the President is required to transmit to the Congress his recommendations for the future disposition of the FEA's functions, and the organization of the Federal Government for the management of energy and natural resources policies and programs.

As a principal cosponsor of S. 2135, the bill to create a Department of Energy and Natural Resources, I am especially interested in this provision. It will assure that the Congress is made aware of the President's proposals for a permanent energy and natural resources organization, well in advance of the expiration date for the FEA.

Mr. President, on Monday the House adopted this conference report by the overwhelming vote of 356 to 9. I urge the Senate to adopt it unanimously, and send it to the President's desk as the first major piece of energy legislation to be enacted in this session of Congress.

Mr. NELSON. Mr. President, the conference report we have before us this morning (H.R. 11793) will formally establish the Federal Energy Administration—FEA. This new Agency will be charged with the development, implementation, and management of the Nation's day-to-day energy affairs.

One of the most important and far-reaching jobs the Administrator of the Federal Energy Administration, Mr. Sawhill, will direct is the promulgation and implementation of regulations that will directly affect the jobs, the leisure time—the lives of every American.

As long as the demand for energy continues to grow and exceed our ability to either produce or import supply we will continue to experience expensive shortages. And unless there are some very basic changes made in the way this Nation uses and abuses energy this shortage situation will be with us for at least the next 10 years. While the shortages of products persist the demand and competition among industries and businesses for the use of the scarce supplies will become more and more intense.

A large number of the regulations that will be promulgated by the FEA will determine industrial allocations of energy. I think we can all agree that services such as food production, general agriculture, health and hospital care, fire and police protection, and the heating of homes and schools must receive all the energy they need.

These activities deserve the very highest national priority in the allocation of limited supplies. There are many other industries and activities that rank a very high priority, even though they rank below those of heating homes and producing food. These business and industrial activities should share as equitably as possible the shortage of supplies regardless of industry, region of the country, or sector of the economy they occupy. And I think it ought to be well understood that the tourism and outdoor recreation industry is a basic fundamental national activity that should be treated as an equal among other activities of that rank and importance in the allocation and distribution of limited petroleum based products.

Outdoor recreation and tourism is an important national industry that has already been hit hard by the fuel shortages. It is a $61 billion a year industry that employs over 4 million people.

In Wisconsin, the tourism industry is equal to or larger than our famed agricultural and milk producing industry. One in five jobs depends on tourism or outdoor recreation. Of the $5.8 billion in tax revenue that comes to Wisconsin each year 14.4 percent or $21.3 million is generated by recreation. To a very large number of small businessmen and millions of Wisconsinites outdoor recreation is an indispensable part of the good life.

The concept that all industries and businesses should be treated as equitably as possible under the regulations that are promulgated pursuant to this statute is an important one, and one that is regulated by section 18, the economic analysis of proposed action, segment of the bill.

Subsection (e) of this section contains language which I originally offered to the Senate bill, S. 2776, when it passed the Senate some months ago. This section mandates the Administrator of the Federal Energy Administration to insure that any regulation promulgated or implemented by this agency does not unduly discriminate against any industry or region of the country and that the regulation be designed to insure to the greatest extent possible the cost and burdens of meeting the energy crisis shall be borne equally by every sector of the country and segment of the economy.

Mr. JACKSON. Mr. President, I rise to support the adoption of the conference report on H.R. 11793, the Federal Energy Administration Act of 1974.

This measure will provide much needed stability for the Federal activities which have been conducted by the Federal Energy Office in response to the energy crisis. I want, in particular, to pay tribute to the leadership of Senator ERVIN, the chairman of the Government Operations Committee, and Senator RIBICOFF, the chairman of the Reorganization Subcommittee, in guiding this major legislation to final passage. They have recognized the vital importance of reorganizing the Federal Government to meet national energy needs and they have worked long and hard to fulfill that objective.

The bill would establish a new, independent Administration with a life of 2 years. The Administration will be charged with important functions regarding the allocation and possible rationing of energy in times of crisis, contingency planning, energy conservation, policy analysis, and other energy matters.

The enactment of this measure will provide the authority to transfer the necessary functions from other agencies and to employ a competent, full-time staff. It will also establish clear administrative procedures for the undertakings of the new agency. It is vital that these important Federal activities be guided by a formal statement of congressional policy and that they be supported by permanent and adequate personnel.

In my opinion, the conference report is a sound resolution of the differences between the House and Senate bills. It will provide the resources and guidance the Federal Energy Administration will need.

Congress has, in this legislation, provided the executive branch with authority to better manage and coordinate Federal energy activities. We have provided the nucleus of a new, centralized policymaking apparatus. It is now up to the President to make the Federal Energy Administration an effective instrument of national energy policy. The quality of his appointments to FEA posts and the degree of his support for FEA leadership will ultimately determine the success or failure of the new agency.

It is important for the Senate to realize, however, that this measure deals with only one aspect of Federal energy organization. I am hopeful that the Senate will act shortly on a bill to establish an independent Energy Research and Development Administration and that the House will soon act on S. 1283 which will set forth a strategy for non-nuclear energy research and development. These two measures taken together will consolidate and coordinate the Federal energy research effort.

When these two new administrations are established there will be three major centers of Federal energy policy in the executive branch. The Department of the Interior, of course, will retain its authority over the massive energy resources of the public domain. This situation appears to be necessary for the immediate future in order to support the operational programs involved.

The long-term administration of energy policy, however, should not continue to depend upon ad hoc and ill-defined coordination among several independent agencies. The Congress should accept the responsibility to continue to work toward a rational and comprehen-

sive organization, not only for energy, but for all resources management.

The Nation can expect to face shortages of critical natural resources for the foreseeable future. The current fuel crisis is only the first shortage of its kind. The Federal capability to anticipate and respond to crises and to manage natural resources must be greatly improved. A great deal remains to be done.

Mr. HUDDLESTON. Mr. President, I intend to support the conference report on the Federal Agency Administration Act, and I am particularly pleased that the conferees have retained the amendment which I offered to direct the new Administration to conduct a preliminary study of foreign investment in our domestic energy sources and supplies, to report its findings to the Congress, and to monitor any new investments.

Although the Arab embargo has been lifted, our energy problems remain serious—perhaps even more serious because much of the crisis atmosphere which stimulates positive action by the people and their government has been dissipated. Increased energy consumption seems inevitable if we are to have healthy increases in the gross national product, but our usable fossil fuel reserves are dwindling at an alarming rate. Further, objective and realistic study of Project Independence suggests that technological gaps will preclude our reaching the goal of energy self-sufficiency within the next decade. So, we are returning to our dangerous dependence on foreign oil and, at the same time, we are permitting increasing foreign investment in our own perilously limited energy supplies to go unmonitored.

This provision was never intended to prejudge foreign investment. Undoubtedly, there is much to be gained from it. But, on the other hand, it would be shortsighted not to recognize the possibility that foreign ownership or control of resources essential to our national growth and well-being could pose very serious problems in the future. Hopefully, we can avoid these problems if we see them coming but, at the very least, the information in the study should provide us with the background we need to deal with the problems swiftly and responsibly if they do arise. If we have learned nothing else in the past months, we have learned the value and necessity of hard, statistical data on which to base policy decisions.

Equally as important, we simply need to know where we stand, both in terms of dependence on energy sources located abroad and foreign controlled sources here in the United States. Without this information, it is impossible to measure the true extent of our energy self-sufficiency potential.

Mr. JAVITS. Mr. President, I ask unanimous consent to have a statement by the Senator from Maine printed in the RECORD.

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

STATEMENT BY SENATOR MUSKIE

Section 7(c)(1) of the Conference Report on the Federal Energy Administration requires the FEA administrator to provide the Cost of Living Council a five day period for approval or disapproval of any FEA rule or regulation related to the cost or price of energy. That provision in the Senate bill was retained at the insistence of the Senator from Maine (Mr. Muskie). At the time the House and Senate conferees were considering this matter, the Cost of Living Council was exercising its function under the Economic Stabilization Act. However, this authority is no longer in effect. Should authorities and responsibilities similar to those exercised by the Cost of Living Council be given away to any new agency, the authority conferred by Section 7(c)(1) of this bill should be given that agency.

Mr. ROTH. Mr. President, I call attention to section 21 of the Federal Energy Administration Act which establishes an Office of Private Grievances and Redress. This section contains the compromise wording which was adopted on an amendment which I had offered in committee and which was adopted without dissent by the committee and the Senate.

My purpose in urging the creation of the Office of Private Grievances and Redress—OPGR—was to provide a special entree, established by statute, for the private citizen in the new energy bureaucracy, to facilitate the prompt and effective handling of citizen complaints, and to help equalize the burden of any sacrifices that must be made in the national interest during the period of energy shortages.

The OPGR is admittedly a new experiment in meeting a number of practical problems we have in a huge, industrialized democracy. It also has an ancient heritage in the concept of the ombudsman. The Director of the OPGR would be a special troubleshooter for the private citizen.

One of our problems is that the Federal bureaucracy has become so large and so involuted it often tends more to serve itself than to serve the citizen. While large industries can get a hearing, the average citizen is often left out in the cold. The OPGR is designed to bridge the gap between the bureaucracy and the citizen.

Another problem is that in establishing equitable laws in a society as large and complex as ours is, we cannot foresee how these laws, intended to serve the general good, will affect each and every group in the society. Some will be put at a special disadvantage because of their occupation or situation, and this is not fair. The intent of Congress is that whatever burdens must be borne, they should be borne equitably. The intent of my amendment was to create a continuing mechanism for evening out the burden by providing prompt and effective special redress to those citizens or groups who have been unjustly required to make more sacrifices than the rest of us.

Although the compromise language does remove the statutory authority I had sought for this Office and its Director, the compromise permits the creation of an effective OPGR. It also makes it possible for the OPGR to become little more than a place for pigeonholing complaints. Whether or not the OPGR becomes a true Federal agency ombudsman experiment lies in the hands of the Administrator, and I am hopeful that the Administrator will recognize the full potential and unique character of this Office. I urge the Administrator to appoint a well qualified and dynamic person to the position of Director of the Office and to give him the necessary discretion to make the OPGR a place where private citizens and groups, who have suffered disproportionately from any legislative or administrative action to deal with the energy shortages, can expect to get prompt and effective attention and appropriate redress. If successful, I hope that similar offices can be set up for our other agencies.

I want to express my special appreciation to Senator PERCY for suggesting the compromise language without which this amendment would probably have been lost, to Senator RIBICOFF for his support, and to the House conferees for their willingness to accept a compromise approach.

Mr. RIBICOFF. Mr. President, I move adoption of the conference report.

The motion was agreed to.

Mr. RIBICOFF. Mr. President, I move that the vote by which the conference report was agreed to be reconsidered.

Mr. PERCY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INCREASE IN AUTHORITY OF THE SMALL BUSINESS ADMINISTRATION

The PRESIDING OFFICER (Mr. BENTSEN). Under the previous order, the Senate will now proceed to the consideration of Calendar No. 748 (S. 3331) which the clerk will state.

The legislative clerk read as follows:

S. 3331, to clarify the authority of the Small Business Administration, to increase the authority of the Small Business Administration, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

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

Mr. RIBICOFF. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time taken by the quorum call not be charged to either side on the pending bill.

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

Mr. CRANSTON. Mr. President, I ask unanimous consent that during the consideration of S. 3203, the following people have the privilege of the floor: Don Elisburg, Jon Steinberg, Louise Ringwalt, Jeff Doranz, Bob Nagle, Gene Mittleman.

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

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

unanimous consent that the time not be charged against either side on the pending bill.

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

The clerk will call the roll.

The 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.

Debate on this bill is limited to 30 minutes, to be equally divided and controlled, with 30 minutes on any amendments thereto.

Mr. CRANSTON. Mr. President, I ask unanimous consent that during the consideration of this measure, John Adams have the privilege of the floor.

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

Mr. CRANSTON. Mr. President, for the past several decades, big business, big government, and big labor have been expanding at a rate far exceeding the rest of the economy.

The U.S. Trade Commission Quarterly Financial Report for Manufacturing Corporations indicates that in 20 years—1950–70—more than $65 billion in manufacturing and mining assets were acquired in mergers of companies with more than $10 million in assets. Almost 40 billion of those assets were acquired by just 200 companies. In other words the Nation's 200 largest industrial corporations in 1948 controlled only 48 percent of the country's manufacturing assets, they now control 58 percent. The pace of mergers and consolidations has grown steadily and frantically. In 1970 alone, more than $5 billion in assets were acquired in chunks of $10 million or more. In 1960, small and medium sized corporations in manufacturing had 50 percent of the assets and were responsible for 41 percent of the profits. In 1972, 350 major firms controlled 69 percent of the profits and received almost 73 percent of the profits.

The concern to keep economic power distributed among many independent proprietors is one that goes back to the Nation's beginnings. Competition has historically been valued because it is believed that through effective competition, large monopolies would be overcome and workers would have a stake in society.

The major thrust in Government policy of support for small business has been: The antitrust laws, which are intended to preserve an overall economic environment open to small business entry and growth; and direct assistance measures such as the Small Business Act which created the Small Business Administration to provide assistance and remove obstacles to the growth of small business in an increasingly complex society.

The awakening of the Federal Government in developing these laws to the fact that small business needed a special concern lest its special problems would go unrecognized in a society in which grant institutions dominate the decisionmaking process only further points out the need for an effective national policy to be developed to restore competitive balance in our economy. As chairman of the Subcommittee on Small Business I am committed to the ideals of the Small Business Administration and will work toward a fair and impartial administration of the agency. I hope this piece of legislation before us today will help to strengthen entrepreneurship in America.

This legislation provides an increase in the loan ceiling of the Small Business Administration from $4.875 billion to $6 billion; transfers title IV of the Economic Opportunity Act of 1964 to the Small Business Act; increase the authorization and maximum for the surety bond and lease guarantee program; increase the SBA loan maximum and clarify the interest rates on loans to handicapped persons.

I yield at this time to the distinguished Senator from Texas, if he wishes to make a statement.

Mr. TOWER. Mr. President, there is no controversy on this bill. In effect, it is a housekeeping bill dealing with SBA. I think we can dispose of it with expedition.

It is my understanding that the Senator from California has an amendment he would like to offer.

Mr. CRANSTON. Yes, I do have one amendment. If no one else wishes to speak at this time, I call up the amendment that has been offered by myself and Senator JAVITS to this measure. It is an unprinted amendment, and I send it to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

At the end of the bill, add the following:

SEC. 7. Section 4(b) of the Small Business Act is amended—

(1) by striking out "three" in the third sentence and inserting in lieu thereof "four"; and

(2) by inserting after the third sentence the following new sentence: "One of the Associate Administrators shall be designated at the time of his appointment as the Associate Administrator for Minority Small Business and shall be responsible for the operation, management, and supervision of the Administration's execution of programs which provide assistance to minority small business concerns."

Mr. CRANSTON. Mr. President, Senator JAVITS has joined me in this amendment, and it relates to the following needs:

Minority and nonminority small businessmen have much in common, and much is to be gained by a strategy designed to assist in the solution of their common problems. However, it is generally acknowledged that racial and ethnic prejudices have presented almost insurmountable obstacles to the minority business development.

A major cornerstone of President Nixon's 1968 campaign was the issue of "black capitalism," and the President's promise to provide a greater government effort to assist minority business enterprises. The efforts put forth have been minimal in the face of the vastness of American business enterprise, and the staggering profits that accrue to major American businesses.

In 1971, the U.S. Department of Commerce released a report, "Minority-Owned Businesses: 1969." This study revealed that there were 163,000 black-owned firms with gross receipts of $4.5 billion and employing 152,000 persons—or 3.5 percent of the total black labor force of about 9 million persons.

Of these 163,000 firms only 347 had gross receipts in excess of $1 million; the aggregate of these receipts totaled only $876,946,000, or an average of less than $3 million per firm. Using the Small Business Administration's classification of a "small business" as a guide for determining smallness, only two-tenths of 1 percent of black businesses fall outside of the small business classification.

Chicano and other minorities did even less well, only 100,000 firms with $3.3 billion in gross receipts were Spanish-speaking minority owned firms.

All minority firms had only a total receipt of $10.6 billion. These figures clearly indicate that minorities are not getting a fair share of the action.

A significant measure of the success of minority business has been the rate the Federal Government and more importantly the SBA has played in tendering both financial as well as technical and managerial assistance. I am sure Senators will recall that in the mid-1960's, SBA took the initiative and developed what was then known as the six by six plan, designed to aid minorities with $6,000 loans for 6 years. Since the establishment of the six by six plan we have seen a rapid growth and expansion in the minority sector of our economy in the involvement of SBA and its programs.

Noteworthy among the current programs being administered by the SBA are the 8(a) procurement program that has resulted in increasing procurements of the minority sector—from $200 million in the last 7 years. A major thrust to provide the socially or economically disadvantaged people with the resources was made available by the Economic Opportunity Act of 1964 out of which grew the equal opportunity loan program which provides loans up to $50,000 for persons who otherwise would not be able to meet even the limited credit criteria of the normal small business guaranteed or direct loan programs.

The subcommittee staff investigated complaints in California of illegal campaign solicitation and of improper political interference with the operation of the 8(a) program. All evidence found was turned over to the Watergate Committee. It is unfortunate that minorities who are the most in need and also the most vulnerable because of their need, have been so manipulated in this time of immense politicization of the departments and agencies of the Federal Government.

In overviewing the 8(a) program the committee found a lack of organization and stated policy in terms of goals in this program. Because of decentralization of the SBA each region views and runs this program in a different manner causing distress and frustration to many minorities. One of the minority businessman's greatest frustrations is his inability to get through to a faceless, unfeeling bureaucracy. Too often precious time and resources are wasted while he fights his way through the red tape and rudeness, repeating his story endless times along the way to find someone in authority to give him justice.

The Small Business Act provides that the Administrator of the SBA shall appoint three Associate Administrators. The Associate Administrators currently are the Administrators for Financial Assistance and Investment, Field Operations, and for Procurement and Management Assistance. I think it is in keeping with the continuation and recognition of the importance and value of the minority programs that the Office of Assistant Administrator for Minority Enterprise be elevated to a position of Associate Administrator. The duties of the Associate Administrator for Minority Business shall include but not be limited to setting policy for the Administration of section 8(a) of the SBA Act, title IV section 406 of the Economic Opportunity Act of 1964, title VII, part A of the Economic Opportunity Act of 1964, and research and development funds allocated to minority enterprise.

The need for coordinated control of this very rapidly growing yet still small area of SBA activity is quite evident. It is the committee's hope that the centralization of the minority enterprise program raising it to the same level, administratively as other major programs in the SBA will enable better congressional oversight, unanimity of planning and execution, assure more effective monitoring of assignments in terms of follow through by the regions, achievement of desired goals, and establish clear lines of jurisdiction and authority over the presently fragmented operation of the program within SBA. Private industry has proven conclusively that management by objective is a successful method of controlling and measuring progress against priorities.

This amendment will serve not only to continue the direction in which our efforts have been expended over the past decade but to enhance the coordination and continued emphasis of minority programs in the next decade.

Mr. President, I am prepared to accept my own amendment, and I hope that will be the will of the Senator from Texas.

Mr. TOWER. Mr. President, I am prepared to accept the amendment.

I have long been an advocate of minority business enterprise. Although what the Senator has said is true, when we stack it up against the big business enterprises in this country, a great deal has not been done, but compared to what has been done in the past, it has been a quantum step.

I already have seen some of the benefits of this program in my State. I might note that from the standpoint of the Senator from California and me it is not only black minorities we are concerned with but also Mexican-Americans, as well.

Mr. CRANSTON. The Senator is correct.

Mr. TOWER. They have been discriminated against as much as black minorities and this program has been of great benefit to Mexican-American minorities as well as black minorities. The best thing we can do is to get them into the mainstream of American business. This is a constructive step. I am informed that the Administrator is prepared to accept this measure and therefore it is acceptable to me.

Mr. CRANSTON. I thank the Senator very much.

The PRESIDING OFFICER. Is all time yielded back?

Mr. CRANSTON. I yield back my time.

Mr. TOWER. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

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

Mr. CRANSTON. I yield.

Mr. CLARK. Mr. President, 4 years ago Congress passed the Occupational Safety and Health Act. In many respects it has been effective, but the law has also generated considerable controversy, especially among small businessmen. Perhaps the most frequently criticized aspect of the law is the practice of penalizing employers for violations without any prior notice that such violations exist.

When an OSHA inspector visits a business now, he is required to note any violations and issue appropriate citations and penalties. An employer cannot ask for an onsite consultative inspection to determine if he is complying with the law because a solicitor opinion prohibits the Department of Labor from performing such a service.

Mr. President, if the purpose of OSHA is to guarantee safe and healthy work establishments rather than punish employers, then this blanket prohibition of onsite consultations would seem counterproductive. The distinguished Senator from California, as a member of the Senate Labor and Public Welfare Committee, which has jurisdiction over the OSHA law, and chairman of the Small Business Subcommittee of the Banking Committee, is well aware of OSHA and small businesses. With its built-in accountability to the needs of small businessmen, is it not logical for the Small Business Administration to provide this badly needed service?

Mr. CRANSTON. Mr. President, I am delighted to say that I share the concern of the distinguished Senator from Iowa that the requirements for compliance with the Occupational Safety and Health Act are difficult to comprehend because of the volume of papers governing these standards and the difficulty of a small businessman in determining which regulations and standards apply to him.

I would like to say a few words about what the SBA is doing to assist small business concerns in carrying out the requirements of the Occupational Safety and Health Act. In 1971, SBA instituted its occupational safety and health loan program which made available low interest rate loans for up to 30 years to effect additions or alterations in equipment, facilities or methods of operation to comply with OSHA standards. The OSHA Regional Offices review the loan applicant's description of his plant condition and advises the SBA field offices whether the applicant is required to correct the condition and whether the loan will put the applicant in compliance.

In addition, OSHA field offices under the Labor Department have been expanded to 100. The staffs of these offices are willing to answer any specific questions over the phone, or employers may visit in person with blueprints, photographs, and diagrams for consultation on appropriate means of complying with OSHA standards. I am pleased at this kind of cooperation between the SBA and OSHA regional offices in meeting the needs of the small businessman in this area.

However, I do feel that a major effort must be made by the Labor Department to simplify and more adequately disseminate OSHA materials to small businessmen. I think the strongest argument for simplification is that the mass of regulations are beyond the scope of the average small businessman. Stacked one on top of the other, these regulations come to over 17 feet. Many are technical and beyond the comprehension of many businessmen or published in the Federal Register where they may not be noticed.

Now to your question, on the need for onsite consultation. The Small Business Act does provide that the Administrator is authorized under 8(b) of the Small Business Act to provide technical and management assistance to small business firms. Specifically this section authorizes the Small Business Administration to provide advising and counseling services to small businesses on accident control.

Onsite consultation, of course is a form of technical assistance that the SBA could provide as so mandated. However the SBA has always suffered under severe limitations as to effectiveness in this area given their small budget and lack of staff to fulfill the present needs of small business.

The development of a specialized management and technical assistance effort in the job safety area is simply beyond SBA's budgetary capabilities. However, I shall ask the SBA to survey the need for onsite consultation. If there should be a great demand for this kind of help, I would be glad to support a request for funding through the appropriations process for the SBA to contract with firms who have the necessary expertise in the OSHA laws to provide onsite consultation to those small businessmen who need it. I thank my distinguished colleague for bringing this important issue to my attention.

I ask unanimous consent that the relevant section of the law be printed in the RECORD.

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

8(b) It shall also be the duty of the Administration and it is hereby empowered, whenever it determines such action is necessary—

(1) (A) to provide technical and managerial aids to small-business concerns, by advising and counseling on matters in conection with Government procurement and property disposal and on policies, principles, and practices of good management, including but not limited to cost accounting, methods of financing, business insurance, accident control, wage incentives, and methods engineering, by cooperating and advising with voluntary business, professional, educational, and other nonprofit organizations, associations, and institutions and with other Federal and State agencies, by maintaining a clearinghouse for information concerning the managing, financing, and operation of small-business enterprises, by disseminating such information, and by such other activities as are deemed appropriate by the Administration; and

Mr. CLARK. Mr. President, I thank the distinguished Senator for his cogent response. As I stated a moment ago, I believe the Small Business Administration is the logical agency to provide these onsite consultation services. If it were necessary to achieve this purpose, I would offer an amendment to the pending legislation to that effect. However, I am satisfied that the statutory language contained in the Small Business Act which the distinguished Senator has just quoted clearly expresses the will of Congress on this matter. It permits the appropriations committees of the Congress to provide additional funds for the increase in staff which will enable the Small Business Administration to undertake "advising and counseling" services on problems of "accident control" and makes such an amendment unnecessary at this time. I thank the distinguished Senator for clarifying this matter.

Mr. CRANSTON. I thank the Senator and I look forward to working with him in doing whatever is appropriate.

Mr. JAVITS. Mr. President, as ranking minority member of the Committee on Labor and Public Welfare, I have for some time been concerned with the safety and health of employees in various work places throughout the United States. I cosponsored the original OSHA legislation and continue to be deeply concerned with the implementation of current Department of Labor OSHA regulations.

In addition, as ranking minority member of the Senate Select Committee on Small Business I am quite sympathetic to the problems small businessmen face in attempting to comply with the OSHA regulations and I have offered an amendment to the OSHA law which would provide onsite consultation by the DOL to the small business community.

It is in this dual capacity that I share the concern of Senator CLARK as to the effect of the OSHA regulations on the small business community and at the same time concur with Senator CRANSTON's statement that though the SBA legislative authority is broad enough to encompass a program of onsite consultation, it is quite unrealistic to expect the SBA, which is already overburdened with a variety of tasks, to provide the type of onsite consultation the small business community deserves.

For this reason, I would like to join Senator CRANSTON in asking the Administrator of the Small Business Administration to survey the actual need for this type of onsite consultation. It would be helpful if the agency reported back to both the Small Business Subcommittee of the Banking, Housing and Urban Affairs and the Senate Select Committee on Small Business within 6 months from the enactment of this legislation with a more definitive statement as to the nature and scope of the needs of the small businessmen as they relate to compliance with OSHA.

Senator CRANSTON has briefly mentioned a possible arrangement whereby the SBA would be able to contract with firms approved by the Department of Labor, that have the necessary expertise in the OSHA area to provide the onsite consultation. I think this idea has great merit and should be investigated. In addition, I have considered the possibility of allowing approved private organizations to independently provide onsite consultation services to the small business community and be reimbursed a portion of their expense upon proof of compliance to the DOL, which under the circumstances, is the proper agency to administer this sort of program.

Mr. BIBLE. Mr. President, as chairman of the Select Committee on Small Business, I rise in support of S. 3331, the Small Business Amendments of 1974. Hearings were held on this measure on March 12 and 13, 1974, before the Small Business Subcommittee of the Senate Committee on Banking, Housing and Urban Affairs which reported the measure on April 9 (S. Rept. 93–776).

With this, as other small business measures, the chairman of that subcommittee, the Senator from California (Mr. CRANSTON) has done a very able job. His proceedings have been prompt and thorough. His questioning has developed a sound record and his courtesy to witnesses has been very much appreciated. I wish to commend the Senator from California for the excellent job he has been doing with small business legislation.

The bill before us is a composite of two bills: S. 3137 and S. 3138, both introduced on March 8 of this year. Both of these proposals are incorporated in S. 3331, with only technical amendments. The major parts of the bill are as follows:

The greater part of section 2 transfers to the Small Business Administration the authority for financial, management, and technical assistance which was previously provided for as title IV of the Economic Opportunity Act of 1964. SBA has by statute been authorized to administer this program and has in fact been doing so since 1966, and the language is now being placed in the Small Business Act to avoid confusion if the Economic Opportunity Act should expire. Minor technical changes have been made in wording to make these provisions compatible with the format of the Small Business Act.

Subsection 2(a)(3) of the bill would increase to $6 billion the ceilings on the total amounts of Small Business Administration loans and guarantees for business loans and would permit comparable increases for the ceilings on disaster loans, SBIC and economic opportunity loan programs. These maximums are, however, subject to the further limitation of Public Law 93–237, prohibiting SBA obligations thereunder after June 30, 1974, without further congressional authorization.

Section 3 clarifies interest rate levels in two instances: maintaining it at 3 percent for loans to organizations of handicapped persons; and raising it for borrowers who default on guaranteed loans to the rate at which SBA must reimburse the lending institution.

Section 4 raises the section 7(a) maximum loan amount from $350,000 to $500,000, which is more in line with the increased costs of doing business since the previous figure was established in 1958.

Section 5 calls for an annual sealed report from the Small Business Administration describing any misconduct by its employees. This is designed to assure an adequate congressional knowledge and follow through on any improprieties occurring in the agency.

Section 6 makes certain perfecting changes to the SBA surety and lease guarantee programs.

I consider this a routine bill, enabling the Small Business Administration to carry on its programs in a business-like fashion and to make necessary technical improvements. I recommend its approval by the Senate.

SENATOR RANDOLPH SUPPORTS S. 3331, THE "SMALL BUSINESS AMENDMENTS OF 1974"—IT CLARIFIES AID TO THE HANDICAPPED

Mr. RANDOLPH. Mr. President, as chairman of the Subcommittee on the Handicapped, it is a privilege to support S. 3331, a measure which will provide important new authority and clarification of existing authority for the Small Business Administration.

Section 3 of this legislation contains an amendment on which I worked with the able Senator from California (Mr. CRANSTON) and which he presented in committee. This amendment is designed to clarify section 7(h)(2) of the Small Business Act relating to the interest rate applicable to loans under the handicapped assistance loan program (HAL).

The present language, which states that "Any loan made under this subsection shall bear interest at a rate of 3 per centum per annum," has caused confusion. This language may be interpreted to mean that a participating commercial lender's share of a guaranteed or immediate participation loan would be limited to an interest rate of 3 percent. Clearly, commercial enterprises will not lend money under this program at such a low interest rate. Handicapped assistance loans would not be made.

Such an interpretation was not the intent of Congress. The Congress, in my judgment intended that the 3 percent

interest rate apply only to the SBA share of a loan. SBA has received a Comptroller General opinion reinforcing this belief on the intent of Congress. However, the new language, which reads that "The administration's share of any loan made under this subsection shall bear interest at the rate of 3 per centum per annum," unquestionably resolves the issue.

Mr. President, the Subcommittee on the Handicapped is committed to the right of equal opportunity for America's handicapped citizens. It is a privilege to support this legislation and the HAL program, for they provide the handicapped individual with an opportunity to compete in the business sector. I am grateful to Senator CRANSTON, the sponsor of this legislation, for his cooperation and endeavors to open traditional sources of capital for the handicapped person.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and was passed, as follows:

S. 3331

An act to clarify the authority of the Small Business Administration, to increase the authority of the Small Business Administration, 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 "Small Business Amendments of 1974".

SEC. 2. (a) The Small Business Act is amended—

(1) by redesignating subsection (b) of section 2 as subsection (c) and by adding after subsection (a) of that section the following new subsection:

"(b) The assistance programs authorized by sections 7(i) and 7(j) of this Act are to be utilized to assist in the establishment, preservation, and strengthening of small business concerns and improve the managerial skills employed in such enterprises, with special attention to small business concerns (1) located in urban or rural areas with high proportions of unemployed or low-income individuals; or (2) owned by low-income individuals; and to mobilize for these objectives private as well as public managerial skills and resources.";

(2) by striking out paragraphs (1) and (2) of section 4(c), and inserting in lieu thereof the following:

"(c)(1) There are hereby established in the Treasury the following revolving funds: (A) a disaster loan fund which shall be available for financing functions performed under sections 7(b)(1), 7(b)(2), 7(b)(4), 7(b)(5), 7(b)(6), 7(b)(7), 7(c)(2), and 7(g) of this Act, including administrative expenses in connection with such functions; and (B) a business loan and investment fund which shall be available for financing functions performed under sections 7(a), 7(b)(3), 7(e), 7(h), 7(i), and 8(a) of this Act, and titles III and V of the Small Business Investment Act of 1958, including administrative expenses in connection with such functions.

"(2) All repayments of loans and debentures, payments of interest and other receipts arising out of transactions heretofore or hereafter entered into by the Administration (A) pursuant to section 7(b)(1), 7(b)(2), 7(b)(4), 7(b)(5), 7(b)(6), 7(b)(7), and 7(c)(2) of this Act shall be paid into a disaster loan fund; and (B) pursuant to sections 7(a), 7(b)(3), 7(e), 7(h), 7(i), and 8(a) of this Act, and titles III and V of the Small Business Investment Act of 1958, shall be paid into the business loan and investment fund.";

(3) by striking out paragraph (4) of section 4(c), and inserting in lieu thereof the following:

"(4) The total amount of loans, guarantees, and other obligations or commitments, heretofore or hereafter entered into by the Administration, which are outstanding at any one time (A) under sections 7(a), 7(b)(3), 7(e), 7(h), 7(i), and 8(a) of this Act, shall not exceed $6,000,000,000; (B) under title III of the Small Business Investment Act of 1958, shall not exceed $725,000,000; (C) under title V of the Small Business Investment Act of 1958, shall not exceed $525,000,000; and (D) under section 7(i) of this Act, shall not exceed $450,000,000."; and

(4) by adding at the end of section 7 the following three new subsections:

"(i)(1) The Administration also is empowered to make, participate (on an immediate basis) in, or guarantee plans, repayable in not more than fifteen years, to any small business concern, or to any qualified person seeking to establish such a concern, when it determines that such loans will further the policies established in section 2(b) of this Act, with particular emphasis on the preservation or establishment of small business concerns located in urban or rural areas with high proportions of unemployed or low-income individuals or owned by low-income individuals: *Provided, however,* That no such loans shall be made, participated in, or guaranteed if the total of such Federal assistance to a single borrower outstanding at any one time would exceed $50,000. The Administration may defer payments on the principal of such loans for a grace period and use such other methods as it deems necessary and appropriate to assure the successful establishment and operation of such concern. The Administration may, in its discretion, as a condition of such financial assistance, require that the borrower take steps to improve his management skills by participating in a management training program approved by the Administration: *Provided, however,* That any management training program so approved must be of sufficient scope and duration to provide reasonable opportunity for the individuals served to develop entrepreneurial and managerial self-sufficiency.

"(2) The Administration shall encourage, as far as possible, the participation of the private business community in the program of assistance to such concerns, and shall seek to stimulate new private lending activities to such concerns through the use of the loan guarantees, participations in loans, and pooling arrangements authorized by this subsection.

"(3) To insure an equitable distribution between urban and rural areas for loans between $3,500 and $50,000 made under this subsection, the Administration is authorized to use the agencies and agreements and delegations developed under title III of the Economic Opportunity Act of 1964, as amended, as it shall determine necessary.

"(4) The Administration shall provide for the continuing evaluation of programs under this subsection, including full information on the location, income characteristics, and types of businesses and individuals assisted, and on new private lending activity stimulated, and the results of such evaluation together with recommendations shall be included in the report required by section 10(a) of this Act.

"(5) Loans made pursuant to this subsection (including immediate participation in and guarantees of such loans) shall have such terms and conditions as the Administration shall determine, subject to the following limitations—

"(A) there is reasonable assurance of repayment of the loan;

"(B) the financial assistance is not otherwise available on reasonable terms from private sources or other Federal, State, or local programs;

"(C) the amount of the loan, together with other funds available, is adequate to assure completion of the project or achievement of the purposes for which the loan is made;

"(D) the loan bears interest at a rate not less than (i) a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Treasury obligations of comparable maturity, plus (ii) such additional charge, if any, toward covering other costs of the program as the Administration may determine to be consistent with its purposes: *Provided, however,* That the rate of interest charged on loans made in redevelopment areas designated under the Public Works and Economic Development Act of 1965 (42 U.S.C. 3108 et seq.) shall not exceed the rate currently applicable to new loans made under section 201 of the Act (42 U.S.C. 3142); and

"(E) fees not in excess of amounts necessary to cover administrative expenses and probable losses may be required on loan guarantees.

"(6) The Administration shall take such steps as may be necessary to insure that, in any fiscal year, at least 50 per centum of the amounts loaned or guaranteed pursuant to this subsection are allotted to small business concerns located in urban areas identified by the Administration as having high concentrations of unemployed or low-income individuals or to small business concerns owned by low-income individuals. The Administration shall define the meaning of low income as it applies to owners of small business concerns eligible to be assisted under this subsection.

"(7) No financial assistance shall be extended pursuant to this subsection where the Administration determines that the assistance will be used in relocating establishments from one area to another if such relocation would result in an increase in unemployment in the area of original location.

"(j)(1) The Administration is authorized to provide financial assistance to public or private organizations to pay all or part of the cost of projects designed to provide technical or management assistance to individuals or enterprises eligible for assistance under subsection 7(i) of this Act, with special attention to small business located in urban areas of high concentration of unemployed or low-income individuals or owned by low-income individuals.

"(2) Financial assistance under this subsection may be provided for projects, including without limitation—

"(A) planning and research, including feasibility studies and market research;

"(B) the identification and development of new business opportunities;

"(C) the furnishing of centralized services with regard to public services and Government programs including programs authorized under subsection 7(i);

"(D) the establishment and strengthening of business service agencies, including trade associations and cooperatives;

"(E) the encouragement of the placement of subcontracts by major business with small business concerns located in urban areas of high concentration of unemployed or low-income individuals or owned by low-income individuals, including the provision of incentives and assistance to such major businesses so that they will aid in the training and upgrading of potential subcontractors or other small business concerns; and

"(F) the furnishing of business counseling, management training, and legal and other related services, with special emphasis on the development of management training programs using the resources of the business community, including the development of management training opportunities in existing businesses, and with emphasis in all cases upon providing management training of sufficient scope and duration to develop entrepreneurial and managerial self-sufficiency on the part of the individuals served;

"(3) The Administration shall give preference to projects which promote the ownership, participation in ownership, or management of small business concerns by residents of urban areas of high concentration of unemployed or low-income individuals, and to projects which are planned and carried out with the participation of local businessmen.

"(4) The financial assistance authorized by this subsection includes assistance advanced by grant, agreement, or contract, but does not include the procurement of plant or equipment, or goods or services.

"(5) The Administration is authorized to make payments under grants and contracts entered into under this subsection in lump sum or installments, and in advance or by way of reimbursement, and in the case of grants, with necessary adjustments on account of overpayments or underpayments.

"(6) To the extent feasible, services under this subsection shall be provided in a location which is easily accessible to the individuals and small business concerns served.

"(7) The Administration shall provide for an independent and continuing evaluation of programs under this subsection, including full information on, and analysis of, the character and impact of managerial assistance provided, the location, income characteristics, and types of businesses and individuals assisted, and the extent to which private resources and skills have been involved in these programs. Such evaluation together with any recommendations deemed advisable by the Administration shall be included in the report required by section 10(a) of this Act.

"(8) The Administration shall take such steps as may be necessary and appropriate, in coordination and cooperation with the heads of other Federal departments and agencies, so that contracts, subcontracts, and deposits made by the Federal Government or in connection with programs aided with Federal funds are placed in such a way as to further the purposes of this subsection and of subsection 7(i) of this Act. The Administration shall provide for the continuing evaluation of programs under this subsection and the results of such evaluation together with recommendations shall be included in the report required by section 10(a) of this Act.

"(k) In carrying out its functions under subsections 7(i) and 7 (j) of this Act, the Administration is authorized—

"(1) to utilize, with their consent, the services and facilities of Federal agencies without reimbursement, and, with the consent of any State or political subdivision of a State, accept and utilize the services and facilities of such State or subdivision without reimbursement;

"(2) to accept, in the name of the Administration, and employ or dispose of in furtherance of the purposes of this Act, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise;

"(3) to accept voluntary and uncompensated services, notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)); and

"(4) to employ experts and consultants or organizations thereof as authorized by section 15 of the Administrative Expenses Act of 1946 (5 U.S.C. 55a), except that no individual may be employed under the authority of this subsection for more than one hundred days in any fiscal year; to compensate individuals so employed at rates not in excess of $100 per diem, including traveltime; and to allow them, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5 of such Act (5 U.S.C. 73b-2) for persons in the Government service employed intermittently, while so employed: *Provided, however*, That contracts for such employment may be renewed annually."

(b) Title IV of the Economic Opportunity Act of 1964. is hereby repealed; and all references to such title in the remainder of that Act are repealed.

SEC. 3. The Small Business Act is further amended—

(1) by amending section 5(b) by striking out "and" following paragraph (8), by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and" and by adding at the end of paragraph (9) the following new paragraph:

"(10) upon purchase by the Administration of any deferred participation entered into under section 7 of this Act, continue to charge a rate of interest not to exceed that initially charged by the participating institution on the amount so purchased for the remaining term of the indebtedness."; and

(2) by striking out the third sentence in paragraph (2) of section 7(h) and inserting in lieu thereof: "The Administration's share of any loan made under this subsection shall bear interest at the rate of 3 per centum per annum."

SEC. 4. (a) Section 7 (a) (4) (A) of the Small Business Act is amended by striking out "$350,000" and inserting in lieu thereof "$500,000."

(b) Section 7(a)(5)(A) of such Act is amended by striking out "$350,000" and inserting in lieu thereof "$500,000".

SEC. 5. Section 10 of the Small Business Act is amended by adding at the end thereof the following new subsection:

"(g) The Administration shall transmit, not later than December 31 of each year, to the Committee on Banking, Housing and Urban Affairs of the Senate and the Committee on Banking and Currency of the House of Representatives a sealed report with respect to public complaints alleging illegal conduct by employees of the Administration which were received or acted upon by the Administration during the preceding fiscal year."

SEC. 6. (a) The Small Business Investment Act of 1958 is amended—

(1) by striking out in the table of contents in section 101 all references to title IV and section numbers therein and inserting in lieu thereof the following:

"TITLE IV—GUARANTEES

"PART A—LEASE GUARANTEES

"Sec. 401. Authority of the Administration.
"Sec. 402. Powers.
"Sec. 403. Fund.

"PART B—SURETY BOND GUARANTEES

"Sec. 410. Definitions.
"Sec. 411. Authority of the Administration.
"Sec. 412. Fund.";

(2) by striking out section 403 and inserting in lieu thereof the following:

"FUND

"SEC. 403. There is hereby created within the Treasury a separate fund for guarantees which shall be available to the Administrator without fiscal year limitation as a revolving fund for the purposes of this part. There are authorized to be appropriated to the fund from time to time such amounts not to exceed $10,000,000 to provide capital for the fund. All amounts received by the Administrator, including any moneys, property, or assets derived by him from his operations in connection with this part, shall be deposited in the fund. All expenses and payments pursuant to operations of the Administrator under this part shall be paid from the fund. From time to time, and at least at the close of each fiscal year, the Administrator shall pay from the fund into Treasury as miscellaneous receipts interest at a rate determined by the Secretary of the Treasury on the cumulative amount of appropriations available as capital to the fund, less the average undisbursed cash balance in the fund during the year. The rate of such interest shall be determined by the Secretary of the Treasury, and shall not be less than a rate determined by taking into consideration the average market yield during the month preceding each fiscal year on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturity of guarantees from the fund. Moneys in the fund not needed for the payment of current operating expenses or for the payment of claims arising under this part may be invested in bonds or other obligations of, or bonds or other obligations guaranteed as to principal and interest by, the United States; except that moneys provided as capital for the fund shall not be so invested but shall be returned to the fund in such amounts and at such times as the Administrator determines to be appropriate, whenever the level of the fund herein established is sufficiently high to permit the return of such moneys without danger to the solvency of the program under this part.";

(3) by striking out "$500,000" in section 411 and inserting in lieu thereof "$1,000,000"; and

(4) by adding after section 411 the following new section:

"FUND

"SEC. 412. There is hereby created within the Treasury a separate fund for guarantees which shall be available to the Administrator without fiscal year limitation as a revolving fund for the purposes of this part. There are authorized to be appropriated to the fund from time to time such amounts not to exceed $35,000,000 to provide capital for the fund. All amounts received by the Administrator, including any moneys, property, or assets derived by him from his operations in connection with this part, shall be deposited in the fund. All expenses and payments pursuant to operations of the Administrator under this part shall be paid from the fund. From time to time, and at least at the close of each fiscal year, the Administrator shall pay from the fund into Treasury as miscellaneous receipts interest at a rate determined by the Secretary of the Treasury on the cumulative amount of appropriations available as capital to the fund, less the average undisbursed cash balance in the fund during the year. The rate of such interest shall be determined by the Secretary of the Treasury, and shall not be less than a rate determined by taking into consideration the average market yield during the month preceding each fiscal year on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturity of guarantees from the fund. Moneys in the fund not needed for the payment of current operating expenses or for the payment of claims arising under this part may be invested in bonds or other obligations of, or bonds or other obligations guaranteed as to principal and interest by, the United States; except that moneys provided as capital for the fund shall not be so invested but shall be returned to the fund in such amounts and at such times as the Administrator determines to be appropriate, whenever the level of the fund herein established is sufficiently high to permit the return of such moneys without danger to the solvency of the program under this part."

(b) Unexpended balances of appropriations made to the fund pursuant to section 403 of the Small Business Investment Act

of 1958 (15 U.S.C. 694), as in effect prior to the effective date of this Act, shall be allocated, together with related assets and liabilities, to the funds established by paragraphs (2) and (4) of subsection (a) of this section in such amounts as the Administrator shall determine.

SEC. 7. Section 4(b) of the Small Business Act is amended—

(1) by striking out "three" in the third sentence and inserting in lieu thereof "four"; and

(2) by inserting after the third sentence the following new sentence: "One of the Associate Administrators shall be designated at the time of his appointment as the Associate Administrator for Minority Small Business and shall be responsible for the operation, management, and supervision of the Administration's execution of programs which provide assistance to minority small business concerns."

Mr. TOWER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PEACE CORPS BILL (H.R. 12920) TEMPORARILY LAID ASIDE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Peace Corps bill which was to have been considered at this time be temporarily laid aside.

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

AMENDMENT OF THE NATIONAL LABOR RELATIONS ACT TO EXTEND COVERAGE AND PROTECTION TO EMPLOYEES OF NONPROFIT HOSPITALS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 3203.

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

The bill was read by title, as follows:

A bill (S. 3203) to amend the National Labor Relations Act to extend its coverage and protection to employees of nonprofit hospitals, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request that the Senate proceed to consider the bill?

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

Mr. CRANSTON. Mr. President, I want to thank the distinguished chairman of the Labor and Public Welfare Committee, the Senator from New Jersey (Mr. WILLIAMS), for asking me to manage S. 3203 on the floor today, a bill to extend the coverage and protection of the National Labor Relations Act to employees of private nonprofit hospitals.

The National Labor Relations Act basically provides two avenues for the peaceful resolution of labor-management disputes. First, it establishes a recognized machinery for determining workers' desires by means of representation elections. Second, it seeks to protect both labor and management from unfair labor practices.

Because of the specialized nature of the health care industry, the reported bill provides these two basic NLRA protections for nonprofit hospitals and their employees and establishes a broader and new definition of health care institutions covered by the act. This new definition includes not only hospitals, but also nursing homes, health maintenance organizations, extended care facilities, health and medical clinics, and other similar institutions caring for sick, infirm, or aged persons. Under current law, only for-profit hospitals and all nursing homes—nonprofit and proprietary—are covered by the NLRA.

Under S. 3203, we will have one set of rules applicable to all health care institutions. The bill contains several special provisions designed to facilitate collective-bargaining settlements and to provide advance notice of any strike or picketing involving a health care institution. These special provisions for health care institutions are designed to bring about resolutions of labor disputes without the need for recourse to a strike if that is possible. These are:

First. The requirement of a 90-day notice of termination or expiration of a contract;

Second. The requirement of a 60-day notice of such termination or expiration to the Federal Mediation and Conciliation Service—FMCS;

Third. In initial contract negotiations, a requirement of a 30-day notice of a dispute to FMCS;

Fourth. The requirement for a health care institution and labor organization to participate in mediation at the direction of the FMCS;

Fifth. The requirement of a 10-day notice by a labor organization to the health care institution before engaging in any picketing or strike—whether or not related to bargaining.

Mr. President, at this point, I ask unanimous consent that appropriate excerpts from the committee report—No. 93-766—be set forth in the RECORD.

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

COVERAGE OF NONPROFIT HOSPITALS UNDER THE NATIONAL LABOR RELATIONS ACT

SUMMARY

The National Labor Relations Act governs the collective bargaining relationship of millions of workers including employees of proprietary hospitals, proprietary nursing homes and nonprofit nursing homes. It specifically exempts from coverage employees of private nonprofit hospitals. This bill repeals the present exemption, establishes certain new procedures governing labor relations in health care institutions, and creates a new definition of health care institution to include hospitals, nursing homes, health maintenance organizations, extended care facilities, health and medical clinics and other similar institutions caring for the sick, infirm or aged. The bill also contains several additional special provisions designed to facilitate collective bargaining settlements and to provide advance notice of any strike or picketing involving a health care institution, as follows:

1. The requirement for notice of termination or expiration of a contract will be 90 days;

2. The Federal Mediation and Conciliation Service (FMCS) must be given 60 days notice of such termination or expiration;

3. In initial contract negotiation a 30 day notice of a dispute to FMCS will be required;

4. The health care institution and labor organization will be required to participate in mediation at the direction of the FMCS.

5. The health care institution must be given a 10 day notice by a labor organization before any picketing or strike (whether or not related to bargaining) can take place.

On February 7, 1973, S. 794 was introduced by Senators Cranston and Javits and on July 31, 1973, S. 2292 was introduced by Senator Taft. The Subcommittee on Labor conducted hearings on these bills on July 31, August 1, 2 and October 4, 1973.

During the course of these hearings testimony was received from a number of interested groups, including the U.S. Department of Labor; AFL–CIO; the Service Employees International Union, AFL–CIO; American Hospital Association; Industrial Union Department, AFL–CIO; Local 1199, Drug and Hospital Workers Union; American Nurses Association; Communication Workers of America, AFL–CIO; General Conference of Seventh-day Adventists; American Federation of State, County, and Municipal Employees, AFL–CIO; New Jersey Hospital Association; Committee of Interns and Residents of New York City; Colorado Hospital Association; Federation of American Hospitals; Catholic Hospital Association Board of Trustees; Commission on Economic and General Welfare of the American Nurses' Association; Hospital Association of Pennsylvania; Texas Hospital Association; Iowa Hospital Association; International Union of Operating Engineers; Ohio Hospital Association; Minnesota Hospital Association; National Right to Work Committee; Mt. Sinai Hospital; National Federation of Licensed Practical Nurses; Physicians National Housestaff Association; United States Industrial Council; California Hospital Association; New York University Medical Center; and Mount Sinai Medical Center.

On February 28, 1974, S. 3088 was introduced by Senator Taft and on March 13, 1974, the full Committee discharged the Subcommittee from further consideration of S. 794, S. 2292 and S. 3088. On March 20, 1974, S. 3203 was introduced by Senators Williams, Cranston, Javits, Taft, Stafford, Pell, Kennedy, Eagleton, Hughes, and Schweiker. The Committee considered the legislation in executive session on March 20, 1974, and ordered S. 3203 reported by voice vote.

During the executive session an amendment proposed by Senator Mondale was offered. It would have required the NLRB to cede jurisdiction to certain state agencies covering nonprofit hospitals where the state law was in existence prior to 1947. The amendment was defeated by voice vote.

BACKGROUND

Section 2(2) of the National Labor Relations Act defines the term "employer" as not to include "any corporation or association operating a hospital, if no part of the net earnings inures to the benefit of any private shareholder or individual."

The original Wagner Act of 1935 did not contain this exemption and in the only reported case relating to coverage of nonprofit hospitals, the NLRB and the Court of Appeals upheld the coverage.[1]

In 1947, the Wagner Act was amended by the Taft-Hartley Act. Included in these amendments was a provision, added as a floor amendment in the Senate, to exempt nonprofit hospitals. This amendment was retained in conference.

In 1972, the House passed H.R. 11357 which would have repealed the exemption. No action was taken by the Senate beyond hearings on the bill.

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[1] *Central Dispensary and Emergency Hospital* 44 NLRB 533 (1942), 145 F. 2d 852 (1944), cert. den. 655 sup. ct. 684.

NEED FOR THE BILL

The bill removes the existing exemption in section 2(2) of the NLRA for employees of non-profit hospitals and extends the protections of the Act to such employees to the same extent as currently applicable to employees of nursing homes and proprietary hospitals.

The Committee could find no acceptable reason why 1,427,012 employees of these non-profit, non-public hospitals, representing 56% of all hospital employees, should continue to be excluded from the coverage and protections of the Act. In the Committee's deliberations on this measure, it was recognized that the needs of patients in health care institutions required special consideration in the Act including a provision requiring hospitals to have sufficient notice of any strike or picketing to allow for appropriate arrangements to be made for the continuance of patient care in the event of a work stoppage. In this respect the Committee believed that the special notice requirements should be extended to all proprietary and nonprofit hospitals, convalescent hospitals, health maintenance organizations, health or medical clinics, nursing homes, extended care facilities or other institutions devoted to the care of sick, infirm or aged persons. Accordingly this bill will provide the same procedures for employees of all health care institutions.

The Committee was also impressed with the fact, emphasized by many witnesses, that the exemption of nonprofit hospitals from the Act had resulted in numerous instances of recognition strikes and picketing. Coverage under the Act should completely eliminate the need for any such activity, since the procedures of the Act will be available to resolve organizational and recognition disputes.

PROVISIONS OF THE BILL

Repeal of existing exemption

The present exemption in Section 2(2) of the National Labor Relations Act for "any corporation or association operating a hospital, if no part of the net earnings inures to the benefit of any private shareholder or individual" is removed from the Act by this bill.

Definition of health care institution

The bill adds to the Act a definition of health care institutions which includes any hospital, convalescent hospital, health maintenance organization, health clinic, nursing home, extended care facility, or other institution devoted to the care of sick, infirm, or aged persons.

By so defining a health care institution the Committee does not intend to affect the exemption for "the United States or any wholly owned Government corporation * * * or any State or political subdivision thereof" as set forth in Section 2(2) of the Act.

Ten day notice

It is in the public interest to insure the continuity of health care to the community and the care and well being of patients by providing for a statutory advance notice of any anticipated strike or picketing. For this reason, the Committee approved an amendment adding a new Section 8(g) which generally prohibits a labor organization from striking or picketing a health care institution without first giving 10 days' notice. Violation of this provision will constitute an unfair labor practice. The failure to give the statutory notice will be remedial under Section 10(j) of the Act. This notice period will also give the National Labor Relations Board the opportunity, when charges are filed, to make a determination as to the legality of any strike or picketing before it occurs.[2]

[2] For example, the picketing may be a violation of Section 8(b)(4).

The 10-day notice is intended to give health care institutions sufficient advance notice of a strike or picketing to permit them to make arrangements for the continuity of patient care. It is not the intention of the Committee that a labor organization shall be required to commence a strike or picketing at the precise time specified in the notice; on the other hand, it would be inconsistent with the Committee's intent if a labor organization failed to act within a reasonable time after the time specified in the notice. Thus, it would be unreasonable, in the Committee's judgment, if a strike or picketing commenced more than 72 hours after the time specified in the notice. In addition, since the purpose of the notice is to give a health care institution advance notice of the actual commencement of a strike or picketing, if a labor oragnization does not strike at the time specified in the notice, at least 12 hours notice should be given of the actual time for commencement of the action.

Repeatedly serving such ten day notices upon the employer is to be construed as constituting evidence of a refusal to bargain in good faith by the labor organization.

Likewise, the public interest demands that employees of health care institutions be accorded the same type of treatment under the law as other employees in our society, and that the notice not be utilized to deprive employees of their statutory rights. It is clear, therefore, that a labor organization will not be required to serve a ten day notice or to wait until the expiration of the ten day notice when the employer has committed unfair labor practices as in *Mastro Plastics Corp.* v. *NLRB*, 350 U.S. 270, 37 L.R.R.M. 2587 (1956).

Moreover, it is the sense of the Committee that during the ten-day notice period the employer should remain free to take whatever action is necessary to maintain health care, but not to use the ten-day period to undermine the bargaining relationship that would otherwise exist. For example, the employer would not be free to bring in large numbers of supervisory help, nurses, staff and other personnel from other facilities for replacement purposes. It would clearly be free to receive supplies, but it would not be free to take extraordinary steps to stock up on ordinary supplies for an unduly extended period. While not necessarily a violation of the Act, violation of these principles would serve to release the labor oragnization from its obligation not to engage in economic action during the course of the ten-day notice period.

The Committee is aware that a work interruption at particular hospitals, such as those in rural areas, could pose special problems of continuation of patient care. It is the Committee's hope that parties to a dispute in such an institution would be cognizant of such special problems and take steps, either in advance of any dispute, or during its resolution, to mitigate the effects of a scarcity of alternative local resources.

Contract notice requirements

Under the existing provisions of the National Labor Relations Act, an employer or a labor organization is required, where a collective bargaining agreement is in effect, to provide written notice to the other party before termination or modification of the agreement. This notice of termination or modification must be given at least 60 days prior to the termination or modification date. In addition, present law requires the Federal Mediation and Conciliation Service to receive 30 days notice.

The bill extends the 60 day notice to 90 days and requires the FMCS to receive 60 days notice instead of 30 days, in the case of health care institutions.

Under existing law there is no obligation on either party to engage in mediation. The bill provides for mandatory mediation by the parties with the FMCS in the case of collective bargaining involving health care institutions.

Under present law there is no notification requirement to any party with regard to initial contract negotiations. The bill requires 30 days notice to the FMCS, in the case of collective bargaining involving health care institutions.

EFFECT ON EXISTING LAW

Bargaining units

Due consideration should be given by the Board to preventing proliferation of bargaining units in the health care industry. In this connection, the Committee notes with approval the recent Board decisions in *Four Seasons Nursing Center*, 208 NLRB No. 50, 85 LRRM 1093 (1974), and *Woodland Park Hospital*, 205 NLRB No. 144, 84 LRRM 1075 (1973), as well as the trend toward broader units enunciated in *Extendicare of West Virginia*, 203 NLRB No. 170 83 LRRM 1242 (1973).[3]

Ally doctrine

It has been held that where during the course of a labor dispute, a secondary employer performs work that, but for the existence of such labor dispute, would have been performed by the striking employees of the primary employer, the secondary employer loses his status as a neutral, and the labor organization is entitled to extend its economic activity to the secondary employer.

It is the sense of the Committee that where such secondary institutions accept the patients of a primary employer or otherwise provide life-sustaining services to the primary employer, by providing the primary employer with an employee or employees who possess critical skills, such as an EKG technician, such conduct shall not be sufficient to cause the secondary employer to lose its neutral status. It should be clear, however, that where a secondary employer enmeshes itself into the primary dispute by providing supervisors, nurses or staff other than those described, it loses its status of neutrality.

Supervisors

Various organizations representing health care professionals have urged an amendment to Section 2(11) of the Act so as to exclude such professionals from the definition of "supervisor". The Committee has studied this definition with particular reference to health care professionals, such as registered nurses, interns, residents, fellows, and salaried physicians and concludes that the proposed amendment is unnecessary because of existing Board decisions. The Committee notes that the Board has carefully avoided applying the definition of "supervisor" to a health care professional who gives direction to other employees in the exercise of professional judgment, which direction is incidental to the professional's treatment of patients, and thus is not the exercise of supervisory authority in the interest of the employer.

The Committee expects the Board to continue evaluating the facts of each case in this manner when making its determinations.

Recognition picketing

In recognition picketing cases under Section 8(b)(7)(C), the National Labor Relations Board has ruled that a reasonable period of time is thirty days absent unusual circumstances such as violence or intimidation. It is the sense of the Committee that picketing of a health care institution would in itself constitute an unusual circumstance justifying the application of a period of time less than thirty days.

[3] By our reference to *Extendicare*, we do not necessarily approve all of the holdings of that decision.

Priority case handling

Many of the witnesses before the Committee, including both employee and employer witnesses, stressed the uniqueness of health care institutions. There was a recognized concern for the need to avoid disruption of patient care wherever possible.

It was this sensitivity to the need for continuity of patient care that led the Committee to adopt amendments with regard to notice requirements and other procedures related to potential strikes and picketing.

The Board's priorities for handling various types of cases were carefully considered by directions to the Board are reflected in the following commentary.

The Committee notes the present existence of priority case handling directives to the Board under Section 10(1) of the Act with respect to charges filed under Sections 8(b)(4), 8(b)(7) or 8(e) and other priority directives under 10(m).

Because of the need for continuity of patient care, the Committee expects the NLRB to give special attention and priority to all charges of employer, employee and labor organization unfair labor practices involving health care institutions consistent with the existing statutory priority requirements for particular classes of cases. The General Counsel and Chairman are directed to take such steps as necessary to provide appropriate investigatory and other resources needed to give this requisite priority to unfair labor practice cases involving health care institutions.

Cost estimate

The estimated cost of this legislation is $1.2 million in each of the five years following enactment.

SECTION-BY-SECTION ANALYSIS

Subsection (a) repeals the existing exemption for non-profit hospitals in Section 2(2) of the Act.

Subsection (b) amends Section 2 of the Act by adding a definition "health care institution" to include any hospital, convalescent hospital, health maintenance organization, health clinic, nursing home, extended care facility, or other institution devoted to the care of sick, infirm, or aged persons.

Subsection (c) amends Section 8(d) relating to loss of status when an employee strikes in violation of the section's notice requirements. The Amendment substitutes "any notice" in lieu of the "sixty-day notice" in existing law to allow for the additional notice requirements placed on representations of employees of health care institutions. The loss of status is also extended to violations of the newly created ten-day notice period of section 8(g).

Subsection (d) amends Section 8(d) by modifying the notice provisions of that Section as follows:

1. The requirement for notice of termination or expiration of a contract will be 90 days;

2. The Federal Mediation and Conciliation Service must be given a 60 day notice of such termination or expiration:

3. In initial contract negotiations a 30 day notice to FMCS will be required;

4. The health care institution and labor organization will be required to participate in mediation at the direction of the FMCS.

Subsection (e) amends Section 8 by adding a new Subsection (g) which provides that labor organizations give a 10 day written notice to the health care institution and the FMCS before engaging in any picketing, strike or other concerted refusal to work.

Mr. CRANSTON. Mr. President, does the Senator from Michigan wish to offer any amendment at this time? If so, I will dispense with my statement at this time.

Mr. GRIFFIN. No.

Mr. CRANSTON. Mr. President, testimony presented to the committee—in the course of our very extensive hearings on this legislation on July 31, August 1 and 2, and October 4 of last year—both by labor and management witnesses indicated that the exemption of private nonprofit hospitals from the act had resulted in numerous instances of recognition strikes and picketing. Representatives from the Service Employees International Union testified that recognition strikes account for about 95 percent of strikes in nonprofit hospitals. These recognition strikes averaged 32 days and resulted in an average of 3,967 man-days idle for each struck facility.

Coverage under the act, as provided for in this bill, Mr. President, should completely eliminate the need for any such activity, since the procedures of the act will be available to resolve organizational and recognition disputes.

The Department of Labor testified in favor of "extending the proven benefits of the National Labor Relations Act coverage to nonprofit hospitals." Representatives of the Labor Department also favored "some limited safeguards to protect the public interest in the delivery of health care services." The administration supports this bill, Mr. President.

The committee worked with the administration, with the hospital associations, and with the unions on the issues raised by the parties to the original legislation introduced—S. 794, which I introduced with Senator JAVITS on February 7, 1973, and S. 2292 introduced by Senator TAFT on July 31, 1973. As a result of the hearings and further discussions with the parties, a new bill (S. 3203) was introduced to take account of the various concerns of these parties. This is the bill before us today.

This new bill drew broad bipartisan support within the committee, and represents an attempt to meet all the special problems that were brought to the committee's attention during its lengthy deliberation on the predecessor legislation—S. 794 and S. 2292.

Because of the specialized nature of health care, this bill was broadened to do more than just remove the current nonprofit hospital exclusion. This bill attempts to establish special machinery under the National Labor Relations Act to handle the special problems involved in health care, not only in nonprofit hospitals, but in all health care institutions.

S. 3203 represents, Mr. President, a very carefully developed and finely tuned balance of competing considerations and philosophies to develop a procedure that will, at the same time, protect labor and management rights and promote good health care.

Under the existing provisions of the National Labor Relations Act, an employer as well as a labor organization is required, where a collective bargaining agreement is in effect, to provide written notice to the other party before termination or modification of the agreement. This notice of termination or modification must be given at least 60 days prior to the termination or modification date. In addition, present law requires the Federal mediation and conciliation service to receive 30 days' notice.

The reported bill extends the 60-day notice, to the other party, to 90 days, and also requires the FMCS to receive 60 days' notice instead of 30 days, in the case of health care institutions.

Under existing law, Mr. President, there is no obligation on either party to engage in mediation. The reported bill provides for mandatory mediation by the parties through the FMCS process in the case of collective bargaining involving health care institutions.

Under present law, Mr. President, there is no special notification requirement as to either party with regard to initial contract negotiations. The reported bill requires 30 days' notice to the FMCS, in the case of collective bargaining involving health care institutions.

Under present law, Mr. President, there is no strike notice requirement. We believe it is in the public interest to insure the continuity of health care to the community and the care and well-being of patients by providing for a statutory advance notice of any anticipated strike or picketing. For this reason, the committee approved an amendment adding a new section 8(g) to the NLRA which generally would prohibit a labor organization from striking or picketing a health care institution without first giving 10 days' notice. Violation of this provision will constitute an unfair labor practice. This failure to give the statutory notice will be able to be remedied under the judicial procedures provided for in section 10(j) of the act. This 10-day notice period will also give the National Labor Relations Board the opportunity, when charges are filed, to make a determination as to the legality of any strike or picketing before it occurs.

The 10-day notice is intended to give health care institutions sufficient advance notice of a strike or picketing to permit them to make arrangements for the continuity of patient care. As made clear in the committee report, Mr. President, it is not intended that a labor organization shall be required to commence a strike or picketing at the precise time specified in the notice; on the other hand, it would be inconsistent with the committee's intent if a labor organization failed to act within a reasonable time after the time specified in the notice.

Likewise, the public interest demands that employees of health care institutions be accorded the same type of treatment under the law as other employees in our society, and that the 10-days notice provision not be utilized to deprive employees of their statutory bargaining rights. It is clear, therefore, that a labor organization will not be required to serve a 10-day notice, or to wait until the expiration of the 10-day notice period, when the employer has committed an unfair labor practice.

We believe that the result of this legislation will be a decrease in labor unrest in the health care sector. One of the

witnesses before the subcommittee, Norman Metzger, vice president for personnel of Mt. Sinai Medical Center in New York, stated that:

Over twice as many man-days idle are experienced per work stoppage when the issue is recognition than when the issue is collective bargaining contract content.

He also stated that his:

Statistics demonstrate that hospital-size categories experiencing the greatest increase in the number of collective bargaining agreements negotiated do not experience a similar increase in the number of work stoppages. As of the present time.

He said:

Evidence suggests that increased organizational activity in the hospital industry does not necessarily lead to a proportional increase in work stoppages and that, in fact, such activities can precipitate a decrease. As organizational activity expands.

He explained:

Labor-management relations will be increasingly focused on terms and conditions of employment which are relatively less associated with conflict than issues centered on union recognition.

Union Representative Joseph Murphy, of the Service Employees International Union, stated that:

Coverage by the act would effectively eliminate recognition strikes and picketing, by use of mechanisms provided in the act which call for elections within a reasonable time after a petition for election is filed.

Mr. Murphy also pointed out that coverage under the National Labor Relations Act would not result in demands for extravagantly high wages and thus would not result directly in higher hospital costs for patients. He also noted the following:

Coverage of the National Labor Relations Act was extended to proprietary hospitals in 1967, with a corresponding increase in unionization. Despite this fact, hospital wages have risen much more slowly than the cost of hospital care. In the five-year period January 1968 to January 1973, wages of non-supervisory hospital personnel have increased 43.6 percent, while the C.P.I. of semiprivate hospital room rates has increased 66.8 percent.

Mr. Murphy also stated that:

There are many causes for increasing hospital costs other than wage increases—especially increased sophistication of medical treatment requiring more personnel per patient, more expensive equipment and lab procedures, large increases in demand related to increased insurance coverage, mismanagement of funds and utilization rates below optimum.

During the last 2½ years, hospital wage increases have lagged far behind those received by workers in other industries. During the 2½-year period from August 1971 to January 1974, average hourly earnings of non-supervisory hospital workers increased 32 cents an hour or 10.7 percent. Wages of manufacturing production workers went up nearly twice as fast, increasing by 65 cents an hour or 18.3 percent, and the average increase for all non-supervisory private industry employees was 57 cents an hour or 16.5 percent. These figures of the Bureau of Labor Statistics indicate that these hospital workers' wages are falling further behind other workers' wages.

Today, hospital workers are still notoriously underpaid. The communications Workers of America reported that in 1970 the average annual salary for all hospital employees—including doctors, administrators, nurses, and other aides—was only $5,290. According to Dr. Michael Stocker, president of the Physicians National Housestaff Association, the average house staff officer—intern, resident, or fellow—works 70 to 100 hours per week, and earns about $10,000 per year. His hourly wage, then, ranges from $1.92 to $2.74.

The long hours worked and the small monetary reward received by hospital workers result in a constant turnover with a consequent threat to the maintenance of an adequate standard of medical care. This was emphasized over and over again by many of the witnesses. Turnover rates for employees in several hospitals that were studied were reported by witnesses to be as high as 1,200 to 1,500 per center a year.

Mr. President, both management and union witnesses reported lower turnover after unionization than before. Dr. Joseph Sergent, president of the New York State Union, Local 682, stated that the turnover rates at the two hospitals which had been 1,200 to 1,500 percent a year before unionization, dropped to 24 to 30 percent a year after unionization. Indeed, it has been convincingly argued that when hospital employees are unionized, able to engage in orderly collective bargaining, and able to act as true partners with management in the provision of good patient care, the result is better job stability and security than is possible without such collective bargaining arrangements. This will also mean a better job done in terms of the quality of patient care provided.

Mr. President, I urge all those who want improved health care and increased stability for labor-management relations in health care institutions to support this bill.

In closing, Mr. President, I want to express my gratitude and appreciation for the enormous efforts which have been made on behalf of this legislation by Chairman WILLIAMS, by the Senator from New York, the ranking minority member of the committee, Mr. JAVITS, and by the Senator from Ohio (Mr. TAFT) who has such a keen interest in this field, and with whom I have joined as the principal sponsors of the reported bill. I also want personally to thank the staff of the labor subcommittee, Don Elisburg and Jeff Doranz, who have been of such enormous assistance to me and my staff throughout our work on this legislation over the last 15 months since I first introduced the predecessor bill, S. 794.

Mr. WILLIAMS. Mr. President this bill would extend coverage of the Taft-Hartley Act to private, nonprofit hospital employees. The existing exemption dates back to the 1947 amendment that the late Senator Tydings offered on the floor of the Senate to exclude nonprofit hospitals from the term "employer." The Senate Labor Committee has conducted extensive hearings on the question of removing this exclusion, and we believe that the purposes of the act would be best effectuated by extending the act to nonprofit hospitals.

When Congress excluded employers and employees in the nonprofit hospital industry from the Taft-Hartley Act, it did so for two major reasons, which no longer hold true today. The first reason was that the health industry at that time did not constitute interstate commerce. The second reason was that nonprofit hospitals were thought at that time to be charitable in nature.

The interstate commerce argument was based on the small size of the hospital industry at the time that the Taft-Hartley legislation was enacted. Today, however, the hospital industry is big business. There are more than 7,000 hospitals in the United States with nearly 3 million workers, almost 10 times the 350,000 in 1947.

Indeed, employment in the hospital industry exceeds the total number of workers in aircraft, textile products, printing and publishing, chemicals and allied products, banking, hotels, and other important areas of service and production.

More than half of the Nation's hospitals are private, nonprofit hospitals. They employ 1½ million employees, or 56 percent of all hospital employees.

This is more than twice as many as are employed in mining, more than twice the number employed on all railroads, and nearly three times as many as are employed in the basic auto industry.

Net total revenue of nonprofit hospitals amounted to almost $19 billion in 1972. In that year the entire hospital industry, including the giant nonprofit sector, rereceived $12 billion in payments from private insurance companies located throughout the Nation, and $17 billion from public sources. These sources represent 92 percent of the total amount spent on hospital care in 1972.

The rapid growth of the hospital industry, and particularly its nonprofit sector, has led courts and agencies to rule that hospital operations constitute interstate commerce and are subject to regulation by Congress.

Congress itself has recognized the interstate commerce feature of nonprofit hospitals by including them in coverage of labor legislation, social security, medicare, and medicaid programs.

The second reason why nonprofit hospitals were not brought under the authority of the NLRB in 1947—that they were "charitable institutions"—also no longer holds true today.

The price per bed in nonprofit hospitals is as high as in private hospitals. They often maintain large supervisory staffs, and pay high salaries to their executives. They are free to own large parcels of land and engage in other business ventures with tax deductions and writeoffs.

In short, hospitals, including nonprofit hospitals, are, today, big business; they are engaged in interstate commerce, through their purchase of drugs, food, equipment, and fuel that are often pro-

duced in other regions of the country; they are a major part of our economic stream of commerce. They have clearly far outgrown their old status as local charitable institutions.

Now that private, nonprofit hospitals have become a major industry, they should be treated the same as other industries in their business and labor relations. Private nonprofit hospitals should at least be subject to the same regulations, obligations, and rights that apply to proprietary hospitals.

There is virtually no difference between employees of profit and of nonprofit hospitals. The services and demands made upon both types of employees are the same.

The only difference between them is the manner of distribution of revenues by their employers. Why should hospital workers be denied their basic right to secure the full benefits of America's economic and social institutions simply because they happen to be employed by a nonprofit, rather than a profit, hospital? Nonprofit hospital employees are an essential part of our society and should have the same labor protection as other workers, whether or not the facility in which they work is technically a nonprofit institution.

The current exemption from the act of nonprofit hospitals is not only inconsistent with the protection enjoyed by proprietary hospitals and other types of health care institutions, but it is also inconsistent with the coverage of other nonprofit activities. The NLRB has currently asserted jurisdiction over nonprofit colleges and universities, philantropic lodging houses, nonprofit educational broadcast stations, and nonprofit, cooperative insurance companies.

It would be highly unjust and arbitrary to continue to exclude nonprofit hospital workers from the national labor policy of recognizing, and in fact encouraging, the right of workers to organize and bargin collectively. The policy statement of the Taft-Hartley Act, which I quote, applies no less to nonprofit hospital employees than to other employees:

Experience has proved that protection by law of the right of employees to organize and bargain collectively safeguards commerce from injury, impairment, or interruption, and promotes the flow of commerce by removing certain recognized sources of industrial strife and unrest, by encouraging practices fundamental to the friendly adjustment of industrial disputes arising out of differences as to wages, hours, or other working conditions, and by restoring equality of bargaining power between employers and employees. . . .

It is hereby declared to be the policy of the United States to eliminate the causes of certain substantial obstructions to the free flow of commerce and to mitigate and eliminate these obstructions when they have occurred by encouraging the practice and procedure of collective bargaining and by protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection.

Congress enacted the Taft-Hartley Act in recognition of the fact that the lack of an orderly process for resolving labor disputes leads to industrial strife which in turn disrupts the free flow of commerce. Indeed, the record of management-labor relations in the hospital industry bears out the need for application of such a labor policy to all industries. The recognition strike is the primary and most disruptive form of labor conflict in nonprofit hospitals. It accounts for 95 percent of the strikes in these hospitals.

The denial of recognition of a union as the representative of employees in nonprofit hospitals, now subject to whim and coercion, erupts in long and wasteful strikes which not only hurt employees and employers, but also disrupts health care for patients. When a route is provided for a worker in a nonprofit hospital to reach an official determination that a union represents him, the number of recognition strikes will decline considerably, if not cease altogether.

Recognition strikes are made unnecessary by the peaceful representation procedures of the Taft-Hartley Act. It would be difficult to argue convincingly that withholding Taft-Hartley coverage from nonprofit hospital employees will maintain continuity of patient care. On the contrary, if the continuity of patient care is the main concern of hospital employers in this question of granting their workers the right to organize and bargain collectively, then it is clear that workers must be granted that right.

Not only will the continuity of patient care improve with the coverage of nonprofit hospital workers under the Taft-Hartley Act, but the quality of care will also most certainly improve. Thousands of hospital workers are paid poverty level wages, because they have no union protection. It is obvious that a worker who makes a living wage would have more incentive to do a good job than one whose wages are at poverty level.

The long recognition strikes which have plagued the nonprofit hospital industry inevitably result in an atmosphere of bitterness and conflict. Working relationships are never totally repaired. Such strikes consume large amounts of employers', employees', and unions' funds. When employees are forced to strike for the basic right of representation, and afterward to settle for unsatisfactory conditions, frustration and bitterness set in. The quality of health services is bound to suffer from such an atmosphere of conflict.

If Congress grants to nonprofit hospital employees the basic rights enjoyed by other American workers to join a union of their own choosing and to engage in collective bargaining with their employers, it will do so in the best interests of the patients, the hospital management, and the community, as well as the workers themselves.

The prime concern of many witnesses who testified at our hearings on this bill was that hospitals be given protection against work interruptions that might cause injury or danger to patients.

Although we are convinced that the cause of the most prevalent and serious work disruption in hospitals—recognition strikes—will be eliminated simply by providing coverage of employees under the Taft-Hartley Act, we have added a number of provisions to the bill to accommodate the special need of the hospital industry to provide continuous, quality service to patients.

First, to insure the continuity of health care the committee approved an amendment prohibiting a labor organization from striking or picketing a health care institution without first giving 10 days' notice. The 10-day notice is intended to give health care institutions sufficient advance notice to make appropriate arrangements for the continuance of patient care in the event of work stoppage.

The bill also provides for mandatory mediation by the parties with the Federal Mediation Conciliation Service in the case of collective bargaining involving health care institutions.

Under the existing provisions of the National Labor Relations Act, an employer or a labor organization is required, where a collective bargaining agreement is in effect, to provide a written notice to the other party at least 60 days prior to the termination or modification of the agreement. Present law also requires the Federal Mediation and Conciliation Service to receive 30 days' notice.

The bill extends the 60-day notice to 90 days, and requires the Federal Mediation and Conciliation Service to receive 60-days' notice instead of 30 days.

I want to thank my colleague, Senator CRANSTON, for his cooperation and leadership in preparing and introducing his original bill and in conducting extensive and thorough hearings on it and my appreciation to Senator TAFT for his efforts in working out these amendments.

Mr. President, I ask unanimous consent to have printed in the RECORD the letter of April 17, 1974, that I received from Wilfred H. Rommel, Assistant Director for Legislative Reference, Office of Management and Budget.

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

OFFICE OF MANAGEMENT AND BUDGET,
Washington D.C., April 17, 1974.

HON. HARRISON A. WILLIAMS, Jr.
Chairman, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of this Office on S. 3203, a bill "To amend the National Labor Relations Act to extend its coverage and protection to employees of nonprofit hospitals, and for other purposes."

In a recent report to your Committee, the Department of Labor indicated its support for the concepts embodied in S. 3088, a predecessor bill.

We concur with the views of the Labor Department and, accordingly, support enactment of S. 3203.

Sincerely,

WILFRED H. ROMMEL,
Assistant Director for Legislative Reference.

Mr. JAVITS. Mr. President, I ask unanimous consent that during the consideration of this bill, Mr. David Dunn may have the privilege of the floor.

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

Mr. JAVITS. Mr. President, the Senate is now considering a bill which has been much too long in coming before us. It is the product of extensive discussion and negotiations between representa-

tives of organized labor and representatives of hospital management and health care institutions. The provisions of the bill, as well as the committee report accompanying the bill, have been carefully tailored to meet the particular problems posed by labor-management disputes involving health care institutions.

It is my view—and I believe it is supported by the hearing record—that the exclusion of nonprofit hospital workers from the National Labor Relations Act has led to a great deal of needless labor-management strife in connection with organizational and representational disputes in these nonprofit hospitals.

Under the present law, if a nonprofilit hospital is unwilling to bargain with a union representing its employees, or is unwilling to agree on an ad hoc election procedure to determine the wishes to serve the employees, or commits what would be called unfair labor practices if nonprofit hospital employees are subject to the act, the union involved has no recourse but to resort to strikes and picketing to advance what are its legitimate interests.

If the orderly procedures of the NLRB could be made available to resolve these organizational and representational questions, many, perhaps all, of these kinds of strikes could be avoided. Of course, we all understand the critical community needs which health care institutions fulfill. The important question in this bill then is, what recognition should be given to the special situation involving the health—indeed the life and death of people? Some special procedures have to be mandated to avoid the disruptions of essential health care services because of labor-management strife.

Mr. President, I should like to detail to the Senate three such provisions in the bill. First, the bill requires a 90-day rather than a 60-day notice of intention to reopen a contract upon its termination to be given to the Federal Mediation and Conciliation Service. In addition, at least 30 days notice must be given to the FMCS before any strike or lockout occurs in connection with the first contract.

The second item of safeguard is mandatory mediation by the Federal Mediation and Conciliation Service. In all other cases, it is voluntary; here it is mandatory. That makes a big difference, because it gets the U.S. Government into the picture immediately.

Third and last, 10 days notice of any strike or picketing, including stranger picketing, must be given to a health care institution. The committe report spells out in some detail the intention of the committee as to how this special provision should be interpreted and administered by the NLRB in order to guard against its abuse either by unions or employers.

These three special provisions are made applicable to all health care institutions.

When the bill was before the committee—and I have in mind my own jurisdiction, especially in the city of New York, which is a great health care center and has an enormous number of nonprofit hospitals, so I have a very direct and burning interest—I explored intensively the question of whether any further limitation should be placed on a union's right to strike health care institutions. I may note, in this connection, that I have long been in favor, and have worked very hard for, amendments to the national emergency provision of the Taft-Hartley Act, the so-called Taft-Hartley injunction provisions, to cover regional rather than only national health and safety emergencies.

Thus I gave very serious consideration to an amendment which would have made section 10 of the Railway Labor Act, which provides emergency procedures—essentially a 60-day cooling off period in the case of any labor dispute which "threatens to deprive any section of the country of essential transportation services"—applicable, with appropriate modifications to labor disputes involving health care institutions.

I considered seriously the application of that particular section to this particular labor-management situation, modifying it appropriately to deal with health care institutions. I did not offer such an amendment, and my reason is as follows, because I believe it would be of great interest to the Senate: I knew what a storm such an amendment would engender. I sought to obtain all the assurance I could get from the labor unions involved in respect to this particular field as to voluntary action on their part to deal with this problem.

Mr. President, I am very pleased to present to the Senate today letters which I shall read into the RECORD from the four major trade unions involved in organizing hospital workers. They have assured me in writing that they endorse the use of voluntary arbitration to settle labor-management disputes which threaten to disrupt essential health services.

I ask unanimous consent to have printed in the RECORD as a part of my remarks the following:

A letter from the National Union of Hospital and Nursing Home Employees, signed by Leon J. Davis, president.

A letter from the International Brotherhood of Teamsters, signed by Frank E. Fitzsimmons, general president.

A letter from the Service Employees International Union, signed by George Hardy, international president.

A letter from the Laborers' International Union of North America, signed by Peter Fosco, general president.

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

NATIONAL UNION OF HOSPITAL AND NURSING HOME EMPLOYEES,
New York, N.Y., March 18, 1974.

Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: With respect to legislation under consideration by the Senate Labor Committee to extend the collective bargaining act to employees in Voluntary Hospitals, an inquiry has been made to our Union as to our views on voluntary arbitration.

Specifically, we were asked whether or not our Union favors voluntary arbitration in a labor dispute where a strike or stoppage is threatened against a Hospital and where such strikes or stoppages may affect the life and limb of patients. It has been our policy in the past, it is our present policy and I expect that it will continue in the future that in such event our Union will favor submitting the disputed issues to voluntary and binding arbitration as a means of resolving the issues in dispute and thus avoiding the consequences of such a strike or stoppage.

I would like to call your attention to the fact that our recent stoppage in New York was not due to the refusal of our Union to abide by the arbitration process, it was our desire to have the arbitration awards enforced which led to the unfortunate result. It has been our experience that workers in hospitals are as conscious of their responsibility as the public generally.

Very truly yours,

LEON J. DAVIS,
President.

INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN, AND HELPERS OF AMERICA,
Washington, D.C., April 22, 1974.

Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: We wish to thank you for your efforts on behalf of workers employed by non-profit hospitals who would be covered by the National Labor Relations Act under S. 3203. Since 1947 these workers have been denied the protection accorded to most other American workers and we believe that there is no rational justification for this special exemption.

We are aware of the concern you expressed during the hearings about possible interruptions in patient care because of a labor dispute at health care institutions. We believe that the special provisions embodied in S. 3203 will serve to minimize any possible disruption in essential services. Furthermore, in those instances where a settlement cannot be reached by the parties, we believe that voluntary arbitration would be an appropriate technique to achieve a settlement where a strike or other economic action would result in the disruption of essential health care services.

Respectfully yours,

FRANK E. FITZSIMMONS,
General President.

SERVICE EMPLOYEES INTERNATIONAL UNION,
Washington, D.C., April 4, 1974.

Hon. JACOB JAVITS,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR JAVITS: During the hearings on S. 794 you expressed concern about assuring the continuity of essential patient services in the event of a labor dispute involving health care institutions. Our organization shares this concern, and for that reason we support S. 3203, the clean bill, recently ordered reported by the Senate Committee on Labor and Public Welfare. The 10 day notice, extended bargaining period and mandatory mediation required by S. 3203 should operate to minimize the necessity for strike action involving any health care institution.

In addition, in the event that a settlement cannot be achieved by the parties through direct collective bargaining, our organization fully endorses the use of voluntary arbitration as a technique for obtaining peaceful settlements if a strike would result in disrupting essential health care services in the community. In fact, many of the contracts that have already been negotiated with health institutions contain arbitration provision. This provision obviously was negotiated voluntarily.

Naturally, I am extremely pleased that the Committee has acted favorably with respect to this legislation. We sincerely, believe that prompt enactment of S. 3203 will lead to less, not more, tension in labor-management relations in the health care industry.

Sincerely,

GEORGE HARDY,
International President.

LABORERS' INTERNATIONAL UNION OF NORTH AMERICA,
Washington, D.C., April 8, 1974.

HON. JACOB K. JAVITS,
Senate Office Building,
Washington, D.C.

DEAR MR. JAVITS: In the course of the hearings on proposed legislation to bring nonprofit hospitals under the National Labor Relations Act, you raised the question of how the continuance of essential patient services could best be assured in the event of a strike or lock-out involving a health care institution. We fully understand your concern regarding this question, and have ourselves given this matter a great deal of thought. We believe that the positions embodied in S. 3203 will greatly facilitate settlements through the normal process of collective bargaining. In addition, the bill will make available time-tested procedures for determining organizational and recognitional issues through the NLRA.

In those cases where a peaceful settlement cannot be achieved through collective bargaining, we believe as a matter of policy, in the use of voluntary arbitration if a strike or lock-out would result in the disruption of essential health care services. We further believe that voluntary arbitration is far preferable to any governmentally imposed solution.

We are grateful that the Senate Committee on Labor and Public Welfare has reported out S. 3203 and are very hopeful that the full Senate will soon act favorably on this bill. We strongly believe that this legislation is not only in the best interest of employees of nonprofit hospitals, but also will serve to reduce rather than increase the number and intensity of labor-management disputes in this industry.

Very truly yours,

PETER FOSCO,
General President.

Mr. JAVITS. Mr. President, the originals of these letters will be on permanent file with the Committee on Labor and Public Welfare.

I should like very briefly, since there still remains a few minutes, to read the pertinent parts of these letters. First, from President Leon Davis of the National Union of Hospital and Nursing Home Employees:

It has been our policy in the past, it is our present policy and I expect that it will continue in the future that in such event our Union will favor submitting the disputed issues to voluntary and binding arbitration as a means of resolving the issues in dispute and thus avoiding the consequences of such a strike or stoppage.

From President Fitzsimmons of the Teamsters:

We believe that the special provisions embodied in S. 3203 will serve to minimize any possible disruption in essential services. Furthermore, in those instances where a settlement cannot be reached by the parties, we believe that voluntary arbitration would be an appropriate technique to achieve a settlement where a strike or other economic action would result in the disruption of essential health care services.

From George Hardy, international president of the Service Employees International Union:

In addition, in the event that a settlement cannot be achieved by the parties through direct collective bargaining, our organization fully endorses the use of voluntary arbitration as a technique for obtaining peaceful settlements if a strike would result in disrupting essential health care services in the community.

Finally, from Peter Fosco, general president of the Laborers International Union of North America:

In those cases where a peaceful settlement cannot be achieved through collective bargaining, we believe as a matter of policy, in the use of voluntary arbitration if a strike or lock-out would result in the disruption of essential health care services. We further believe that voluntary arbitration is far preferable to any governmentally imposed solution.

Mr. COTTON. Mr. President, will the Senator yield for a quick question?

Mr. JAVITS. I yield.

Mr. COTTON. Are those four labor organizations all of the labor organizations that deal with these hospital workers?

Mr. JAVITS. Mr. President, I would be very careful not to say all, because I am always very careful about statements of fact, but they are the primary trade unions in the field.

Mr. COTTON. Any other labor organizations involved would be comparatively small?

Mr. JAVITS. Exactly; and we will also add for the RECORD, if we may, the name of any other labor organization or trade union that we know of in the field. But these are the four principal organizations.

Mr. COTTON. I thank the Senator.

Mr. JAVITS. Mr. President, in addition, I have also taken into consideration that Congress can always act very quickly. I think we have shown that. I am known as a pro-labor Senator, and I am very proud of that, but doing my duty as the ranking Republican member of the committee, I have on a number of occasions, unhappy occasions for me, joined in bringing about within 24 or 48 hours legislation by Congress, when needed, to keep an essential service going, and I shall do so again if need be, though I do not believe in compulsory arbitration.

Mr. President, I conclude as follows:

However strongly one may feel about the need to preserve the public interest from the effects of labor-management strikes in critical areas such as health care, I believe Americans generally would agree that it is far preferable to accomplish this objective through voluntary means rather than the compulsion of law. I think that a new spirit has begun to permeate the American labor movement as to the necessity, in the public interest, and indeed the desirability from labor's point of view, of finding ways of avoiding the disruptive effects that sometimes flow from strikes. The steel industry agreement, which made headlines 2 weeks ago, is perhaps the best known example of this change in attitude.

I think the same kind of spirit is shown in the letters to which I have referred from the four union presidents which are now in the RECORD, and I think it would be more in the interests of labor, management, and the public generally, which depends on the availability of health care, to give this new spirit an opportunity to work in the health care industry. As a result I will vote against any amendment to require either compulsory arbitration or additional cooling off periods and I hope the Senate will do likewise.

There are, of course, those who will claim that such a course is too risky given the nature of the problem: the continuance of essential health care. I agree that there are certain risks involved in depending on voluntary action to avoid disruptions in essential health care services. However, it is utterly fallacious to assume that any other course would not also involve similar risks. The recent tragic hospital strike in New York this past fall was conducted in direct violation of a Federal court order. A lot of good it does the individual patient if some union leader goes to jail. On the contrary, they should stay out if possible, or efforts should be made to achieve their early release.

Further, it is now practically commonplace for some public employees to violate Federal or State laws forbidding strikes by such employees. I am not, of course, condoning any illegal strike; I am only pointing out that given the two options, we are taking the option that there ought to be efforts at a voluntary settlement first, before we jut into a mandatory situation which may be self-defeating.

Again I point out that our alacrity in acting legislatively when we have had to, and my pledge to the Senate to continue acting as I have before to fulfill the public responsibility which such legislation directly carries with it.

So, Mr. President, I conclude with the fact that in my judgment the enactment of this legislation especially with the commitments, expressed by responsible trade union leaders—will bring more, rather than less, stability to labor management relations in the health care industry. I hope very much that the Senate will pass this measure.

I yield the floor.

Mr. TAFT. Mr. President, I ask unanimous consent that Mr. Roger King of my staff be granted the privilege of the floor during the debate and voting on S. 3203.

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

Mr. TAFT. Mr. President, I strongly support S. 3203 and would hope the Senate would adopt the recommendations of the Labor and Public Welfare Committee.

This legislation culminates over 2 years work by myself and my staff with other members, particularly Senators JAVITS and CRANSTON and representatives from labor and management.

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

Mr. TAFT. I am glad to yield to the Senator from New York.

Mr. JAVITS. I apologize to the Senator for not having mentioned him specifically, since I am the ranking member and he is one of the minority members, his unusual devotion to this particular situation and his outstanding service to

us all in working it out with the unions and management and causing it to come to the floor at this time. I wish to express especial gratitude to him and his staff aide, Roger King, for that.

Mr. TAFT. I appreciate greatly the remarks of the distinguished Senator from New York. He is an excellent Senator. Without his support and the support of his staff it would have been impossible to make the progress we have made.

To understand the origin of the provisions of S. 3203 and the recommendations of the committee, one must begin with the Wagner Act.

The jurisdiction of the Wagner Act of 1935 covered all private hospitals. The only case reported in this area under the Wagner Act is *Central Dispensory and Emergency Hospital* 44 N.L.R.B. 533 (1942). There, the building service and maintenance workers filed a petition to conduct an election among certain employees at the Emergency Hospital in Washington, D.C., to determine whether or not they wished to be represented by the union. The Labor Board agreed to conduct the election, and said the following:

The hospital contends that it is a charitable institution but neither charitable institution nor their employees are exempted from operation of the act by its terms, although certain other employers and employees are exempted. If Congress did not intend to exempt charitise from the scope of the Act, an exact determination of the hospital's status in this respect becomes immaterial * * * employees, hospitals, like employers of automobile factories, must live upon their wages.

The hospital appealed this Labor Board decision to the U.S. Court of Appeals for the District of Columbia. That court, in an opinion by then Judge Thurman Arnold, wrote:

Respondent (hospital) argues that the spirit or policy of the act is such that we should read into it an exemption of charitable hospitals * * * We are unable to follow the reasoning * * * We cannot understand what considerations of public policy deprive hospital employees of the privilege granted to the employees of other institutions . . . (*NLRB v. Central Disp. & E. Hosp.*, 145 F. 2d 852 (1944), cert den. 65 S.Ct. 684).

In 1947, the Taft-Hartley amendments were offered to the Wagner Act. In the House, Representative Hartley introduced a bill which would have exempted from the Labor Act "institutions that qualify as charities under our tax laws," that is, churches, hospitals, schools, colleges, and societies for the care of the needy. The House Labor Committee reported Representative Hartley's bill with the charitable institution exclusion. The only comment on the floor of the House came from Representative Klein who spoke in opposition:

Employer, for the first time, excludes charitable and educational organizations. While the number of workers thus deprived of any participation in the terms of their employment may not be large, it seems ironical that organizations devoted to the social welfare should be exempted from bargaining with their own, often underpaid employees.

The bill passed the House and it went to the Senate, There was no committee report or proposal in the Senate comparable to the charitable institution exclusion in the House bill. However, Senator Tydings offered a floor amendment to exclude from the term "employer" nonprofit hospitals. Debate was brief. Senator Tydings explained that:

This amendment is designed merely to help a great number of hospitals which are having very difficult times. They are eleemosynary institutions, no profit is involved in their operations, and I understand from the hospital association that this amendment would be very helpful in their efforts to serve those who have not the means to pay for hospital service.

Senator Robert A. Taft then explained that:

The committee considered this amendment, but did not act on it, because we felt it was unnecessary. The committee felt that hospitals were not engaged in interstate commerce; and that their business should not be so construed. We felt it would open up the question of making further exemptions. That is why the committee did not act upon the amendment as it was proposed.

The remainder of the debate was very brief, and between Senators Taylor and Tydings:

Mr. TAYLOR. What does the amendment do? Does it prevent hospital employees, particularly nurses, from organizing? Is that the sense of the amendment?

Mr. TYDINGS. It simply makes a hospital not an "employer"in the commercial sense of the term***

Mr. TAYLOR. Would nurses be prevented from organizing? They are poorly paid.

Mr. TYDINGS. I don't think so*** They (the hospitals) should not have to come to the National Labor Relations Board*** A charitable institution is away beyond the scope of labor management relations in which profit is involved.

Mr. TAYLOR. These may not be profitmaking institutions, but even so I feel that simply because an institution, even one like the Red Cross, is kept up by popular subscription, the professional workers being employees of the Red Cross, should be permitted a decent living and should not be hamstrung in their efforts to obtain it.

Mr. TYDINGS. I agree with the Senator.

The bill then passed the Senate with the Tydings amendment. The conference committee accepted the Senate version, which is now part of section 2(2) of the National Labor Relations Act—

The term "employer" . . . shall not include any corporation or association operating a hospital, if no part of the net earnings inures to the benefit of any private shareholder or individual. . . .

Because of the exclusion in the Act, the Board first refused to assert jurisdiction even over proprietary hospitals operated for profit. *Flatbush General Hospital*, 126 N.L.R.B. 44 (1960). In 1967, the Board reversed *Flatbush*- and asserted jurisdiction over private proprietary, for profit, hospitals in *Butte Medical Properties*, 168 N.L.R.B. 266 (1967). The Board noted that hospitals had become a multibillion dollar complex and as such comprise one of the largest industries in the United States. Subsequently, the Board also assumed jurisdiction over other types of health care facilities, both proprietary and nonprofit, such as nursing homes and clinics.

An effort was commenced in the 92d Congress to repeal the exemption in section 2(2) of the act. Legislation was introduced in the House by Congressman THOMPSON of New Jersey and Congressman ASHBROOK of Ohio, H.R. 11357, to achieve this objective. The House Education and Labor Committee favorably reported H.R. 11357 (House Report 92-1252) and it was approved by the House by a vote of 285 to 95 on August 7, 1972.

The bill then was forwarded to the Senate for consideration by the Labor and Public Welfare Committee. The Senate Labor Subcommittee had scheduled only a half day of hearings on this issue. and intended to report the bill to the Senate and obtain prompt floor action.

After listening to the brief testimony presented that first day, I asked for another day of hearings, as it became very apparent to me that there were many unanswered questions regarding the possible effects of such a proposal. Many of the questions I raised at the second day of hearings were not answered and due to the late date in the session, the committee took no further action on the House-passed bill during the 92d Congress.

During the first session of this Congress, Congressmen THOMPSON and ASHBROOK cosponsored an identical bill in the House, H.R. 1236, providing for a straight extension of the National Labor Relations Act to nonprofit hospitals. Hearings were held last year on this proposal and it currently is awaiting action along with other proposals in the House Education and Labor Committee.

Legislation that would provide a similar extension of the act to nonprofit hospitals, S. 794, was also introduced in the Senate during the first session of this Congress by Senators CRANSTON and JAVITS.

On July 31 of last year, I introduced legislation, S. 2292, to extend the National Labor Relations Act to nonprofit hospitals and establish protections for the continuity of patient care. While I agreed that a reasonable procedure should be established whereby labor disputes can be rationally resolved in health care institutions, particularly with respect to recognition requests, I thought statutory protections were necessary for the protection of patient care. I ask unanimous consent that S. 2292 be printed at this point in the RECORD together with a sectional analysis of its major provisions.

There being no objection, the text of S. 2292 and the sectional analysis were ordered to be printed in the RECORD, as follows:

S. 2292

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of the National Labor Relations Act is amended by adding at the end thereof the following new paragraph:

"It is also declared to be the policy of the United States to eliminate labor disputes in health care institutions where such disputes interrupt or interfere with patient care".

SEC. 2. (a) Section 2(2) of such Act is amended by striking out the phrase: "or any corporation or association operating a hospital, if no part of the net earnings inures to the benefit of any private shareholder or individual,".

(b) Section 2(3) of such Act is amended by inserting between the words "time to

time" and "or" the following: "any physician employed by a health care institution".

(c) Section 2(4) of such Act is amended by changing the period after the word "organization" to a semicolon and adding the following: "*Provided*, That an individual or organization which assists or participates in a violation of section 8(g) of this Act shall for a period of one year lose its status as a labor organization under this Act with respect to the employees of the health care institution or institutions affected by such violation."

(d) Section 2(5) of such Act is amended changing the period after the word "work" to a comma and adding the following: "and which is not excluded from status as a representative under section 2(4) above".

(e) Section 2 of such Act is amended by adding at the end thereof the following new subsection:

"(14) The term 'health care institution' shall include any hospital, convalescent hospital, health maintenance organization, nursing home, extended care facilty, or other institution devoted to the care of sick or aged persons."

SEC. 3. (a) Section 8(d) of such Act is amended by inserting between the words "subsection" and "shall" in the last sentence of the last paragraph the following: ", or who engages in any strike or work stoppage in violation of section 8(g),".

(b) Section 8 of such Act is amended by adding at the end thereof the following new subsection:

"(g)(1) When a collective-bargaining agreement is in effect between a health care institution and a labor organization which is the bargaining representative of its employees, the agreement shall continue in full force and effect, without recourse to strikes, picketing, or lockouts, except as expressly permitted by this subsection (g), and in negotiations for a renewal of such agreement the following procedure shall apply:

"(A) The agreement shall not be terminated or modified unless the party desiring such termination or modification serves written notice of the proposed termination or modification on the other party not less than ninety days prior to the expiration date thereof, or not less than ninety days prior to the proposed effective date of such termination or modification, whichever date is later.

"(B) After service of the ninety-day notice of proposed termination or modification, the party serving such notice shall offer to and shall meet and confer with the other party at reasonable times in an effort to satisfy the requirements of section 8(d), and the other party shall agree to and shall meet and confer at reasonable times for such purpose.

"(C) No later than sixty days prior to the expiration of the ninety-day notice of proposed termination or modification, the party who served such notice shall notify the Federal Mediation and Conciliation Service if an agreement has not been reached. If said party fails to notify the Service within the time required, neither the agreement nor the ninety-day notice period shall expire until sixty days after said party finally notifies the Service as required. Upon receipt of such notice the Service shall forthwith assign a mediator who shall promptly arrange meetings between the parties and serve as a mediator with respect to unresolved issues. The parties shall meet in the presence of the mediator at such times as the mediator may direct.

"(D) If upon expiration of the ninety-day notice period an agreement has not been reached, the Director of the Service shall upon the written request of either party forthwith initiate a factfinding proceeding by serving written notice on both parties and within five days thereafter shall provide the parties with a list of five persons from which list the parties shall, within five days of receipt of said list, each alternately strike one name until only one name remains. The person whose name remains shall serve as a factfinder in connection with the dispute. The party who served the notice of contract termination or modification shall be the first to strike a name: *Provided*, That the parties may, within ten days after the Director notifies the parties of the initiation of the factfinding proceeding, designate the factfinder by any other means mutually agreeable to both parties. If the parties fail to designate a factfinder within the time limits herein prescribed, the Director shall appoint the factfinder. Within sixty days following notice to the parties of the initiation of the factfinding proceeding, the factfinder shall hold hearings, hear testimony and argument, and issue a written report to the Director of the Service and to the parties setting forth his recommendations for settlement of the issues in dispute and the reasons for such recommendations. The recommendation of the factfinder shall be advisory only and shall not be binding upon either party.

"(E) The provisions of section 207(c) of the Labor-Management Relations Act of 1947 shall apply to the factfinding proceedings. The costs of factfinding, including the fees and expenses of the factfinder, shall be shared equally by the parties.

"(F) No person who has a pecuniary or other interest in any organization of employees or employers or employers' organizations which are involved in the dispute shall be the factfinder.

"(G) During the thirty-day period following issuance of the factfinding recommendations, the parties shall meet and confer at reasonable times in an effort to resolve their dispute or to agree upon a procedure for a binding resolution thereof. If upon expiration of said thirty-day period the parties have not resolved their dispute, or if factfinding is not utilized then thirty days or more following expiration of the ninety-day notice period, the labor organization may serve upon the employer and the Service a thirty-day strike notice, or the employer may serve upon the labor organization and the Service a thirty-day lockout notice. In the event etiher such notice is served, the employer shall submit its offer in writing to the labor organization and to the mediator. The Service shall thereafter within the thirty-day notice period conduct a secret ballot vote or votes among the employees in the bargaining unit, in accordance with rules and regulations which shall be adopted by the Director of the Service, to determine (i) whether the employees in the bargaining unit accept or reject the employer's offer and (ii) if the labor organization has served a thirty-day strike notice and the members have rejected the employer's offer, whether under the internal rules of the labor organization a strike is authorized by the bargaining unit. The Service shall certify the results of the vote or votes. If the Service certifies that the employees in the unit have accepted the employer's final offer, the labor organization and the employer shall execute an agreement on that basis. If the Service certifies that the employees in the unit have authorized a strike under the internal rules of the labor organization, the labor organization may call a strike and engage in picketing upon expiration of the thirty-day strike notice. If a thirty-day lockout notice is served, the employer may initiate a lockout upon expiration of the thirty-day lockout notice: *Provided*, That the party initiating the work stoppage must notify the other party and the Service in writing as to the time the work stoppage will commence and such notice must be given at least ten days before that time. If the work stoppage does not commence at the stated time, the thirty-day strike or lockout notice shall be voided as of that time and there shall be no strike or lockout until a further thirty-day strike or lockout notice has been served, unless the parties otherwise mutually agree in writing. In the event a subsequent thirty-day strike lockout notice is served, it shall be within the discretion of the mediator to determine whether an additional secret ballot vote or votes of the employees shall be taken: *Provided*, That the mediator shall have the authority to require a secret ballot vote or votes of the employees as provided herein at such time or times after any thirty-day strike or lockout notice has been given as the mediator reasonably believes is in the interest of settlement.

"(2) When a health care institution and a labor organization which is the bargaining representative of its employees enter into negotiations for an initial collective bargaining agreement, such negotiations shall be conducted in accordance with the procedures set forth in section 8(g)(1), without recourse to strikes, picketing, or lockouts, except as expressly permitted therein. For such purposes, the party desiring to commence negotiations may serve a notice commencing the ninety-day period of section 8(g)(1)(A) at any time after the date of certification by the Board or voluntary recognition by the employer.

"(3) Except as expressly permitted by these sections 8(g) (1) and (2), it shall be an unfair labor practice for any labor organization to engage or participate in, authorize or sanction, or to induce or encourage any individual to engage or participate in, (i) a strike or work stoppage of any kind whatsoever, or for any reason whatsoever, against a health care institution, or (ii) any picketing of any kind for any purpose of, or at the premises of, a health care institution; or to threaten any of the aforementioned acts in this section 8(g)(3); and except as so permitted in section 8(g) (1) and (2) it shall be an unfair labor practice for a health care institution to engage in a lockout: *Provided*, That nothing contained in this subsection (g) shall prohibit publicity other than picketing for the purpose of truthfully advising the public of the existence of a dispute with said health care institution unless any effect of such publicity is (i) to induce any employee of such institution or any other individual, in the course of his employment not to pick up, deliver, or transport goods, or not to enter said employer's premises, or not to perform services, or (ii) to induce such an employee or individual to engage in a strike or work stoppage of any kind whatsoever or for any reason whatsoever.

"(4) A health care institution and a labor organization which is the bargaining representative of its employees shall not be required to comply with the notice requirements for contract termination and modification set forth in section 8(d)."

SEC. 4. Section 9 of such Act is amended by adding at the end thereof the following new subsection:

"(f) Notwithstanding anything to the contrary in section 9(b), the Board shall not decide that any unit in a health care institution is appropriate for purposes of collective bargaining which (i) includes professional employees unless all of the professional employees employed by such institution are included therein; or (ii) includes technical employees (as defined from time to time by the Board) unless all of the technical employees employed by such institution are included therein; (iii) includes clerical employees unless all of the clerical employees employed by such institution are included therein; or (iv) includes service and maintenance employees—which shall be defined to include all employees except (A) profes-

sional, technical, and clerical employees and (B) any individual employed as a guard to enforce against employees and other persons rules to protect property of the employer or to protect the safety of persons on the employer's premises—unless all of the service and maintenance employees employed by such institution are included therein. Managerial employees and others customarily excluded by the Board from representation under section 9 shall be excluded from the bargaining units permitted hereunder: *Provided*, That the Board shall not by virtue of this section 9(f) disturb bargaining units narrower in scope which were in existence prior to the effective date of this subsection: *Provided further*, That units other than those set forth above may be agreed to by the employer and the labor organization."

SEC. 5. (a) Section 10(1) of such Act is amended by striking the period at the end of the first sentence and adding ", and cases given priority under subsection (n)."

(b) Section 10(m) of such Act is amended by striking the period and adding "or (n)."

(c) Section 10 of such Act is amended by adding at the end thereof the following new subsection:

"(n) Whenever it is charged that any person has engaged in an unfair labor practice within the meaning of section 8(g), the preliminary investigation of such charge shall be made forthwith and given priority over all other cases except cases of like character in the office where it is filed or to which it is referred. Upon filing such a charge, the charging party may file a complaint in any court in the United States having jurisdiction of the parties for appropriate injunctive relief pending the final adjudication of such matter. Upon the filing of any such complaint the court shall have jurisdiction to and shall grant injunctive relief or a temporary restraining order, notwithstanding any other provision of law: *Provided*, That no temporary restraining order shall be issued without notice unless a complaint alleges that substantial and irreparable injury to the charging party or other persons will be unavoidable and the court determines there is probable cause to believe, based upon a verified complaint, there is a violation of section 8(g). Upon filing of any such petition the court shall, before issuance of a preliminary injunction, cause notice thereof to be served upon any person involved in the charge and such person, including the charging party, shall be given an opportunity to appear by counsel and present any relevant testimony: *Provided further*, That for the purposes of this subsection a court shall be deemed to have jurisdiction of a labor organization (i) in the judicial district in which such organization maintains its principle office, or (ii) in any judicial district in which its duly authorized officers or agents are engaged in promoting or protecting the interests of employee members. The service of legal process upon such officer or agent shall constitute service upon the labor organization and make such organization a party to the suit."

SEC. 6. (a) Section 303(a) of the Labor Management Relations Act is amended by inserting "or 8(g)" between "8(b)(4)" and "of".

(b) Section 303 of the Labor-Management Relations Act is amended by adding at the end thereof the following new subsection:

"(d) Any health care institution, labor organization or patient or other occupant of a health care institution injured, in whole or in part, by reason of a violation of section 8(g) of the National Labor Relations Act (and, in the event of death, the representative of the estate of such patient or other occupant) may sue in a United States district court or in any other court having jurisdiction of the parties in the same manner as provided in section 303(b). In such an action, the court may award actual damages and the costs of the suit, and, in the event of injury to health or death of a patient or occupant, attorneys' fees in a reasonable amount, and punitive damages in such reasonable amount as may be assessed by the trier of fact."

SECTION-BY-SECTION ANALYSIS OF S. 2292

The intent of this amendment to the National Labor Relations Act is to accommodate the right of the public to health care with the right of health care employees to engage in collective bargaining.

STATEMENT OF PURPOSE

The amendment to Section 1 declares it to be the policy of the United States to eliminate labor disputes in health care institutions.

DEFINITIONS

The amendment to Section 2(2) eliminates the exemption for not-for-profit hospitals.

Section 2(3) removes physicians from definition of employee.

Section 2(4) provides for loss of status as bargaining representative if labor organization engages in unlawful strike or picketing.

Section 2(14) is new and defines "health care institution" broadly so that all such institutions will be affected by the same rules.

BARGAINING PROCEDURE

Section 8(g) is a new provision which in subsection (1) provides impasse resolution procedure for health care institutions in the event of an impasse in negotiations for a renewal agreement. Strikes, picketing, and lockouts will be prohibited until the impasse procedure has been exhausted.

Subsection (1)(A) requires 90-day notice of termination of the agreement.

Subsection (1)(B) requires good faith bargaining following the 90-day notice period.

Subsection (1)(C) requires 60-day notice to the FMCS prior to termination of the agreement. Requires mediation by Federal mediator during final 60 days prior to termination (unlike NLRA subsec. 8(d), which requires notice to FMCS but does not require mediation).

Subsection (1)(D) provides for advisory (nonbinding) fact finding at request of either party.

Subsection (1)(E) requires an additional 30-day cooling-off period for further bargaining in light of the fact-finding recommendations or expiration of agreement. If agreement is not reached during that period, a 30-day strike notice or lockout notice may be given. If a strike notice is given, a secret ballot strike vote will be conducted by the FMCS. Provides for 10-day notice before strike or lockout can commence.

Subsection (2) provides same impasse resolution procedure in the event of an impasse in negotiations for an initial agreement.

UNLAWFUL STRIKES, PICKETING AND LOCKOUTS

Subsection (3) provides that any strike or picketing of or lockout by a health care institution is an unfair labor practice, except in the impasse situation discussed above. Designed to prohibit recognition strikes (not prohibited by NLRA) and recognitional picketing (inadequately regulated by NLRA subsec. 8(b)(7), and to plug loopholes in secondary boycott and other provisions of NLRA. Proviso permits handbilling and similar advertising that does not disrupt deliveries or result in work stoppages.

BARGAINING UNITS

Section 9(f) is a new provision designed to minimize bargaining unit fragmentation and proliferation, which pose a serious threat to the efficient functioning of health care institutions. Such institutions are particularly vulnerable to the practice of fractionalizing the work force into numerous units, and the NLRB has already shown a dangerous tendency in this direction. This section would provide for not more than four broad bargaining units in health care institutions (in addition to security guards, who must have a separate unit if they are organized)—(1) professional employees, (2) technical employees, (3) clerical employees, and (4) service and maintenance employees. Narrower units would be permitted by agreement. These four categories could be combined into fewer units, although the board does not combine office clericals with other employees if either party objects and under NLRA subsec. 9(b) it cannot include professional employees with nonprofessionals unless the professionals vote for such inclusion.

EXPEDITED RELIEF FOR VIOLATIONS

The amendment to Section 10 gives unfair labor practice charges involving strikes and picketing at health care institutions priority over other cases in NLRB regional offices.

Section 10(n) is a new provision which is patterned generally after NLRA subsec. 10(1), although it would permit a health care institution to seek temporary injunctive relief in Federal court to prevent an unlawful strike or picketing while the board investigates and processes the institution's unfair labor practice charge. Experience under 10(1) has proved that, even in priority cases, the board cannot respond swiftly enough in obtaining temporary injunctive relief to prevent irreparable injury.

RIGHT TO BRING CIVIL SUIT

The amendment to section 303 provides a course of action to persons injured by reason of a violation of the new section 8(g).

Section 6(a) provides a course of action for private persons for injury due to unlawful strikes or lockouts.

Mr. TAFT. Mr. President, hearings were held by the Labor Subcommittee on S. 2292 and S. 794 on July 31, August 1, and October 4 of last year. The approach I suggested received support from the American Hospital Association, the Catholic Hospital Association, the Federation of American Hospitals and the Association of American Medical Colleges. S. 2292 was also introduced in the House by Congressman ERLENBORN, H.R. 10086; Congressman SAM YOUNG, H.R. 10296; Congressman WILLIAM STEIGER, H.R. 10775; Congressman ESCH, H.R. 11788; and Congressman LATTA, H.R. 12647.

Following the Senate hearings in October, protracted discussions were undertaken by my staff to reach an agreement with parties concerned with this legislation.

In February of this year, agreement was reached. I introduced legislation containing the statutory provisions of the agreement, in S. 3088, on February 28 of this year. I ask unanimous consent that S. 3088 be printed at this point in the RECORD.

There being no objection, the bill, S. 3008, was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2(2) of the National Labor Relations Act is amended by striking out the phrase: "or any corporation or association operating a hospital, if no part of the net earnings insures to the benefit of any private shareholder or individual,".

(b) Section 2 of such Act is amended by adding at the end thereof the following new subsection:

"(14) The term 'health care institution'

shall include any hospital, convalescent hospital, health maintenance organization, health clinic, nursing home, extended care facility, or other institution devoted to the care of sick, infirm, or aged persons.".

(c) The last sentence of section 8(d) of such Act is amended by striking out the words "the sixty-day" and inserting in lieu thereof, "any notice" and by inserting before the words "shall lose" a comma and the following: "or who engages in any strike within the appropriate period specified in subsection (g) of this section,".

(d) Section 8(d) of such Act is amended by adding at the end thereof the following new sentence: "Whenever the collective bargaining involves employees of a health care institution, the provisions of this section 8(d) shall be modified as follows:

"(A) The notice period of section 8(d)(1) shall be ninety days; the notice period of section 8(d)(3) shall be sixty days; and the contract period of section 8(d)(4) shall be ninety days.

"(B) Where the bargaining is for an initial agreement following certification or recognition, at least thirty days' notice of the existence of a dispute shall be given by the labor organization to the agencies set forth in section 8(d)(3).

"(C) After notice is given to the Federal Mediation and Conciliation Service under either clause (A) or (B) of this sentence, the Service shall promptly communicate with the parties and use its best efforts, by mediation and conciliation, to bring them to agreement. The parties shall participate fully and promptly in such meetings as may be undertaken by the Service for the purpose of aiding in a settlement of the dispute.".

(e) Section 8 of such Act is amended by adding at the end thereof the following new subsection:

"(g) A labor organization before engaging in any picketing, or other concerted refusal to work at any health care institution shall, not less than ten days prior to such action, notify the institution in writing and the Federal Mediation and Conciliation Service of that intention, except that in the case of bargaining for an initial agreement following certification or recognition the notice required by this sentence shall not be given until the expiration of the period specified in clause (B) of the last sentence of section 8(d) of this Act. The notice shall state the date and time that such action will commence. The notice, once given, may be extended by the written agreement of both parties.".

Mr. TAFT. S. 3088 was derived from S. 2292 and contains many elements from this earlier proposal. It is precisely the same as the legislation, S. 3203, that is before the Senate today.

On March 29 of this year, Secretary of Labor Brennan sent a letter to Senators WILLIAMS, JAVITS and myself stating administration support for S. 3088. I ask unanimous consent that this letter be printed at this point in the RECORD.

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

U.S. DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, D.C., March 29, 1974.

Hon. HARRISON A. WILLIAMS, Jr.,
U.S. Senate,
Washington, D.C.
Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.
Hon. ROBERT TAFT, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATORS: We would like to take this opportunity to express our support for the concepts embodied in S. 3088, a bill introduced by Senator Taft "To amend the National Labor Relations Act to extend its coverage and protection to employees of nonprofit hospitals, and for other purposes."

As you know, we have been working closely with Senator Taft and his staff since Under Secretary Schubert's August 2, 1973, testimony on this matter before the Labor Subcommittee. Our objective has been to achieve an equitable balance among the legitimate interests of all of the parties in order to protect the important public interests involved. We believe that the clean bill which is being drafted based on S. 3088 accomplishes this objective. We further understand that this compromise legislation provides a satisfactory resolution to those issues which have been of concern to each of you, and that the new bill has your full support.

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

Sincerely,

PETER J. BRENNAN,
Secretary of Labor.

Mr. TAFT. S. 3088 has also been introduced in the House by Congressmen ASHBROOK and THOMPSON, H.R. 13678, and is expected to be reported favorably this month by the House Education and Labor Committee.

The agreed upon provisions, statutory and report language (S. 3203 and S. Rept. 93-766), have been endorsed by labor and management groups, including the Service Employees International Union of the AFL-CIO, the Laborers' International Union of North America of the AFL-CIO, many State hospital associations, and as I stated, the Department of Labor and the Office of Management and Budget for the administration. I am quite pleased to see such broad-based support for the compromise and was particularly delighted to see that my colleagues, Senators WILLIAMS, JAVITS, CRANSTON, STAFFORD, PELL, KENNEDY, EAGLETON, HUGHES, and SCHWEIKER joined me in reporting S. 3203 as an original bill.

My basic concerns in considering this issue over the last two Congresses have centered in the following areas with respect to health-care institutions:

First, recognition strikes and picketing;

Second, the potential for proliferation of bargaining units;

Third, bargaining procedures; and

Fourth, continuity of health care to a community.

As an author of the provisions of S. 3203, I believe each of those areas has been responded to and I would like to briefly review my intent with regard to each of these concerns.

The problems of recognition strikes and picketing were stressed by a great number of witnesses who appeared before the committee. Without the availability of an election procedure as contained in the National Labor Relations Act, parties were forced to resort to self-help activities with adverse effects on the continuity of patient care. In a great majority of cases, no mechanism whatsoever was available to determine whether a labor organization did in fact represent the majority of employees of a health-care institution. With the repeal of the exemption in section 2(2) of the act, there will be no need for such disputes to occur whatsoever. I was delighted to see the committee take this position on page 3 of the report in stating:

The committee was also impressed with the fact, emphasized by many witnesses, that the exemption of nonprofit hospitals from the Act had resulted in numerous instances of recognition strikes and picketing. Coverage under the Act should completely eliminate the need for any such activity, since the procedures of the Act will be available to resolve organizational and recognition disputes.

This statement, taken together with the report language, pertaining to recognition picketing, is quite clear. As stated in the report in picketing cases under section 8(b)(7)(C) of the act, the Board has ruled that a reasonable period of time is 30 days absent unusual circumstances, such as violence or intimidation. The committee report states on page 6:

It is the sense of the committee that picketing of a health care institution would in itself constitute an unusual circumstance justifying the application of a period of time less than 30 days.

I can think of no justifiable reason for recognition picketing of a health care institution and would expect the Board to permit such picketing only in the most exceptional circumstances, and then only for a period of time substantially less than 30 days.

The issue of proliferation of bargaining units in health care institutions has also greatly concerned me during consideration of legislation in this area. Hospitals and other types of health care institutions are particularly vulnerable to a multiplicity of bargaining units due to the diversified nature of the medical services provided patients. If each professional interest and job classification is permitted to form a separate bargaining unit, numerous administrative and labor relations problems become involved in the delivery of health care. The provisions of S. 2292 placed a statutory limit of four bargaining units in a health care institution. While this precise approach was not adopted by the committee, report language was agreed upon to stress the necessity to the Board to reduce and limit the number of bargaining units in a health care institution. The report on page 5 states:

Due consideration should be given by the Board to preventing proliferation of bargaining units in the health care industry. In this connection, the Committee notes with approval the recent Board decisions in *Four Seasons Nursing Center,* 208 NLRB No. 50, 85 LRRM 1093 (1974), and *Woodland Park Hospital,* 205 NLRB No. 144, 84 LRRM 1075 (1973), as well as the trend toward broader units enunciated in *Extendicare of West Virginia,* 203 NLBR No. 170, 83 LRRM 1242 (1973).

I believe this is a sound approach and a constructive compromise, as the Board should be permitted some flexibility in unit determination cases. I cannot stress enough, however, the importance of great caution being exercised by the Board in reviewing unit cases in this area. Unwarranted unit fragmentation leading to jurisdictional disputes and work stoppages must be prevented.

The administrative problems from a practical operation viewpoint and labor-relation viewpoint must be considered by the Board on this issue. Health-care institutions must not be permitted to go the route of other industries, particularly the construction trades, in this regard.

In analyzing the issue of bargaining units, the Board should also consider the issue of the cost of medical care. Undue unit proliferation must not be permitted to create wage "leapfrogging" and "whipsawing." The cost of medical care in this country has already skyrocketed, and costs must be maintained at a reasonable level to permit adequate health care for Americans from all economic sectors.

The committee, in recognizing these issues with regard to bargaining unit determination, took a significant step forward in establishing the factor of public interest to be considered by the Board in unit cases.

Collective bargaining procedures were also a significant concern I have examined in developing legislation in this area. A great deal of thought was given to mandatory bargaining, mandatory arbitration, binding arbitration, and other alternative procedures for collective bargaining for health care institutions. While the basic mechanism outlined in the NLRA was left intact for health care institutions, the possibility of future implementation of a form of some of these procedures certainly was not precluded, if labor relation problems develop in the health care field. The committee heard testimony from witnesses from States where no-strike laws for hospitals were in effect, but was not convinced that such procedures were necessary or wise. The experience of such State laws, particularly in New York, has not been positive. In rejecting such approaches, however, I do not believe it is accurate to state that the procedures we have developed here are necessarily applicable for employees in the public sector, as the crucial question of monopoly of services was not faced. Further, I was impressed with the fact that a great number of collective bargaining agreements in the health care sector have no-strike clauses and would strongly urge the continuation of such clauses voluntarily, as would, I am sure, my colleagues on the committee.

The specific bargaining procedures contained in S. 3203 were taken from my original proposal, S. 2292, which I introduced, and relate essentially to the prior notification provisions in section 8(D) of the act, and to the creation of a new section 8(G) in the act with regard to strike or picket notice.

Section 8(D) is amended by modifying the notice provisions of that section as follows:

First. The requirement for notice of termination or expiration of a contract will be 90 days;

Second. The Federal Mediation and Conciliation Service must be given a 60-day notice of such termination or expiration;

Third. In initial contract negotiations, a 30-day notice to FMCS will be required; and

Fourth. The health care institution and labor organization will be required to participate in mediation at the direction of the FMCS.

In addition to these restrictions and the mandatory mediation provision through the Federal Mediation and Conciliation Service—FMCS—all of the existing prohibitions of 8(D) will apply, including the prohibition on strikes or work stoppages during such periods.

New section 8(G) of the act requires that a labor organization give a 10-day written notice to the health care institution and the FMCS before engaging in any picketing, strike or concerted refusal to work. This subsection applies not only to bargaining strikes or pickets, but also, as stated in the statute, to "any picket or strike." As examples, this subsection would apply to recognition strikes, area standard strikes, secondary strikes, jurisdictional strikes, and the like. I also would point out that one of the reasons for notice to FMCS is to verify the notice is given and is not intended to limit the notice to bargaining situations or necessarily expand the current jurisdiction of the Service.

Clearly employees acting without a labor organization or in derogation of a representative would have no greater rights or fewer obligations, for example, under 8(g) than those of a labor organization. It would not be protected activity for employees acting without a labor organization to engage in a work stoppage or picket without giving the required notice.

Violation of this provision will constitute an independent unfair labor practice and may also constitute a refusal to bargain under 8(b)(3). Violation of this subsection may also be an unfair labor practice under other sections of the act depending on the circumstances of the case involved. On page 4 of the report referring to violation of the subsection constituting an unfair labor practice is stated:

> Repeatedly serving such 10 day notices upon the employer is to be construed as constituting evidence of a refusal to bargain in good faith by the labor organization.

This subsection was taken from my proposals for a 10-day strike and picket notice in S. 2292 and as stated in the report can only be suspended in exceptional cases.

The importance of priority case handling by the Board can also not be stressed enough with regard to bargaining procedures. On pages 6 and 7 of the committee report, this problem is discussed. On page 7, the committee states:

> Because of the need for continuity of patient care, the committee expects the NLRB to give special attention and priority to all charges of employer, employee and labor organization unfair labor practices involving health care institutions consistent with the existing statutory priority requirements for particular classes of cases. The General Counsel and Chairman are directed to take such steps as necessary to provide appropriate investigatory and other resources needed to give this requisite priority to unfair labor practice cases involving health care institutions.

This language comes from my proposals in S. 2292 and I believe it is absolutely crucial that the Board give such priority. The reason that the statutory provisions were dropped was that I and other members of the committee felt in reexamining the act that priority provisions were present in the act and that the Board would act with the greatest expedition in health care cases. I can think of no conceivable reason why they would not when, perhaps, human lives may be at stake. If the Board does not act consistent with the committee report language, I am certain that the Congress will take the necessary remedial action.

My last major area of concern has been the general question of continuity of health care to a community. This concern obviously is related to the bargaining procedures, but goes beyond that to the necessity to view health-care institutions as an absolutely crucial element of society. Strikes in hospitals pose the threat of discontinuance of institutional health care, including emergency medical services, perhaps to an entire community. This threat is to life itself and requires an extremely thoughtful approach by all parties. A proper balance must be struck between the very legitimate rights of employees to organize and to bargain for wages and the right of the public to uninterrupted health care. This public right should not be required to wait on the delays which are incidental to the processes and procedures of an unresponsive administrative legal system.

The injunctive relief provisions under section 208 of the Taft-Hartley Act certainly are available and should be used when applicable.

In connection with this area, it is also important to note the committee report language on pages 5 and 6 relating to the ally doctrine. This language comes from S. 2292 in that specific statutory restrictions were placed on this doctrine. In further analyzing this doctrine, however, questions arose as to the scope and legal standing of this doctrine. Therefore, it was agreed to insert the language in the report. I personally have serious questions as to the legal validity of the entire doctrine and would note that the Supreme Court has never expressly accepted such a concept. To the extent, however, it has become case law precedent in Board proceedings and in the lower courts, it is limited by the committee report.

It is important to remember that hospitals are not factories or retail establishments, and patients are not raw material or merchandise. Hospitals are for human beings and actions pursuant to this legislation must take this fact into account.

S. 3203, while a compromise, certainly responds to the points I think are crucial in this area. I hope Senators will support the bill and permit expeditious floor consideration.

Mr. President, I wish to comment also that there are pending at the desk and there may be offered from time to time as this legislation is considered other amendments dealing with other facets and provisions of the National Labor Re-

lations Act, and perhaps other actions in the labor-management field. I shall feel constrained to oppose those amendments as they are offered, not on their merits because they may or may not be without merit and I may have even sponsored some of the provisions in the amendments, but the proposal that is now before the Senate is before us to bring into focus a very vital area of labor-management relations in the field of health care. If the Senate becomes involved in other changes in the National Labor Relations Act in the discussion of this legislation, it would tend to delay what I think is extremely important legislation in this particular field.

I would be glad to work in any way possible with other Senators to get early consideration of the other provisions that are set out in amendments that have been filed, but I hope that those Members who have introduced such amendments and intend to introduce such amendments will take another look at the need for some positive legislation in this field and recognize the long background of work that has gone into bringing about the presentation of this measure on the floor today. It should not be jeopardized.

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

Mr. TAFT. I yield to the Senator from Minnesota.

Mr. MONDALE. Mr. President, I agree with the Senator from Ohio. This is an important measure and one that is needed when viewed in the national context. I had proposed an amendment in committee to prevent the preemption of the Minnesota Charitable Hospitals Act by S. 3023. I did so because I believe the State of Minnesota has the best hospital labor relations act in the country. It comes about first by enactment of the State statute in 1947, which was substantially strengthened by subsequent Supreme Court decisions which clearly spelled out the right of a hospital and its employees. Under that act and under that statute we have had a long period of very healthy, strike-free labor-management relations. Both the AFL–CIO and the Minnesota Hospital Association believe that our law, in this instance, is superior to the operation of a Federal law which would supersede the existing State law upon its enactment.

I had moved, in the Senate Committee on Labor and Public Welfare, that the Federal law should not supersede the Minnesota law, but, as the Senator from Ohio knows, that amendment was overwhelmingly defeated.

I see no point in pursuing it on the floor. The amendment is opposed by the leadership of the Senate Committee on Labor and Public Welfare, but I must say I deeply regret the fact that the Minnesota law, which I think is a magnificent measure, and which is so warmly supported by both labor and the hospitals, should be the victim, unfortunately, of this bill. I intend to support the bill, but I do so with this great reservation.

Mr. TAFT. Mr. President, I appreciate the remarks of the Senator from Minnesota. Of course, there is now, under the National Labor Relations Act, a provision in which there may be a ceding of jurisdiction in sections 10(a) and 14(c) of the act. This section would be available to Minnesota under the act.

I think it is important, however, to have a national approach, in view of the problems we have had and that have varied widely through the country. There may be a very positive situation in the Senator's own State which does not indicate at the present time any need for a national law, but I think on balance a national approach is desirable.

Mr. President, I ask unanimous consent that Mr. Robert Bohan of the minority staff of the Labor and Public Welfare Committee be accorded the privileges of the floor during the consideration of the bill and votes.

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

Mr. TAFT. Mr President, I ask unanimous consent that Mr. Tom Shroyer, of the staff of the Senator from Arizona (Mr. FANNIN), have the privilege of the floor during the consideration of and votes on S. 3203.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the Senator from North Carolina (Mr. ERVIN) offers his amendment, the pending measure be temporarily laid aside and that the Senate proceed to the consideration of H.R. 12920, which is under a time limitation.

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

Mr. ERVIN. Mr. President, I send to the desk an amendment and ask to have it stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read the amendment as follows:

On page 1, strike out the quotation on lines 4, 5, and 6, before the period, and insert in lieu thereof the following: 'or any corporation or association operating a hospital, if that hospital is owned, supported, controlled, or managed by a particular religion or by a particular religious corporation or association.' "

Mr. ERVIN. Mr. President, I understand the distinguished assistant majority leader has a motion to make, but I would like to state, very briefly, that I think the things that belong to Caesar should be given to Caesar and the things that belong to God should be left to God, unregulated by Caesar.

I have offered this amendment at the request of the Adventist Church, which conducts throughout this country many hospitals for the treatment of the sick and injured, and they feel like they are doing the work of the Lord, and I agree with them, and they ought not to be regulated by the National Labor Relations Board. I do not think the National Labor Relations Board has any ability to regulate the affairs of the Almighty, and I think they had better be confined to regulating the affairs of Caesar.

This amendment is to exempt from the provisions of the National Labor Relations Act the effort to bring under the jurisdiction of the National Labor Relations Act matters that belong to God rather than to Caesar.

If the Senator wishes to make his motion, I will yield temporarily.

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session,

The PRESIDING OFFICER (Mr. HATHAWAY) laid before the Senate messages from the President of the United States submitting nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

PEACE CORPS AUTHORIZATION ACT, 1975

The PRESIDING OFFICER. Under the previous order, the Senate will now turn to the consideration of H.R. 12920, which the clerk will state by title.

The assistant legislative clerk read the bill (H.R. 12920) by title, as follows:

A bill to authorize additional appropriations to carry out the Peace Corps Act, and for other purposes.

The Senate proceeded to consider the bill.

Mr. SPARKMAN obtained the floor.

The PRESIDING OFFICER. How much time does the Senator from Alabama yield himself?

Mr. SPARKMAN. I yield myself 5 minutes. I hope I will not take that long.

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

Mr. SPARKMAN. I yield.

Mr. MANSFIELD. Mr. President, I understand that there is going to be a request for a rollcall on final passage, which I understand will occur somewhere around 1 or 1:15.

So I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. MANSFIELD. I ask unanimous consent that the vote occur at the hour of 1:30.

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

Does the Senator ask to waive rule XII?

Mr. MANSFIELD. Yes, indeed.

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

Mr. SPARKMAN. Mr. President, the primary purpose of this bill is to authorize an appropriation of $82,256,000 for the operations of the Peace Corps for fiscal year 1975. Other provisions of this legislation are designed to: First, authorize an additional appropriation of up to $1 million for increases in salary, pay, retirement, or other employee benefits that may be authorized in fiscal year 1975; second, authorize the transfer of

$315,000 from any sums appropriated to the Peace Corps for fiscal year 1975 to ACTION's readjustment allowance account at the Department of the Treasury; third, authorize the waiver of claims resulting from the erroneous payments of readjustment allowances to Peace Corps volunteers between March 1, 1961, and February 28, 1973; and, fourth, relieve disbursing and certifying officers of the Peace Corps and ACTION from liability for erroneous payments of the readjustment allowances made to volunteers between March 1, 1961, to February 28, 1973, except in cases of fraud.

I ask unanimous consent that a table showing the highlights of the Peace Corps program for fiscal year 1975 and a comparable estimate for 1974 and the actual figures for 1973 be printed in the RECORD at this point.

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

PEACE CORPS PROGRAM HIGHLIGHTS

	1973 actual	1974 estimate	1975 estimate	Increase or decrease
I. Funds (obligations in thousands):				
A. Training:				
1. Direct training	$11,605	$10,095	$10,397	+$302
2. Trainee travel	555	569	581	+12
3. Intern programs	866	316	500	+184
4. Preinvitational staging	1,067	661	523	−138
Subtotal	14,093	11,641	12,001	+360
B. Volunteer costs:				
1. International travel	6,711	6,850	7,252	+402
2. Allowance	12,748	13,969	14,788	+819
3. Other volunteer support	4,414	4,157	4,556	+399
4. Dependent support	800	803	743	−60
5. Multilateral volunteers	26	86	175	+89
6. Readjustment allowance	6,907	7,238	7,539	+301
7. Readjustment allowance imbalance	0	0	315	+315
Subtotal	31,606	33,103	35,368	+2,679
C. Peace Corps program support:				
1. Staff	16,575	15,251	15,648	+397
2. State Department services	4,144	4,150	4,150	
3. Multilateral grants	345	100	350	+250
4. Planning, program development and evaluation	100	267	850	+583
Subtotal	21,164	19,768	20,998	+1,230
D. Peace Corps share of agencywide support	$13,767	$12,728	$13,889	+$1,161
Total fund	80,630	77,240	82,256	+5,016
II. Volunteers and trainees:				
A. Onboard strengths at end of calendar year (Dec. 31):				
1. Latin America	2,370	2,365		
2. North Africa, Near East, Asia and Pacific	2,584	2,695		
3. Africa	2,308	2,380		
Total	7,262	7,440		
B. End strengths at end of program year (June 30):				
1. Trainee	1,387	1,172	1,068	
2. Volunteer	5,967	6,540	6,728	
Total	7,354	7,712	7,796	
III. Number of host countries	65	68	69	
IV. Average cost per volunteer	10,964	10,015	10,417	

Mr. SPARKMAN. Mr. President, this authorization request represents an increase of approximately $5 million over the fiscal year 1974 request. More than half of this amount will be utilized to support a modest increase of 100 trainees and 310 additional volunteer man-years. The remainder of the increase will be allocated as follows: First, $2 million for mandatory cost increases; second, $966,000 for rental and related services formerly budgeted by the General Services Administraton; third, $260,000 for the full year effect of the government-wide October 1973 Federal pay increase, higher costs of telephone and postal service, and some necessary accounting improvements; and fourth, $190,000 for the restoration of multilateral grants to the statutory level and for a revision of the planning, program development and evaluation capabilities of the Peace Corps.

Mr. President, in conclusion, I believe that this bill is sound and reasonable, and that it ought to be approved by the full Senate.

The PRESIDING OFFICER. Who yields time?

Mr. SPARKMAN. Mr. President, I yield 5 minutes to the distinguished Senator from Minnesota.

Mr. MONDALE. Mr. President, I send to the desk an amendment and ask unanimous consent to dispense with the reading of it.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be printed in the RECORD.

The amendment is as follows:

At the end of the bill, add the following new section:

SEC. 3. (a) Section 5(c) of the Peace Corps Act (22 U.S.C. 2504 (c)) is amended by striking out "$75" and "$125" and inserting in lieu thereof "$115" and "$190", respectively.

(b) Section 6(1) of such Act (22 U.S.C. 2505 (1)) is amended by striking out "$125" and inserting in lieu thereof "$190".

(c) There are authorized to be appropriated such additional sums as may be necessary to carry out the amendments made by subsections (a) and (b) of this section. Such amendments are to be effective for any fiscal year only to such extent and in such amounts as are specifically provided for such purpose in appropriation Acts.

Mr. MONDALE. Mr. President, the amendment is very simple. It has been offered by myself and Senators CRANSTON, TUNNEY, GOLDWATER, HUMPHREY, WILLIAMS, JAVITS, RANDOLPH, and NELSON.

In 1961, Congress passed, and the President signed into law, the Peace Corps Act. As stated in the opening section of the act, the purpose of the legislation was—

To promote world peace and friendship through a Peace Corps, which shall make available to interested countries and areas men and women of the United States qualified for service abroad and willing to serve, under conditions of hardship if necessary, to help the peoples of such countries and areas in meeting their needs for trained manpower, and to help promote a better understanding of the American people on the part of the peoples served and a better understanding of other peoples on the part of the American people. 22 U.S.C. 2501.

Men and women who become Peace Corps volunteers are not paid a salary. Rather, the act specifies that, during their term of service to the corps—

They shall only be provided with such living, travel, and leave allowances, and such housing, transportation, supplies, equipment, subsistence, and clothing as the President may determine to be necessary for their maintenance and to insure their health and their capacity to serve effectively. 22 U.S.C. 2504 (b).

Because of the absence of a salary, the Peace Corps volunteer is faced with serious problems when he or she terminates affiliation with the corps. After 2 years of Peace Corps service, the volunteer returns to the United States faced with the necessity of finding a job, finding a place to live, sometimes returning to school, and readjusting to life in this country. He often has little or no money with which to accomplish his readjustment, because he has not received a salary for a period of 2 years. Thus, the volunteer who is, according to the act's declaration of purpose, returning from "conditions of hardship" in many cases, is forced to face even greater hardships upon his return to the United States.

Recognizing this problem, the Peace Corps Act provides for a "readjustment allowance" for volunteers. Under 22 U.S.C. 2504(c), volunteers are entitled to receive an allowance at the rate of $75 for each month of satisfactory service. Volunteers who have one or more minor children at the time of entering pre-enrollment training receive an allowance at the rate of $125 per month for one parent. Supervisory personnel, called volunteer leaders by the act, are entitled to receive a readjustment allowance of $125 per month (22 U.S.C. 2505(1)). The allowances are payable, except under special circumstances, on the return of the volunteer to the United States.

It is this readjustment allowance—totaling only $900 per year for volunteers and only $1,500 per year for one parent

of a minor child and volunteer leaders—that the returning volunteer must use to facilitate his return to American society. Not only is the allowance pitifully low, it is also subject to social security taxes, subject to Federal income taxes, subject to State income taxes. Moreover, it does not accrue interest during the time of service. In short, by the time the volunteer uses his allowance to pay life and accident insurance premiums, educational loan payments, organization dues, support for dependents in the United States, and other necessary expenses during his term of service, little if anything is left to ease his readjustment to American life.

The volunteer returns to the United States in need of a job, a place to live, and clothing. Many returning volunteers wish to return to school and must go through the lengthy admissions process. The volunteer does not receive Federal or State unemployment insurance benefits and is not entitled to veterans' benefits. At the same time the volunteer is experiencing a period of economic stress, he is frequently undergoing a "cultural shock" as well. The readjustment allowance—or what is left of it—is of little help.

In 1961, the allowance was set at $75 per month on the basis of Congress assessment of the needs of the volunteer in 1961. Commonsense tells us that the 1961 level, which has never been changed, is insufficient as a 1974 level. Since the passage of the Peace Corps Act, and the establishment of the $75 level readjustment allowance, the Consumer Price Index has risen almost 52 percent. This index serves as a useful guide to the cost of living in this Nation, and it is this index to which we should look to measure the needs of the returning Peace Corps volunteer.

The Peace Corps volunteer serves his country in an honorable way. In addition, the volunteer makes a significant contribution to world peace and understanding. His service is accomplished in what are often primitive and difficult living conditions. Yet the hardships are accepted without complaint by the volunteer. We should not, we must not, subject the returning volunteer to additional hardship.

Therefore, the amendment which I am offering today would increase the allowance for volunteers to $115 per month; for volunteers with minor children to $190 per month for one parent; and for volunteer leaders to $190 per month. This increase allows the readjustment allowance to reflect the increase in the cost of living since 1961.

Mr. President, I am most grateful for the consideration which the Foreign Relations Committee has given to the original bill, S. 2814, which I introduced dealing with this question.

And I am aware of and concur with the committee's intention to give the agency until September 1 of this year to study the readjustment allowance and report to the Congress on the use of this money by returning volunteers.

To reflect the concerns of the committee, the amendment which I am offering provides that any increase will not take effect until and unless Congress appropriates funds specifically for that purpose and then only to the extent of funds specifically appropriated for that purpose. This will insure the integrity of the current Peace Corps budget and program, insure there is no cutback in the number of volunteers, and will allow the study to be completed and submitted.

I appreciate the consideration of the committee and the distinguished floor manager of this bill (Mr. SPARKMAN). I would also like to thank the distinguished Senator from California (Mr. CRANSTON), whose interest in and concern for the Peace Corps and the entire ACTION program has been invaluable, for his help with this effort.

I also wish to thank the distinguished Senator from Arizona (Mr. GOLDWATER), the distinguished Senator from California (Mr. TUNNEY), the distinguished Senator from Minnesota (Mr. HUMPHREY), the distinguished Senator from New Jersey (Mr. WILLIAMS), the distinguished Senator from New York (Mr. JAVITS), the distinguished Senator from Wisconsin (Mr. NELSON), and the distinguished Senator from West Virginia (Mr. RANDOLPH) for their cosponsorship of this amendment, their efforts on behalf of the measure, and their continued support of the Peace Corps.

I hope the distinguished floor manager will accept the amendment.

Mr. SPARKMAN. Mr. President I yield to the distinguished Senator from California.

Mr. CRANSTON. Mr. President, I send to the desk an amendment to the amendment of the Senator from Minnesota.

The PRESIDING OFFICER. The amendment of the Senator from Minnesota has not yet been disposed of.

Mr. CRANSTON. Mr. President, my amendment is an amendment to the amendment of the Senator from Minnesota.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. Without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

At the end of the amendment of Mr. Mondale and others add the following new subsection:

(d) (1) Section 105 (a) (1) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4955 (a) (1)) is amended by striking out "$50" and "$75" and inserting in lieu thereof "$75 "and "$115 ", respectively.

(2) There are authorized to be appropriated in addition to the sums authorized to be appropriated pursuant to section 501 of such Act, such additional sums as may be necessary to carry out the amendments made by paragraph (1) of this subsection. Such amendments are to be effective for each fiscal year only to such extent and for such amounts as are specifically provided for such purpose in such appropriation Acts.

EQUITY IN ALLOWANCES FOR PEACE CORPS AND VISTA VOLUNTEERS

Mr. CRANSTON. Mr. President, I am delighted to join with the distinguished Senator from Minnesota (Mr. MONDALE) in his unprinted amendment to provide a 50 percent cost-of-living increase in the Peace Corps readjustment allowance for volunteers and volunteer leaders. I have long been a strong supporter of the Peace Corps; in fact, I served as a consultant program evaluator for the Peace Corps in the mid-sixties. I believe the Peace Corps program is our most cost-effective investment in the foreign assistance area.

Mr. President, on the Labor and Public Welfare Committee, I serve as chairman of the Special Subcommittee on Human Resources, which has jurisdiction over the Domestic Volunteer programs—including Volunteers in Service to America, called VISTA—of the ACTION Agency, under which agency the Peace Corps program was placed by virtue of Reorganization Plan No. 1 of July 1, 1971.

Mr. President, the VISTA program was set up by the Economic Opportunity Act of 1964, modeled on the Peace Corps legislation, as a domestic counterpart of the Peace Corps. This program of Volunteers in Service to America today has about 5,000 regular and university-based volunteers fighting poverty throughout the country.

The VISTA stipend—the counterpart to the $75-per-month Peace Corps volunteer's readjustment allowance—was set at $50 for the regular VISTA volunteer and $75 for the VISTA volunteer leader. These amounts were set at about two-thirds of the Peace Corps readjustment allowance rates—$75 and $125, respectively—because of a belief that the VISTA volunteer's readjustment problems after his service would likely be less difficult than those faced by his counterpart Peace Corps volunteer, for two reasons:

First. The VISTA term of service is only 1 year; and

Second. Of course, geographically, the Peace Corps volunteer has been totally removed from the American society for 2 full years and has lived in an environment, immersed in a life style and using language very different, from his or her own.

Mr. President, I have worked closely with Senator MONDALE, and the Foreign Relations Committee, as well as ACTION Agency representatives to make the amendment and the one I will offer reflects the Agency's position to complete a study by September 1, of the purpose, and actual use by former volunteers, of the Peace Corps readjustment allowance and the VISTA stipend.

I believe it is necessary, in order to provide equity for VISTA volunteers, to provide a comparable amendment to increase the VISTA stipend in the same proportion and under the same circumstances—that is, contingent upon subsequent appropriations for this purpose—as our amendment proposes for Peace Corps volunteers' allowances.

Thus, the amendment I have sent to the desk, Mr. President, would accomplish this as an amendment to the pending amendment in which I have joined with Senator MONDALE and others.

I am joined in this amendment by Senator MONDALE and by the chairman, Mr. WILLIAMS, and ranking minority member, Mr. JAVITS, of the Labor and Public Welfare Committee, and by the distinguished chairman of the Employment, Poverty, and Migratory Labor Subcommittee, Mr. NELSON, who also serves on the Special Subcommittee on Human Resources. We are also joined by a longtime champion of the Peace Corps and one of those in the Congress most influential and instrumental in forming and nurturing the Peace Corps, the distinguished Senator from West Virginia (Mr. RANDOLPH), who also serves as a member of the Special Subcommittee on Human Resources. I am grateful for their support.

Mr. President, our amendment would increase the present monthly VISTA stipend of $50 to $75 for volunteers and from $75 to $115 for volunteer leaders—contingent on subsequent specific appropriations action. Thus, it would have no programmatic or budgetary impact on the VISTA program without further legislative action by Congress, and we will have an opportunity to review the ACTION Agency's allowance study.

Mr. President, I am coordinating my amendment with the House Education and Labor Committee in order to assure that there is no committee jurisdicitonal issue in the House's consideration of the Senate amendment. Such cooperation between the international and domestic volunteer program authorizing committees is totally necessary and precedented.

Last year in my bill, S. 1148, the Domestic Volunteer Service Act of 1973, now Public Law 93–113, we worked with the Foreign Relations and Foreign Affairs Committees on two items involving the international program of the ACTION Agency. These provisions were to establish an agencywide National Advisory Council to replace the old statutory Peace Corps Advisory Council repealed by Congress in 1972; and to establish an Associate Director for International Operations in the agency, as a counterpart to the domestic operations Associate Director.

Mr. President, I am hopeful that the Senator from Minnesota (Mr. MONDALE) will accept my amendment to his and that the distinguished floor manager of the bill, Mr. SPARKMAN will accept a consolidated amendment.

In closing, I urge the floor manager and the Foreign Relations Committee, if our amendment is adopted, to see to it that either the whole amendment is accepted or rejected in conference—so that equal treatment will be insured for Peace Corps and VISTA volunteers on their allowances.

I thank the Senator from Minnesota and the Senator from Alabama for their cooperation in this matter and congratulate them for their leadership.

Mr. SPARKMAN. Mr. President, I hope, and I believe, that the Senator from Minnesota will be willing to accept the amendment to his amendment. If so, I shall be very glad to accept the amendment to the amendment.

Mr. MONDALE. Mr. President, will the Senator yield me 1 minute?

Mr. SPARKMAN. Not more than 1 minute.

Mr. MONDALE. Mr. President, I fully agree with and support the amendment offered by the Senator from California. I think the question of the adjustment allowances for the Peace Corps returnees and the VISTA volunteers raised by this amendment are identical. They should be handled together. I modify my amendment accordingly and hope that the distinguished floor manager of the bill will accept the amendment as modified.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

Mr. SPARKMAN. Mr. President, I simply want to say, with respect to these two matters, that I wish we might have had an opportunity to study and detail them during the hearings or in the committee. But I know the objective is good, and I am willing to accept the amendment as modified and take it to conference.

Mr. MONDALE. Before the amendment is agreed to, and I hope it will be, I should like to make this one point. This effort has been underway for 2 years.

Mr. CRANSTON. Yes.

Mr. MONDALE. The Peace Corps returnees adjustment pay today is the same as it was 13 years ago. So it is a much needed, long overdue, complicated measure. I would pray for extreme unction in the conference and hope that the floor manager will exercise his usual skill and will prevail in conference.

Mr. JAVITS. Mr. President, as a member of the Foreign Relations Committee, which has jurisdiction over the Peace Corps, and a number of other committees having oversight as to programs conducted under the domestic arm of the ACTION Agency, I am pleased to support the Peace Corps Authorization Act for fiscal year 1975, which was ordered reported by the Senate committee without amendment.

The bill would authorize an appropriation of $82.2 million to finance the operations of the Peace Corps during fiscal year 1975.

As noted, under that authorization, the Peace Corps would have increases of $360,000 for training, $2,679,000 for volunteer costs, and other increases for a total of $5,016,000 over the fiscal year 1974 aggregate of $77,240,000.

As noted on page 2 of the committee report, more than one-half of the increase in the Peace Corps budget will support a modest increase of 100 trainees and 310 additional man-years. Presently, the Peace Corps is at a level of 6,500 volunteer man-years, and the agency hopes to be at the level of 6,800 man-years by the end of fiscal year 1975.

Mr. President, I note the following matters referred to in the report as the basis for my support of this bill:

First, as noted by the testimony of Michael P. Balzano, Director of the ACTION Agency, before the committee on April 5, the Peace Corps is an integral part of the national commitment to voluntarism exemplified by the ACTION Agency.

Second, while a part of the voluntarism commitment, the Peace Corps retains its own special identity and purpose, within the ACTION Agency. Members will recall that to insure this, I included in S. 1148, the Domestic Volunteer Services Act of 1973, the ACTION authorization bill signed by the President on October 1, 1973, provisions to insure that there would be an Associate Director for International Operations as well as an Associate Director for Domestic Operations, so that the two efforts would be highlighted and on a parity with each other.

Third, as noted by Mr. Balzano in the testimony to which I referred:

> We face the problems of what we feel is a new wave of isolationism that may be potentially damaging to ourselves in terms of international relations.

With that commendable purpose very much in mind, it is pleasing to note the response of Mr. Nicholas W. Craw, Associate Director for International Operations for ACTION, to questions by my colleague, Senator AIKEN, that the Peace Corps has not been asked to leave a country since 1971 and in fact, has been invited back into three countries that it had previously been asked to leave in the 1960's. It is presently operating in 68 countries. As Mr. Craw notes, it is an "alltime record high for the Peace Corps."

These facts, together with the efforts undertaken by the ACTION Agency to respond to the needs of the particular country, rather than to impose this country's concept of needs, are very welcome indeed.

Finally, I note the efforts by the ACTION Agency documented in the report to deal with previous difficulties in terms of management, and the economies that have resulted over the last 2 years in terms of recruitment and program costs arising from the merger under one agency.

It is my hope that the ACTION Agency will continue the exchange of ideas and personnel between the domestic and international efforts, so as to have the maximum "intangible" benefits as well as the more tangible results of the merger.

Mr. President, as noted in the report on page 3, the committee did not add to the bill any provisions for increasing the relocation adjustment allowance but indicated instead that ACTION is studying the problem, looking toward a constructive proposal for fiscal year 1976.

I have joined with Senators MONDALE and CRANSTON, and others, in amendments which will be offered to increase the current allowances from $75 a month to $115 a month for individual volunteers generally, from $125 a month to $190 a month for volunteers with one or more minor children, and from $125 a month to $190 a month in the case of volunteer leaders.

These allowances, which would be applied to Peace Corps and VISTA Volunteers, are in each case, much less than those originally sought by Senator MONDALE in S. 2814, of $125, $250, and $250 respectively.

It is important that while it is a "volunteer program," that the allowances keep pace with the rising cost of living, which has been increasing at a very fast rate. These allowances, which are de-

signed to enable volunteers to readjust to normal life after services, have not been changed since 1961.

The ACTION Agency, which is preparing a definitive cost analysis of the amendment, has indicated generally that the amendments would require annually an appropriation of under $4 million.

Mr. President, for all these reasons, I urge that the committee bill, with the amendment I have noted, be adopted.

SENATOR RANDOLPH REAFFIRMS SUPPORT FOR PEACE CORPS—STRESSES IMPORTANCE OF CORPS' 13 YEARS OF SERVICE

Mr. RANDOLPH. Mr. President, it is a privilege to join as a cosponsor of the pending amendment to increase adjustment allowances for Peace Corps and VISTA volunteers. It is a needed improvement to strengthen our volunteer programs and I hope it will be accepted.

The structure of the Peace Corps has changed but the "reaching out of a helping hand" approach remains the same. It is gratifying to recognize the millions of people and the countries that have been given assistance during the 13 years since the Peace Corps' inception.

As an active cosponsor of the legislation which brought the Peace Corps into being, I have followed its progress and accomplishments. I recall participating in extensive work in 1961 on the original measure.

During the programs' infancy, I stressed my firm belief in the concept of the Peace Corps:

It is evident that the Corps has helped to restore, in many underdeveloped sections of the world, the vision of America as a nation committed to the improvement of the life and enhancement of opportunity for all people.

There have been hills and valleys during the growth of the Peace Corps. Its budget has now doubled. But the Peace Corps and its philosophy remain. It is a response to the best within mankind. Dr. Michael P. Balzano, Jr., Director of ACTION, in testimony before the Senate Foreign Relations Committee said:

The idealism of the Volunteer is the foundation on which Peace Corps built its program and continues to foster international goodwill and understanding. While we are changing some of our methods of operation, we are not changing this fundamental approach.

Our Nation is known for its volunteerism which has been demonstrated in both overseas and domestic activities. In this regard, the recruitment of returned Peace Corps volunteers for domestic service has strengthened our volunteer programs generally.

I support H.R. 12920, the Peace Corps Authorization Act with the pending amendment. It is a realistic and necessary approach to sustain a vital program. This measure will enable the Peace Corps to continue to bring understanding among peoples and hopefully a basis for world peace.

Mr. SPARKMAN. I am familiar with the merits of the amendment. I hope that we shall be successful in conference. I will accept the amendment.

Mr. MONDALE. I am wholly in accord with the Senator from Alabama.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Minnesota, as modified by the amendment of the Senator from California.

The amendment, as modified, was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

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

The bill was read the third time.

COVERAGE AND PROTECTION FOR EMPOLYEES OF NONPROFIT HOSPITALS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now resume its consideration, until the hour of 1:30 p.m. today, of S. 3203.

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

Mr. ROBERT C. BYRD. And I ask unanimous consent that immediately following the disposition of the Peace Corps bill, on which the vote will occur at 1:30 p.m. today, the Senate again resume the consideration of S. 3203.

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

Mr. CRANSTON. Mr. President, I ask unanimous consent that Mike Mullen, of Senator BURDICK's staff, have the privilege of the floor during the consideration of this measure.

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

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3203) to amend the National Labor Relations Act to extend its coverage and protection to employees of nonprofit hospitals, and for other purposes.

The PRESIDING OFFICER. The pending question is on agreeing to the amendment of the Senator from North Carolina (Mr. ERVIN).

Mr. ERVIN. Mr. President, this amendment would add a proviso at the end of line 6 on page 1 of S. 3203 reading as follows:

Provided, however, this act shall not apply to any corporation or association operating a hospital, if that hospital is owned, supported, controlled, or managed by a particular religion or by a particular religious corporation or association.

When this bill was pending before the committee, the Seventh Day Adventists, who object to being subjected to the regulations of the National Labor Relations Board, filed a brief with the committee. That brief makes the following statement:

THE PROBLEM

The Seventh Day Adventists operate numerous non-profit hospitals in nineteen states, and the District of Columbia.[1] These non-profit hospitals are regarded by the Church as an extension of the conscience of the Church

For many years, and at present, the Church has taught and is teaching its members not to belong to or contribute support to a labor organization, and has based this teaching on passages in the Bible, thereby making this teaching part of the religious doctrine of the Church.

The prospect of having its non-profit hospitals placed under the National Labor Relations Act, as Amended,[2] poses the question of whether or not the Church will be required to choose between the Church's obligations to God, on the one hand, and its duty to obey the law, on the other hand. Is there an irreconcilable conflict between the Church's teachings and what its duties and obligations would be under the Act? If there is such a conflict, how does this come about?

THE ANSWER

There is no way the Church could remain steadfast in its teachings and properly discharge its duties under the Act, for the reasons set forth below:

THE ASSUMPTIONS

For purposes of the discussion below it is assumed that a union has been successful in its organizing drive and has demonstrated its majority status in an appropriate unit by means of an election conducted by the National Labor Relations Board (hereinafter called the Board).[3] It is assumed that the Board has issued its certification that the union is the majority representative in a unit appropriate for collective bargaining.

THE LEGAL DUTIES

On the summed fact, the Church would be required to (1) recognize the union as the exclusive representative of the employees in regard to anything pertaining to wages, hours, working conditions, or other conditions of employment, and (2) bargain with the union in good faith.[4] To meet its bargaining obligation the Church would be required to enter negotiations with a sincere purpose and intent to arrive at an agreement. It would not be allowed to "shadow box the union to a draw". Although "hard bargaining", as such, is permissible, the Church would be required to have a sincere intent to reach an agreement. While the Act provides that the obligation to bargain does not entail the granting of a concession or the making of a compromise, both the Board and the Courts will look to all the surrounding facts and circumstances to ascertain whether or not the party charged with a refusal to bargain entered negotiations with a sincere intent to arrive at an agreement, with a mind not "hermetically sealed" against discussion, and with no intent to reach an agreement under any circumstances.

The union's ultimate weapon at the bargaining table is a strike. There are two broad classes of strikes. One is called an economic strike, which is a strike over wages, hours, working conditions, or other conditions of employment. The other is called an unfair labor practice strike, which is a strike caused or prolonged by the unfair labor practices of an employer. The legal and economic consequences to an employer flowing from the type of strike are vastly different, as will be shown below:

If the Church refused recognition after the Board had issued its certification, and the union struck, this would be a strike caused by the unfair labor practice of the employer. When such a strike occurs, the employer is not entitled to hire permanent replacements for the strikers, and all strikers

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[1] Arizona, California, Colorado, Florida, Georgia, Hawaii, Illinois, Kentucky, Maine, Maryland, Massachusetts, New Jersey, Ohio, Oklahoma, Oregon, Pennsylvania, Tennessee, Texas, Utah, and Washington, D.C.

[2] Hereinafter referred to as the Act.

[3] An election conducted by the Board is only one means by which a union may demonstrate a majority status. It may be done by authorization cards, by strike, etc.

[4] This obligation is imposed by Section 8(a)(5) of the Act.

have an almost absolute right to return to their jobs, even though such return means the discharge of employees hired to replace them. If the strikers are not so returned, the employer becomes liable for back pay, etc.

If the union strikes over economic issues, then, and in that event, the employer has the right to hire permanent replacements, and strikers are entitled, when they have been permanently replaced, to their jobs only when those jobs again become open.

THE RECOGNITION PROBLEM

At the outset, the Church would have to decide whether or not to recognize the union. If it recognized the union, it would have to do so in the face of its religious teachings that its members should not belong or contribute support to a labor organization.

If the church decided not to recognize the union, then its only legal course of action would be to cease to operate the hospital actually and completely. An employer may cease to do business for any reason, but the employer must really and actually cease doing business. For example, an employer may not merely shift orders from one of its many plants, while closing down the plant which has been unionized. Similarly, a hospital could not merely transfer its patients, doctors, nurses, etc., from one hospital to another hospital to avoid dealing with the union. It is conceivable that the Church might have to decide not to operate any non-profit hospitals at all, providing it decided that it could not in good conscience recognize or deal with the union.

THE BARGAINING PROBLEM

If the Church should decide that it could recognize the union, the bargaining obligation is fraught with difficulties. For example, in those states which do not have right-to-work laws, the Church would be required to bargain about a union security agreement, which is a form of compulsory union membership requiring employees to join the union after thirty days of employment or lose their jobs. While the Board does allow those persons having religious scruples against unionism, to merely pay the dues and initiation fees without actually joining the union, this exception still runs afoul of the Church's teachings that its members should not contribute support to a labor organization.

Should the union file a charge with the Board alleging a refusal to bargain, and should the General Counsel of the Board issue a complaint, the Church's teachings about labor organizations would be admissible evidence bearing on the Church's state of mind or attitude in the bargaining negotiations, and it would be almost impossible to defend against a charge of bad faith bargaining. The General Counsel could allege, and in all probability prove, that the Church's mind was "hermetically sealed" on the question of a union security agreement. The Church would be faced with prolonged, protracted, and expensive litigation, in which, in all probability, it would be unsuccessful.

CONCLUSION

It is my considered opinion that if the Church's nonprofit hospitals are placed under the Act, the Church must give serious consideration to not operating any hospitals at all. There is no way of reconciling its religious teachings with what its obligations would be if its hospitals are placed under the Act.[5]

This brief was prepared by Joseph Alton Jenkins of Dallas, Tex., as counsel for the Seventh-Day Adventist Church.

[5] For ready reference, there is attached hereto as Exhibit "A" a list of states in which Seventh Day Adventists maintain hospital facilities, and pertinent labor law provisions of said states.

I ask unanimous consent to have printed in the RECORD the statement of W. Melvin Adams, the director of the department of public affairs and religious liberty, North American division, general conference of Seventh-day Adventists, accompanied by Raymond L. Pelton, hospital administration, department of health, and Irwin J. Remboldt, president, Adventists Pacific Health Care Corp., Glendale, Calif., a statement offered before the committee by the Adventists Church in opposition to inclusion of nonprofit hospitals under the National Labor Relations Act.

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

STATEMENT OF W. MELVIN ADAMS, DIRECTOR, DEPARTMENT OF PUBLIC AFFAIRS AND RELIGIOUS LIBERTY, NORTH AMERICAN DIVISION, GENERAL CONFERENCE OF SEVENTH-DAY ADVENTISTS, ACOMPANIED BY RAYMOND L. PELTON, HOSPITAL ADMINISTRATION, DEPARTMENT OF HEALTH, AND IRWIN J. REMBOLDT, PRESIDENT, ADVENTISTS PACIFIC HEALTH CARE CORP., GLENDALE, CALIF., A PANEL

Mr. ADAMS. Thank you.

Senator CRANSTON. I would like to add that I have to leave at 10 to 12. I hope to complete your testimony and that of one more witness by that time. If not, we will have to do it later today, or another day.

Mr. ADAMS. Thank you, Mr. Chairman. My name is Melvin Adams, and to my right is Mr. Ray Pelton, Hospital Administration of the Department of Health of the General Conference of Seventh-day Adventists. Further to my right is T. O. Moore, administrator of a hospital in Stoneham, Mass. To my left is Mr. Irwin Remboldt, president of the Pacific Health Care Corp., Glendale, Calif., 2,100 beds and representing about 12 hospitals.

Further to my left is Mr. Donald Welch, president, Southern Adventist Health and Hospital System from Orlando, Fla., again representing a number of hospitals and 1,500 beds. I am a clergyman, director of Public and Religious Liberty of the Seventh-day Adventist Church of North America.

It is my privilege to testify in behalf of the members of the more than 3,740 Seventh-day Adventist congregations located in the United States. This testimony has been authorized by the officers of the General Conference of Seventh-day Adventists, Washington, D.C.

It is not my intention to read the entire testimony. I would like to have it made part of the record.

Senator CRANSTON. Your entire statement will be entered in the record following your testimony.

Mr. ADAMS. I would like to summarize and leave the testimony as part of the record. We are not intending to cover some of the points that have already been covered, such as the cost, the need of continued patient care, the possibility of work stoppages, the impasse bargaining, the fragmentation, the differences between profit and nonprofit hospitals, wages, turnover.

You have had a lot of testimony on that, and you have had it on both sides and you have had ample, I think, on that.

We want to bring to you a problem which has not been touched, has not been mentioned, and is possibly very unique, and in all probably refers to only a very few individuals, or individual hospitals.

I think I can bring it to you by reading one paragraph from a statement which is the position of the Seventh-day Adventist Church in regard to their relationship to labor unions and their support of labor unions.

This statement was taken last year at the annual council of the Seventh-day Adventist Church, and it is as follows: "The Seventh-day Adventist Church hereby reaffirms its historical position that its members should not join or financially support labor unions or similar organizations."

Now we won't need to go into the historical part of that. It is a matter of history. Now, we add to that fact that the Seventh-day Adventist Church operates 46 hospitals in the United States. These 46 hospitals constitute just a little less than 1 percent of the bed capacity of the United States.

When you realize that this church with its religious teaching, that they cannot, because of these convictions, either join or support a labor union, and they operate 46 hospitals which are a reflection of the conscience of the church, you can see that we come into a problem, especially as this committee is dealing with the Labor Relations Act, and these hospitals, which are nonprofit, which the church operates.

The thousands of hospitals across the country that have been talked about during these 3 days of hearings have one point in common, and that is patient care.

A number of these hospitals have an additional point in common, and that is they are either church operated or church owned. Now we can't speak for our friends, the Catholics, who operate a number of hospitals, nor the Baptists, nor the Methodists, or others, but Seventh-day Adventists have a very unique philosophy for the reason of operating their hospitals.

Let me just briefly lift a couple of excerpts from the full testimony which you have before you. I am thinking of a church action which was taken in 1969, and these words referring to the Adventist acute care hospital.

"Among the various evangelizing agencies of the church, these institutions can be most effective," and I read a little further on down, "The medical ministry is to become a door to eternal life by pouring love into the hearts of people when the door of the heart is widest open. This frequently is in time of illness."

Without reading other statements I think it is evident that the hospital operated by the Seventh-day Adventist Church is an evangelistic part of the church's activities. It is an integral part of the church.

We have many outreaches to the public. The hospital is one of them. We have radio and TV ministry; we have public revivals, the printed page, personal testimony, inner city activities, and so on, and all of these are an outreach of the church.

Each one of them reflects the conscience of the church. Now let me be more specific. Seventh-day Adventist hospitals reflect Seventh-day Adventist teaching, and one of the teachings of the Seventh-day Adventist Church is that its members should not join or support a labor union.

Let me compare it with another situation which Congress dealt with just recently. The Roman Catholic hospitals reflect Roman Catholic teaching, in particular they reflect the teaching of the Roman Catholic Church, which says that a Roman Catholic should not submit to either an abortion or sterilization. Now historically, the Roman Catholic Church has taught its members that they should not submit to these medical procedures, and this teaching has been reflected in their hospitals, because the hospitals of a church is an extension of the conscience of that church. Consequently Roman Catholic hospitals find themselves in violation of their religious convictions if they are forced by laws or courts or otherwise to perform that which their church teaches they should not be involved in.

When the courts brought the Roman Catholic hospital into confrontation with their religious convictions on this matter

of abortion and sterilization, Congress stepped in, and they passed an act which you, I am sure, will recall. It is called today Public Law 93-45, but it was better known as the Public Health Service Act.

This act has attached to it an exemption which exempts an individual Catholic from having to perform that which is against his convictions, abortion or sterilization, and it also went on and said that the hospital, which is an extension of the church, should not be required to perform that which the church teaches against.

Now, this lays the basis for what we are talking about this morning. Seventh-day Adventists approved of this action which Congress took protecting the religious convictions of Roman Catholics. They should be protected. Catholic members should be protected, Catholic hospitals should be protected, and it is in this same manner, Mr. Chairman, that the Seventh-day Adventists Church requests this subcommittee to give serious consideration to the Seventh-day Adventists religious convictions as they are expressed in the Seventh-day Adventists hospitals. We have two recommendations to give, and if you happen to have a copy of the testimony before you there, I call your attention to page 11, which is the first recommendation.

We recommend that in revising the National Labor Relations Act, line 5 on page 11, be amended by striking out the phrase "or any corporation or association operating a hospital."

I think this is in the spirit of what you and Senator Javits have introduced. In order to meet the unique needs of a small group, we suggest the following words be substituted:

"Or any corporation or association operating a hospital if said corporation or association opposes unionization because of historically held religious teachings or tenets."

This would preserve the intent of both the House and the Senate bill in changing this Taft-Hartley Act and removing most of the nonprofit hospitals from the exemption.

It would turn around and carve out a unique exception for the hospitals who are operated by churches that would find themselves uniquely embarrassed and put to very difficult circumstances under this arrangement.

Now that is recommendation No. 1. Recommendation No. 2 is found on page 12, and this deals with the individual.

After line 6, insert the following: "An individual employee of a nonprofit hospital who is a member of and adheres to tenets or teachings of a bona fide religion, body, or sect which has historically held conscientious objections to joining or financially supporting labor organizations or other associations of employees shall not be required to join, pay dues, fees, or other payments under any agreement involving union security, including, but not limited to, all union or agency agreements. In lieu of such dues, fees, or fair-share payments required of such employee, the employee shall contribute a sum of money equal to such dues or fees to a nonreligious, nonunion charitable organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code. The employee shall furnish the labor organization written proof that this has been done. For purposes of this paragraph, the term 'nonprofit hospital' means a hospital of which no part of the net earnings inures to any private member, shareholder, or individual."

Now there is a lot of precedent for this. Australia and New Zealand, which are predominantly labor governments, exempt people who have these religious convictions under a similar situation.

Washington and Oregon, right here in our own United States, have enacted laws which also exempt people with these particular religious convictions.

The postal reform law here in Congress, 1970, wrote into its wording in both the House and the Senate identical words exempting people who have these religious convictions because they forbid them from either joining or supporting a labor organization.

The AFL-CIO has a very definite reaction to these religious convictions of these people, and it is a wholesome one. On September 20, 1965, they very definitely said in their public policy that it is the policy of the executive committee of the AFL-CIO to accommodate themselves to genuine religious convictions.

That is the policy of the AFL-CIO. They have urged their locals and have urged their internationals to follow this. Unfortunately, as has been testified here, locals and internationals are autonomous, and so all this amounts to, really, is a recommendation. That is the reason why we introduce it here to become a part of public law.

This matter of the institutions and the matter of public law has been given strong support in the Congress. Senator Church talking about people with religious convictions said, "I do not think the Congress intends that Federal moneys should be used as a level to force religious hospitals or Catholic doctors to perform operations that are contrary to their moral convictions or religious beliefs."

That is a part of the Congressional Record. Senator Kennedy in the debate, a member of this committee, went on record in the same way. In fact, the Congressional Record is filled on the days that this was debated in the Senate with Senator after Senator coming forward indicating that they did not feel that it was the intention of the Congress to violate the religious convictions of either an individual or the church hospital.

It is in that same spirit, Mr. Chairman, that we request this committee to build a sidetrack—shall we call it that? To avoid what would be a serious impasse for churches and the NLRB if the church hospitals of the Seventh-day Adventists were placed under this particular arrangement.

Let me give you an example of what I am talking about, and I have before me here a legal opinion prepared at the request of the church by a prominent attorney, Joseph Jenkins, who at one time was a member of the National Labor Relations Board.

I would like to submit this for the record.

[The legal opinion for Seventh-day Adventists follows:]

Mr. ADAMS. It will give you an example of what would happen, and this will close our testimony, let's assume for the moment that S. 794 were enacted into law, its purposes being to bring nonprofit hospitals within the Taft-Hartley sphere.

Let's assume that a Seventh-day Adventist hospital is unionized. Let's assume that a particular union has been issued a certificate, that the Seventh-day Adventist Church through its hospital is now required to recognize the union as the exclusive representative of the employees, and is required by law to bargain with the union in good faith.

Good faith is determined by the National Labor Relations Board to mean that they would not be allowed to shadowbox the union to a draw.

Although they would be permitted hard bargaining, they would be required to have a sincere intent to reach an agreement, and while the act provides the obligation to bargain in good faith it does not entail the granting of a concession or the making of a compromise.

Both the Board and the courts will look at all the surrounding facts and circumstances to ascertain whether or not a party charged with a refusal to bargain in good faith entered negotiations with a sincere attempt to arrive at an agreement with a mind not hermetically sealed against discussion and agreement.

The problem, Mr. Chairman, is that the church has sincere beliefs on this, and should we by some miracle, get to that place where we were required by law to bargain, we would immediately be charged by the union with unfair labor practices. They would look right at our teachings. They would say your teachings say that you cannot either join or support a labor union, and therefore, you cannot be open and fair with an intent to reach a realistic contract between the two parties.

So automatically, the church, because of its teachings, would be brought under the force of the law and penalized, and the institution penalized, and possibly lost. Then, if we should go a step further, get a contract signed by some miracle, then the church would be in the embarrassing situation of having to represent the union and enforce the contract—a contract with a labor union which the church teaches its members they should neither join nor support.

I think, Mr. Chairman, you can see what we are talking about. We are not trying to obstruct the intent of S. 794. We are saying, Mr. Chairman, there is a unique problem with a small group of hospitals, Seventh-day Adventists in particular, and perhaps a few others, Mennonites and others who have these same religious convictions.

They would be put under severe hardships. It is our request in the tradition of this Nation which has through its history made provision for people with religious convictions against draft, serving in war, who have made provisions in Sunday laws for people who observe another day, who have made provisions for the Amish who feel they can't pay social security, and who can't follow the national attendance laws for schools, who have made provisions for Jehovah's Witnesses, who says they can't pledge allegiance, for this committee to carve out in this bill a provision that will provide for the free exercise of religion for people and their hospitals who cannot either conscientiously join or support a labor union.

Now, that completes our statement. These men that are with me, hospital administrators and others, are not here to make a statement, but rather to answer whatever questions that we might be able to answer for you, Mr. Chairman.

Senator CRANSTON. Thank you very much for that very forceful and very deep statement of your viewpoint. I appreciate the presence of those of you who have come from quite long distances, particularly all the way from California to be here.

I have a few very brief questions, and I pose them to whoever wishes to answer. Do your hospitals presently employ any personnel who are members of unions.

Mr. REMBOLDT. We do not employ members who are members of our own hospital union, for we are not organized. If they have union membership, they have joined somewhere else that we are not aware of.

Senator CRANSTON. Do you permit your nurses to belong to the National Association of Nurses?

Mr. REMBOLDT. That is an individual matter with nurses. Some belong; some do not.

Senator CRANSTON. Have you had any organizing efforts in any of your hospitals by unions?

Mr. REMBOLDT. Not to this point. They have distributed some literature on the parking lots, but beyond that there have been no organizational attempts.

Senator CRANSTON. What sort of literature?

Mr. REMBOLDT. Local 1199, the advantages of joining and so forth.

Senator CRANSTON. Do you only employ

Seventh-day Adventists in all positions in your hospital?

Mr. REMBOLDT. No.

Mr. WELCH. Our hospitals generally across the country have an average of somewhere over 50 percent of Seventh-day Adventists personnel. Our church has a very strong medical training program.

We have our own medical school and many colleges with medical training programs, so we motivate a high percentage of our people to go to work for our church hospitals. So we do have a high percentage of Seventh-day Adventists employees.

Senator CRANSTON. Thank you very much. I don't have any further questions. Thank you once again.

Mr. ADAMS. Thank you.

Mr. REMBOLDT. Thank you.

[The prepared statement of Mr. Adams, with attachments, follows:]

STATEMENT OF W. MELVIN ADAMS IN BEHALF OF THE SEVENTH-DAY ADVENTIST CHURCHES FOR THE SUBCOMMITTEE ON LABOR, UNITED STATES SENATE

My name is Melvin Adams. I am a clergyman and Director of the Department of Public Affairs and Religious Liberty of the Seventh-day Adventist Church in North America. It is my privilege to testify in behalf of the members of the more than 3,470 Seventh-day Adventist congregations located in the United States. This testimony has been authorized by the officers of the General Conference of Seventh-day Adventists, Washington, D.C.

On a number of occasions, it has been my privilege to testify before various committee hearings in the United States Senate and the House of Representatives in behalf of members of the Seventh-day Adventist Church who, because of religious convictions, cannot either join or support labor unions.

These people march to the beat of a different drummer. They have different convictions than some of their fellow-workers. Like some of the founders of this nation, they hold religious convictions above consideration of money or security, and they are willing to lose their jobs rather than violate their religious convictions.

The Seventh-day Adventist Church has taught its members to stand apart from industrial strife. This historical position was reaffirmed last October at the Annual Council of the Seventh-day Adventist Church in Mexico City. It reads as follows:

"That the Seventh-day Adventist Church hereby reaffirms its historical position that its members should not join or financially support labor unions or similar organizations."

Members who do not join or support labor organizations are motivated solely by religious convictions which they express in a non-violent way. They feel barred from membership or support in any organization which requires men of varying convictions to adhere to policies, comply with decisions or abide by restrictions which may be contrary to individual religious convictions.

The same motive of love that prevents Seventh-day Adventists from taking sides in industrial strife compels the Seventh-day Adventist Church to build and operate health-care institutions.

At present, the Church operates 46 general acute-care hospitals in the United States (see Exhibit A). These hospitals provide about 1% of the total hospital beds in this country. They are a part of a larger system of health education which includes schools of nursing, medical, public health, dental, dietetics and many paramedical fields.

THE PROBLEM

The Senate now has before it S 794, which is intended "to amend the National Labor Relations Act to extend its coverage and protection to employees of nonprofit hospitals." Should this bill, or one like it, be passed, hospitals owned and operated by our Church would be placed in a very awkward position. By its passage, labor unions would be encouraged to attempt to unionize hospitals owned and operated by a church that teaches its members to refrain from joining or supporting labor unions.

The passage of S 794 would not necessarily place Adventist hospitals in a position where they would be unionized. However, the purpose of this legislation is to make more likely the unionization of such hospitals. Our legal counsel has advised that this bill would open the door to a continued pressure as labor unions, working under a more favorable law, would attempt to unionize church-owned and operated hospitals.

PHILOSOPHY AND OBJECTIVES OF ADVENTIST HOSPITALS

To better understand the Seventh-day Adventist Church's position on this matter, it is necessary to understand the philosophy and objectives of the health ministry of the church. In 1902, they were stated as follows:

"Our medical institutions are to stand as witnesses for God. They are established to relieve the sick and afflicted, to awaken a spirit of inquiry, to disseminate light and to advance reform."—*Testimonies for the Church*, Vol. 7, p. 104.

"These institutions rightly conducted, will be the means of bringing a knowledge of the reforms essential to prepare a people for the coming of the Lord, before many that otherwise it would be impossible for us to reach."—*Ibid.*

"All our medical institutions are established as Seventh-day Adventist institutions to represent the various features of the gospel medical missionary work and thus to prepare the way for the coming of the Lord."—*Ibid.*, p. 107.

These objectives continue to guide Seventh-day Adventist health-care institutions, not only within the United States, but throughout the world. It matters little whether it is a 500-bed general acute-care hospital operated in the United States, a clinic in Ethiopia, a medical airplane in Borneo, or one of the thirteen medical missionary launches operating on the great waterways of Brazil.

OFFICIAL CHURCH ACTION OCTOBER 12, 1969

The General Conference of Seventh-day Adventists, in its annual meeting on October 12, 1969, spelled out these objectives in detail. For the sake of brevity, I'll refer to only a few excerpts (italics added):

1. Witnesses for God

Medical institutions are established to witness with power for Christ. *Among the various evangelizing agencies of the church, these institutions can be most effective.* As witnesses for the truth of God they will be the means of bringing the light of truth to many souls . . . .

Employees of Seventh-day Adventist medical institutions should think of themselves as "ministers of Christ," healing and comforting the sick, teaching and disseminating light. Their lives should shine forth in word and deed.

2. The relief of pain and suffering

Experience has taught that pain and suffering are best relieved by the use of natural remedies as well as other scientific treatments in harmony with ethical standards acceptable in the countries served. Enlightened scientific medical service is to be rendered with Christian compassion, reverence for God and an abiding faith in the Great Physician.

Sincere love and compassion extend beyond the relief of physical pain and the lengthening of life, and embrace a concern for eternal life as well. *Thus medical ministry is to become a door to eternal life by pouring love into the hearts of people when the door of the heart is widest open. This frequently is in time of illness.* This objective may be accomplished and this ministry rendered in hospitals, in sanitariums, in nursing homes, in offices of physicians and dentists and wherever medical and paramedical personnel come into contact with the ill and the afflicted.

3. The awakening of a spirit of inquiry

Our medical ministry and our organized health-care institutions awaken a spirit of inquiry because they approach the areas of health from the viewpoint of the total man. Emphasis is to be on health rather than exclusively on the treatment of disease. Prevention is to be stressed as well as cure. Emphasis is to be placed on the use of natural remedies as well as other scientific modalities of treatment.

Primarily our institutions will be distinctive because the people who make up the institutions are distinctive in purpose, motivation, dedication, and objectives. The great difference in people is not necessarily in dress, hairdo, or personal economics, though in all of these elements high standards of Christian modesty, deportment and life should prevail. Buildings and facilities may not be essentially different, but the atmosphere which pervades them can be different. The principal difference must be in the objectives of life, attitudes and influence of the people. These are the prized elements which are to "awaken a spirit of inquiry."

Thus by the highly trained and skillful ministry of people whose lives are different, who are motivated to serve and who are driven to the ends of the earth by a concern for others, our institutions are to become the spectacle of the age and the subject of conversation and literature around the world. In this manner our medical ministry and our health-care institutions are to be great public relations agencies, breaking down walls of prejudice and erecting bridges of understanding and friendship. They are thus to place the work of the church in a favorable light before the multitudes . . . .

4. The dissemination of light

This statement implies educational programs and processes. It makes it the obligation of the health ministry of the church to conduct extensive educational programs in a wide variety of the health and healing sciences to qualify people to serve scientifically and to motivate them to serve compassionately. It means the operation of medical, public health and dental schools, schools of nursing at varying levels, schools of dietetics, and schools for many paramedical careers . . . .

The teaching of the laws of healthful living is not to supersede the primary mission of the church which is the preaching of the gospel, the simple story of salvation. Rather, the teachings of the laws of health is to supplement this gospel story and to give clearer minds to understand God's will for mankind, and stronger bodies to do His bidding.

Our health-care institutions are to teach their guests these principles of healthful living. They are also to do more. They are to relate these laws to the laws of God and thus to eternal salvation . . . .

5. The advancement of reforms

The health ministry is to advance reform. Often reform is considered as a return to what we have known before. While this is sometimes true, it should be remembered that in the medical ministry of the church true reform always leads to advance. Advancing reform means a constant change for the better now and in the future.

Scientific investigations are constantly revealing new truths which when applied can result in better treatment of disease and a clearer understanding of the laws of health, thus to better prevent illness. As new truths are discovered, they are to be tested, verified

in the laboratory of experience, and advocated that humanity might benefit by their practice. They are effective only when applied first personally and always openmindedly . . .

6. Preparing a people

While giving attention to the five foregoing objectives the health ministry of the church should always remember the one ultimate objective is to prepare a people for the coming of the Lord.

Thus you can see one of the cardinal doctrines of the Seventh-day Adventist Church is the second coming of Christ. The church believes that Christ will return to this world soon, and that the church has been commissioned to bring this message to the world. The Adventist hospital is one of the evangelistic tools of the church to accomplish this purpose, along with radio and TV ministry, public revival meetings, the printed page, personal testimony, etc.

One of the common expressions of our time is: The way to a man's heart is through his stomach. The Seventh-Day Adventist Church is saying that the way to the spiritual heart of a man is through his need for health.

RELIGIOUS HOSPITAL AMENDMENT FOR S. 794

Since Seventh-Day Adventist hospitals seek to carry out the evangelistic mission of the church by adhering to church doctrines and teachings—including those relating to union membership and support—I come before this committee today to request that you amend S. 794 to guarantee the free exercise of religion as it is expressed by Seventh-Day Adventist hospitals.

The question may arise as to whether a hospital, as a corporate entity, is protected by the First Amendment to the United States Constitution. Earlier this year, however, this Congress passed S. 1136, today known as Public Law 93–45 or Amendments to Public Health Service Act, Section 401(b), which protects the religious convictions of individuals and church-oriented corporations that oppose abortion and sterilization procedures. Section 401(b) says:

(b) The receipt of any grant, contract loan, or loan guarantee under the Public Health Service Act, the Community Mental Health Centers Act, or the Developmental Disabilities Services and Facilities Construction Act by any individual or entity does not authorize any court or any public official or other public authority to require—

(1) such individual to perform or assist in the performance of any sterilization procedure or abortion if his performance or assistance in the performance of such procedure or abortion would be contrary to his religious beliefs or moral convictions; or

(2) such entity to—

(A) make its facilities available for the performance of any sterilization procedure or abortion if the performance of such procedure or abortion in such facilities is prohibited by the entity on the basis of religious beliefs or moral convictions, or (B) provide any personnel for the performance or assistance in the performance of any sterilization procedure or abortion if the performance or assistance in the performance of such procedure or abortion by such personnel would be contrary to the religious beliefs or moral convictions of such personnel.

The House of Representative committee report on the companion bill, H.R. 7806, very clearly explained the attempt of the House to protect individuals and institutions against violating either their individual conscience or the conscience of the church as represented by the hospital in performing either sterilization or abortion. It reads as follows:

In addition, section 401 of the bill provides that receipt of financial assistance under any of the aforementioned Acts does not constitute legal basis for a judicial or administrative order requiring an individual to aid in performing a sterilization or abortion, if such activity is contrary to the individual's religious or moral beliefs. Nor does receipt of financial assistance provide legal authority for a judicial or administrative order requiring the provision of personnel or facilities by any entity for the performance of sterilization or abortion, if such activity is contrary to the religious or moral beliefs of the personnel or prohibited by the entity for religious or moral reasons.

DEBATE IN CONGRESS

In the debates which followed on the floor of the Senate and House of Representatives, it was clear that both houses were attempting to protect the individual and the conscience of the church as expressed through its hospitals. Listen:

Senator Church: "I do not think the Congress intends that federal money should be used as a lever to force *religious hospitals* or Catholic doctors to perform operations that are contrary to their moral convictions or religious beliefs."—*Congressional Record*, March 27, 1973, p. 9600. (Italics added)

Senator Buckley: "In this amendment, we seek to protect the *right not only to institutions*, but of individual doctors and individual nurses throughout this country to live by their own consciences."—*Ibid.*, p. 9601. (Italics added)

Senator Kennedy: "The more difficult question is whether Congress can *exempt the institution itself*. The First Amendment to the Constitution, which includes both the establishment clause and the free exercise clause, also includes clauses protecting freedom of speech and freedom of press. . . . I believe that the court will sustain the judgment of Congress that, in order to give full protection to the religious freedom of physicians and others, it is necesary to extend the exemption in the pending amendment where they practice their profession and livelihood."—*Ibid.*, p. 9602. (Italics added)

Congresswoman Heckler of Massachusetts: "Title IV, section (b) recognizes that the *right of conscience exists for both individuals and institutions*. It provides that an individual, a hospital, or other medical entity, *may follow the dictates of its religious or moral conviction* in facing the question of performance of abortions or sterilizations, without jeopardizing its eligibility for federal assistance."—*Ibid.*, May 31, 1973, p. 17450. (Italics added)

Many others could be listed. Their comments quoted from the *Congressional Record* show how they stood to defend the right of individual conscience and the right of a church conscience as expressed through its hospitals. In the House, th vote was yeas—372, nays—1, not voting—59. In the Senate, yeas—72, nays—19, not voting—8.

If Congress sees wisdom in protecting individuals and church-oriented entities that object to performing abortion and sterilization procedures, logic seems to indicate that Congress would be willing to protect individuals and church-oriented entities that object to joining or supporting labor unions because of religious convictions.

RECOMMENDATION I

Thus I propose that Section 2(2) of the National Labor Relations Act be amended as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2(2) of the National Labor Relations Act is amended by striking out the phrase: "or any corporation or association operating a hospital" and substituting the phrase: "or any corporation or association operating a hospital if said corporation or association opposes unionization because of historically held religious teachings or tenets."

This amendment, we believe, preserves the original intent of S. 794. By striking out the phrase on lines 5 and 6, "or any corporation or association operating a hospital," all nonprofit hospitals originally exempted by the Taft-Hartley Act are drawn into the administration of the National Labor Relations Act.

By substituting the phrase on lines 7–11, "or any corporation or association operating a hospital if said corporation or association opposes unionization because of historically held religious teachings or tenets," the American tradition of the free exercise of religion is upheld.

The next phrase, "if no part of the net earnings inures to the benefit of any private shareholder or individual," would remain in the Act and guarantee that this exemption would apply only to non-profit hospitals.

RECOMMENDATION II

(Amendment to S. 794)

Page 1, after line 7, insert the following:

SEC. 2. That the National Labor Relations Act is amended by adding at the end thereof the following new section:

INDIVIDUALS WITH RELIGIOUS CONVICTIONS

SEC. 19. An individual employee of a nonprofit hospital who is a member of and adheres to tenets or teachings of a bona fide religion, body or sect which has historically held conscientious objections to joining or financially supporting labor organizations or other associations of employees shall not be required to join, pay dues, fees or other payments under any agreement involving union security, including, but not limited to, all union or agency shop agreements. In lieu of such dues, fees or fair-share payments required of such employee, the employee shall contribute a sum of money equal to such dues or fees to a non-religious, non-union charitable organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code. The employees shall furnish the labor organization written proof that this has been done. For purposes of this paragraph, the term "non-profit hospital" means a hospital of which no part of the net earnings inures to any private member, shareholder, or individual.

NEW ZEALAND AND AUSTRALIA PROTECT INDIVIDUALS

Other lawmakers confronted with this question of conscience have met and solved it without threatening the security of organized labor. New Zealand and Australia, two countries with strong labor unions, are cases in point. Both countries have arrived at the same two-part solution.

First, they require each individual with religious convictions against joining or supporting a labor unon to appear before a committee composed of a government representative, a labor union official, a clergyman and several businessmen. If this committee finds that the applicant has sincere religious convictions against joining or supporting labor organizations, an exception is recommended.

Second, this exception requires that the religious objector pay the equivalent of dues and initiation fees to the government. The religious objector must abide by the rules of the union contract. In this arrangement, he does not belong to nor does he support the labor union. Neither does he receive benefits, such as sickness or death benefits administered by the labor unions.

Because the governments of New Zealand and Australia have recognized religious convictions to be of peculiar delicacy, Seventh-day Adventists work side by side with labor union members.

STATES OF WASHINGTON AND OREGON PROTECT INDIVIDUALS

In the interest of protecting the people who cannot either join or support labor unions because of their religious convictions, the legislatures of both Oregon and Washington, with the cooperation of labor organizations, have set out to enact laws with a conscience clause. An example is the Washington act relating to labor relations in the

health-care industry, which became law May 23, 1972.

It is further determined that any agreements involving union security including an all-union agreement or agency agreement must safeguard the rights of non-association employees, based on bona fide religious tenets or teachings of a church or religious body of which such employee is a member. Such employee must pay an amount of money equivalent to regular union dues and initiation fees and assessments, if any, to a non-religious charity or to another charitable organization mutually agreed upon by the employee affected and the representative of the labor organization to which such employee would otherwise pay dues. The employee shall furnish written proof that this has been done. If the employee and the representaive of the labor organization do not reach agreement on the matter, the board shall designate such organization.

UNITED STATES POSTAL LAW PROTECTS INDIVIDUALS

When the Postal Reform Bills were reported out of the committee in the United States House of Representatives and the Senate in 1970, each bill carried an identical amendment protecting religious objectors, which was voted by both houses. (See Exhibit B)

LABOR LEADERS RECOMMEND ACCOMMODATION FOR INDIVIDUAL RELIGIOUS CONVICTIONS

Several years ago, I appeared before the House Special Subcommittee on Labor in the U.S. Congress during the 14(b) battle in behalf of the people who could not violate their religious convictions even though their jobs were at stake. As a result of my testimony, and that of other religious leaders, Mr. George Meany of the AFL–CIO sent the Chairman a letter and asked that it be included in the record. (See Exhibit C)

Assuring the House Labor Subcommittee that he and the international unions he represented understood the problem of the religious objector, Mr. Meany said:

"I am strongly of the view that unions and employers should undertake to accommodate religious objections with regard to union security arrangements."

After acknowledging that difficulties had been encountered, Mr. Meany continued:

"In any event, I believe that unions, and employers, too, should accommodate themselves to genuine individual religious scruples, and I am sure that all of our unions will take that view, too. I intend, accordingly, to propose to the AFL–CIO Executive Council that it adopt a strong policy statement to that effect; and that the international unions affiliated with the AFL–CIO undertake to insure that their local union scrupulously respect individual religious reservations in the administration of union security agreements."

Mr. Meany added:

"I do not believe that this matter is one which calls for or lends itself to legislation."

His statement of the problem is clear. Unions should "accommodate themselves to genuine individual religious scruples."

True to his word, Mr. Meany on September 20, 1965, did take the matter to his Executive Council, which informed the internationals that the "Executive Council declares it to be the policy of the AFL–CIO that unions should accommodate themselves to genuine individual religious scruples." (See Exhibit D)

The Council urged "all national and international unions affiliated with the AFL–CIO, that have not already done so, to:

1. Immediately adopt procedures for respecting sincere personal religious convictions as to union membership or activities; and

2. Undertake to insure that this policy is fully and sympathetically implemented by all local unions."

PROTECTION FOR INDIVIDUAL HOSPITAL WORKERS MUST BE ENACTED INTO LAW

All Christians who have religious convictions against joining or supporting labor unions appreciate the concern expressed by Mr. George Meany and the urging of the Executive Council for all national and international unions affiliated with the AFL–CIO to adopt procedures for respecting sincere personal religious convictions.

Had the various internationals and locals followed this counsel, we would not be here today. Unfortunately, it seems that Mr. Meany and his Executive Council have no power to do any more than recommend. The AFL–CIO is a loosely-knit association of international and local labor unions. Neither Mr. Meany's letter, his public statements, nor the Executive Council action could dictate the response of the individual unions. Few have adopted the Executive Council statement and made allowances for religious objectors. The experience of Seventh-day Adventists in attempting to make a living and not compromise their religious convictions by joining or supporting labor unions has proved this fact thousands of times since these promises were made to the government in 1965.

Some kind of exemption must be passed to protect these people with their religious convictions. Organized labor, through their representative, Mr. George Meany, has indicated that labor could live with an exemption for religious objectors (see Exhibit F) for it does not present a threat to union security agreements.

THE AMERICAN TRADITION

The Free Exercise of our First Amendment safeguards probably the most precious possession that many of the citizens of our country have. Our legislatures and courts have repeatedly recognized that conscientious convictions occupy a very special place—stands atop a pedestal apart—in the hall of our freedom.

In a number of areas where people's consciences are involved, legislatures have recognized the obligation of providing, by appropriate statutes, for the needs of those citizens whose beliefs and practices differ from those of the majority.

Some of those unique exceptions to meet unique circumstances are as follows:

Draft Laws: Provision for those young men whose consciences do not permit them to take other men's lives.

State Sunday Laws: Provision for individuals observing Saturday.

Social Security: Provision made to exempt Amish because their religious convictions prohibit any kind of life insurance.

School Attendance Laws: Provision made to exempt Amish because their religious convictions prevent them from sending their children to school beyond the eighth grade.

Pledge of Allegiance to Flag: Provision made to protect individuals and institutions who have religious convictions against these procedures.

The religious amendment follows in the glorious tradition of a nation that is big enough and free enough to allow minorities the right to practice their religion.

NOT A QUESTION OF EITHER/OR

The question before this committee is not whether we should weaken the labor unions or the hospitals. It's a matter of finding a method of preservation for both labor unions and people with sincere religious convictions and their hospitals. It can be done by using a simple principle used by the railroads.

Railroad lines between some cities consist of only one track. Yet, two trains may be highballing it toward each other on that single track. What prevents a head-on collision? Simple. At strategic locations, a small sidetrack is built so that one of the trains pulls off onto the sideline momentarily while the other flies by. Both trains then continue safely on their way.

The same technique can be utilized by attaching the religious amendment to this bill. Provide a sideline so church-oriented hospitals that have historically held religious scruples against unionization would be exempt from that process. They can simply switch onto the sidetrack when a head-on collision is near.

Seventh-day Adventists are not out to destroy labor unions. We do not organize campaigns against them. We recognize the right of an individual to join or support a labor union, if he can do so conscientiously. Likewise, we sincerely request that this committee recognize the right of a church to operate its hospitals according to its religious convictions.

Mr. ERVIN. Mr. President, it seems to me that these people should be considered. Whether their religious beliefs are acceptable in this respect to a majority of the American people, they are entitled under the first amendment to their religious beliefs. The Constitution claims that Congress shall make no law forbidding the exercise of religious freedom. The Adventist Church feels that if they are placed under regulations of the National Labor Relations Act, it will be, in effect, placing their affairs relating to God under regulation. It does seem to me that a Federal agency should be able to restrain its greed for power and jurisdiction to the extent of recognizing that people have the right, under the first amendment, to their religious beliefs and not have to require them either to violate their religious beliefs or to go out of the business of administering to those who are sick and injured.

The Adventist Church in my county has done great work in the relief of the ill and the injured. It does seem to me that Congress should not place them under the jurisdiction of a secular body like the National Labor Relations Board.

We should have some respect left in this country for religious freedom and the right of the people to participate in the healing of the sick and the injured without being forced either to sacrifice their religious beliefs or to stop administering to the ill and the injured.

I, therefore, hope that my amendment will be acceptable. It applies only to church-operated institutions.

Mr. CRANSTON. Mr. President, I am always reluctant to differ with the distinguished Senator from North Carolina (Mr. ERVIN), whom I respect and love so very much, but I must oppose this amendment which would deny employees of religiously affiliated hospitals the basic rights and privileges which S. 3203 seeks to grant their nonsectarian counterparts.

In the early days of this country, institutions dealing with the provision of social services were few and far between.

Because governments in general were loath to accept responsibility for such services, and were otherwise preoccupied during the Nation's formative years, the burden fell almost completely to the only institutions both willing and capable to respond—those affiliated with

organized religious groups. It was they who ministered to the sick, fed the hungry, and clothed and sheltered the poor. For so many years, no one else filled the breach of social responsibility. The various religious groups more often than not had to go it alone, so to speak—that is rely on their own resources, and the charitable instincts of the community, both in terms of personnel and funds.

It has only been in relatively recent times that the Government has acknowledged its own responsibility, and has been willing to commit significant resources in this area. No longer must religious organizations have to depend solely on their own resources to support their various social involvements.

Today, in the area of health, religiously affiliated hospitals are supported by a variety of Government subsidies and grants. In some instances, these institutions have had the entire cost of construction assumed by the Federal Government.

And so it seems to me that, as to Caesar and God and their observations, as so eloquently and forcefully stated by the distinguished Senator from North Carolina, they do not apply to this measure. This measure does not touch religious teaching or religious leaders. It does not touch religious interpretation. It does not touch philosophy in the realm of God. The hospitals which relate to religious orders in one way or another are conducted or owned or operated by them and are publicly regulated. They are touched by public policy, affected by public policy, and governed by public policy and law.

There is one institution near this Capitol which was built entirely with public funds and is simply operated by a religious order. At least one Seventh-Day Adventist hospital or nursing home has entered into a collective bargaining agreement with a union.

By and large, hospitals administered by religiously affiliated groups have already recognized this change. In many instances, except for architectural variations, religiously affiliated hospitals and nonreligiously affiliated hospitals are often indistinguishable. The objective of each is clearly the same—to achieve the highest standard of professional health care. Both must adhere to the same medical and health codes; both must follow local ordinances and laws to the same extent.

As for their respective employment relationships, each hospital must compete for the same labor market since religiously affiliated hospitals no longer depend on recruiting exclusively from members of their religious order or persuasion. Because of their markedly similar operating and administrative structure, both religious and nonreligiously affiliated hospitals draw upon the existing manpower pool to fill their ranks.

Likewise, people who work for a hospital, regardless of its affiliation, think of their jobs purely in nonsectarian occupational terms, not with respect to any particular religious ideology. Their concerns, their hopes, and their frustrations are no different than one would expect of other similarly situated employees. And because of this, these workers, who are often unable to press for economic advantage on their own, have sought to better themselves by organizing to bargain collectively—just as their peers in other sectors of the economy have done for many years, and just as their fellow hospital workers employed by nonsectarian employees will soon be able to do.

The fact is that many hospital administrators of religiously affiliated institutions throughout the country have recognized this desire of their employees, and have voluntarily agreed in one form or another to recognize the union as their bargaining representatives.

To exempt these institutions, who incidentally, as a group, have not asked for this type of special treatment, would result in a social and economic inequity of the highest magnitude.

I think it is important at this time to note that during the committee's deliberations, many letters were received from official representatives of a wide range of religious organizations in which the concept of collective bargaining for all hospital workers, including those employed by ones with religious affiliations, was either endorsed fully, or with the understanding that any bill granting such bargaining rights would include provisions for the maintenance of patient care. S. 3203 was, of course, specifically drafted with these considerations in mind.

Mr. President, I ask unanimous consent, that copies of some of these letters be printed in the RECORD.

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

THE UNITED METHODIST CHURCH,
Washington, D.C., October 11, 1973.

Hon. HARRISON A. WILLIAMS,
Chairman, Senate Subcommittee on Labor, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR WILLIAMS: I am writing in support of S. 794, a bill to amend the National Labor Relations Act to extend its coverage and protection to employees of nonprofit hospitals.

My reasons for supporting this bill grow out of my experience as an administrator in the church. The United Methodist Church operated 342 health and welfare agencies in 1972, serving 4,855,436 persons and with total budgets of over 792 million dollars. I have served as a trustee of two major hospitals in the past twelve years.

In recent years an unusual amount of strain and conflict has arisen in the labor market of nonprofit hospitals over the issue of union recognition. The terms of contract are not so difficult to bargain as is the prior question of who represents the workers. The result has been work stoppages in the flow of health services, the consequences of which can be severe for patients and for families. Public policy should regularize the process of determining worker representation in the health sector of the economy. Senate bill 794 accomplishes this, so it seems to me, without complicated amendments to the National Labor Relations Act. Once the question of recognition is determined, the terms of the contract can be achieved through the regular channels of collective bargaining.

A second reason for supporting this bill is that it fulfills a resolution passed by the General Conference of the United Methodist Church in 1972. The General Conference meets every four years and is the highest legislative body of the church and speaks authoritatively for the church to the church and society. Observing strain in particular labor markets, the General Conference said:

"Historically, the United Methodist Church has recognized and supported the right of workers to organize and bargain collectively over wages, hours, and conditions of labor. National policy since 1935 has codified procedures for the recognition of labor unions and for collective bargaining with the result of lessened conflict in the private industrial sector of the economy.

"However, several categories of employees were excluded from the coverage of the National Labor Relations Act including (1) federal employees or employees of any political subdivision such as state or school district, (2) employees of hospitals operated entirely on a nonprofit basis.

"Unfortunately, social strife in the occupational markets of nonprofit hospital workers and public employees has led to high social costs, including the tragedy of death. In view of this unresolved strain, the United Methodist Church requests the Congress to amend the National Labor Relations Act to include under its coverage (1) government employees, federal, state, and local, and (2) the employees of hospitals operated entirely on a nonprofit basis."

I wish to thank you for the opportunity of placing this letter in the record of the hearings on S. 794. Your Subcommittee on Labor is dealing with an issue that deeply affects the American public. I appreciate your interest and leadership in this matter.

Very sincerely yours,

JAMES K. MATHEWS.

NOVEMBER 2, 1973.

Hon. HARRISON A. WILLIAMS,
Senate Committee on Labor and Public Welfare, Senate Building, Washington, D.C.

DEAR SENATOR WILLIAMS: The Board of Global Ministries of The United Methodist Church at its annual meeting, October 23–27, 1973, in New Orleans, Louisiana, adopted the enclosed resolution on recommendation of its Health and Welfare Ministries Division. This Board represents the 80 acute care hospitals across the nation operated by The United Methodist Church.

We strongly oppose S. 794 which simply removes the not-for-profit hospital exemption from the National Labor Relations Act and support S. 2292 which includes special provisions applying to all health care institutions for dealing with collective bargaining impasses. We support the testimony of the American Hospital Association made before your committee on July 31, 1973.

May we encourage your support for this position to assure continuous and uninterrupted hospital care of patients?

Sincerely yours,

DONALD C. KRAUSHAAR,
Director, Department of Health Care Ministries.

FEBRUARY 26, 1973.

Senator HARRISON A. WILLIAMS,
New Senate Office Building, Washington, D.C.

DEAR SENATOR WILLIAMS: For just a few moments of your time, I would like your undivided attention. I would like you to consider very carefully something that is of great concern to me. We, the staff of St. Elizabeth's and myself, are very much concerned about the outcome of the bill that your committee is presently considering, House Bill 1236. And, while I fully realize that you've heard many reactions to this bill from other sources, I would like, on behalf of our hospital, a chance to add our thoughts, and our feelings to those already voiced.

Our stand on this issue is a very clear, and yet a very forceful, one. We are opposed to any legislation that would remove the exemp-

tion from the Taft-Hartley Act that not-for-profit hospitals enjoy presently, unless and until such a legislative proposal contain a provision for uninterrupted life serving services. We wish to insure that any such legislation, which contains provision dealing with strikes, picketing, impasse resolution, and bargaining unit fragmentation, *will* insure the continuity of life serving services to patients. Our opinion, as you have now seen it, is in conjunction with our local organization of hospitals, The Catholic Hospital Association, and the national organization, The American Hospital Association.

It is our intent that the rights of employees and the rights of management be recognized and respected, but we are deeply concerned that the rights of patients also be recognized and respected. You may already be familiar with the "Patient's Bill of Rights" that has been approved by the Board of Trustees of the American Hospital Association. This document has been developed precisely in view of recognizing and protecting the rights of the persons we serve. And we want to insure their well-being regardless of the circumstances that may prevail in the hospital in question.

Enclosed with my letter, please find a copy of the statement by the Catholic Hospital Association in 1967, and with which I concur and do heartily support today.

Thank you for your kind attention.

Sincerely,

Sister MARY THOMAS,
Administrator.

THE CATHOLIC HOSPITAL ASSOCIATION,
St. Louis, Mo., August 20, 1973.

Hon. HARRISON A. WILLIAMS,
Chairman, Senate Committee of Labor and Public Welfare, Old Senate Office Building, Washington, D.C.

DEAR SENATOR WILLIAMS: I am writing to you as President of The Catholic Hospital Association, an association of over 850 hospitals and related health facilities in the United States. These health facilities consist of approximately 160,000 beds, and employ over 360,000 people who assisted in providing over 45 million patient days of care last year.

The purpose of this letter is to express the official position of The Catholic Hospital Association's Board of Trustees on S. 2292, a bill introduced by Senator Robert Taft, Jr. The Catholic Hospital Association has, as a matter of official policy, continuously recognized the right of hospital employees to form or join a union or association for purposes of collective bargaining and that hospitals should recognize this right of employees. At the same time, *The Catholic Hospital Association has advocated the need for certain protections for hospitals and the public if the not-for-profit hospital exemption is removed from the National Labor Relations Act* (Taft-Hartley). The Catholic Hospital Association believes that S. 2292 reflects the required protections. We urge that you favorably consider S. 2292 as a substitute bill for S. 794.

The primary and specific protections in S. 2292 which we believe adequately respond to our previously stated concerns are:

1. Jurisdictional strife and the potential for work stoppages over bargaining will be reduced by limiting the number of bargaining units in a hospital to four.

2. To increase the responsiveness of bargaining, the parties will be required to utilize the Federal Mediation and Conciliation Service. At the request of either party, there is a requirement to submit their impasse issues to nonbinding, factfinding.

3. For public protection, all strikes are prohibited except a strike for a contract following the exhaustion of a lengthy bargaining procedure. The institution is to be given advance notice of any strike so as to prepare for patient transfers, etc.

4. Immediate relief is provided by way of court injunction in the event of an unlawful strike or lockout.

We ask that you make this letter, which reflects The Catholic Hospital Association's support for S. 2292, a part of your committee's hearing record.

We are sending a copy of this letter to each member of the Senate Committee of Labor and Public Welfare.

Sincerely,

Rev. Msgr. JAMES T. MCDONOUGH,
President.

Mr. CRANSTON. Mr. President, in addition, such an exemption for religiously affiliated hospitals would seriously erode the existing national policy which holds religiously affiliated institutions generally such as proprietary nursing homes, residential communities, and educational facilities to the same standards as their nonsectarian counterparts.

I would also like to raise one other area of concern. That is, simply what is the definition of a religiously affiliated institution. In today's contemporary society, the traditional definition of religion in many instances is not applicable. The hospital industry is in a state of flux vis-a-vis ownership. For many hospitals, the determination of whether or not it is religiously affiliated is indeed a difficult question.

In conclusion, one can truly say that this Nation owes religious groups throughout the country a debt of gratitude for these many years of selfless social service. But this debt cannot, and must not, include a subsidy from the workers themselves, which in effect is what this amendment would provide by denying them rights under the National Labor Relations Act.

I urge that the amendment be rejected.

Mr. JAVITS. Mr. President, I, too, would wish to—and also with great respect for the distinguished Senator from North Carolina (Mr. ERVIN) and with great respect for the institutions to which he has referred—be in opposition to the amendment.

Without repeating anything that Senator CRANSTON has just said as manager of the bill for the majority, I would simply state these points:

One, in practical terms, this would be a devastating blow because at least one-third of all nonprofit hospitals have some religious affiliations. So the impact of this amendment would be truly devastating.

Second, in my own State, which is perhaps a characteristic one, our hospital employees are subject to the State Labor Relations Act, whether or not the hospital is a religious affiliate. There has been no challenge to that. Their labor relations need stability and an orderly quality, just as that of any other hospital. No one in New York seems to have required or requested a special religious exemption from the law.

Third, in the Federal Establishment, these hospitals are subject to the Occupational Safety and Health Act, OSHA. They are subject to the minimum wage, workmen's compensation, unemployment compensation, and so forth.

Insofar as their relations with their employees are concerned, it certainly would not seem to me, especially in view of all these other precedents, that there would be any possible interference with first amendment rights if the employee relationship had this further element of regulation—to wit, the availability of the National Labor Relations Board and the law under which it operates to deal with labor-management relations in the field of hospitals which are nonprofit, though they happen to have religious affiliation.

For all those reasons, Mr. President, with great respect, I join in opposing the amendment.

Mr. WILLIAMS. Mr. President, I join my colleagues on the Committee on Labor and Public Welfare, the Senator from California and the Senator from New York, in opposition to the amendment offered by the Senator from North Carolina.

It should be pointed out that the hope and objective of this legislation is that in an area where there have been disruptions in vital services because of work stoppages related to disagreements between the workers and the management of hospitals, we want to bring a new order into the situation, which now, unfortunately, has a degree of chaos because there is no overriding orderly procedure under law. This measure would bring to hospitals the procedures that apply in other areas of our economy, and working people would have the opportunity to organize and to bargain out their objectives and differences, rather than being placed in a position, as at present, in which the only way they can be considered is to engage in work stoppages or strikes.

I ask unanimous consent to have printed in the RECORD at this point a list of the institutions that have religious affiliations, hospitals that have had work stoppages. These have occurred without the benefit of inclusion of these workers under the National Labor Relations Act.

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

SELECTED HOSPITAL STRIKE AND WORK STOPPAGES BY UNIONS CAUSED BY NON-RECOGNITION ISSUES, 1969–1973

State, year, hospitals, type of activity, duration, cause, and union:

ILLINOIS

1972. Christian Welfare Hospital, East St. Louis, strike and picketing, 10 weeks, Wages, Service Employees International Union.

INDIANA

1970, St. Margaret Hospital, Hammond, Strike and picketing after a union representative election date had been set, 2 weeks, Wages, Hospital Employees Labor Program.

MARYLAND

1972, Sinai Hospital of Baltimore, Inc., Baltimor , March on the dietary kitchen, 1 day, Grievance, Local 1199, Drug & Hosp. Union of the National Union of Hospital and Nursing Home Employees (now after referred to as Local 1199).

1972, Sinai Hospital of Baltimore, Inc., Baltimore, Sick-out dietary, 1 day, Grievance, Local 1199.

1972, Sinai Hospital of Baltimore, Inc., Baltimore, Walk-out, 1½ hours, Discharge of 3 employees, Local 1199.

MICHIGAN

1972, Mercy Memorial Hospital Corporation, Monroe, Strike and picketing, Started May 1, 1972, still going on, Contract negotiations and wages, Local 79, Service Employees International Union.

MINNESOTA

1973, St. Mary's Hospital, Rochester, Informational picketing, 4 weeks, Contract negotiations, wages and benefits, Hospital, Restaurant, & Tavern Employees, Local 21.

MISSOURI

1972, Menorah Medical Center, Kansas City, Strike and picketing, 1 day, Delay in contract negotiations, International Brotherhood of Firemen, Oilers & Maintenance Men.

NEW JERSEY

1971, St. Francis Community Hospital, Jersey City, Walk-out, 2 hours, Contract date, Local 1199.

NEW YORK

1973, Kingsbrook Jewish Medical Center, Brooklyn, Walk-out, 2 days, Grievance, Local 1199.

1971, Hebrew Hospital, Bronx, Sit-in, 8 hours, Wages, Hotel, Hospital, Nursing Home & Allied Employees Union, Local 144.

1971. Mary Immaculate Hospital, Jamaica, Walk-out, 1 day, Rescheduling of employees, Hotel, Hospital, Nursing Home & Allied Employees Union, Local 144.

Mr. WILLIAMS. I believe that most of the points I would make have been made with greater eloquence by the Senators from California and New York. I oppose the amendment.

Mr. ERVIN. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were not ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ERVIN. 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. ERVIN. Mr. President, I ask for the yeas and nays on this amendment.

The yeas and nays were ordered.

Mr. CRANSTON. Mr. President, I ask for the yeas and nays on final passage of the bill.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the adoption of the amendment of the Senator from North Carolina.

Mr. ERVIN. Mr. President, I should like to speak to the Senators who were not in the Chamber when I presented my argument.

This is an amendment to modify the amendment which brings nonprofit hospitals under the jurisdiction of the National Labor Relations Board so as to exempt the church-supported hospitals from the coverage by the National Labor Relations Board.

I think it is pretty inconsistent, regardless of technicalities, but it is very inconsistent for an agency of Caesar to be regulating the work that is done in the name of God. And that is true of the Adventist Church.

Mr. ROBERT C. BYRD. Mr. President, the word has gone out from both cloakrooms to Senators that there will be a rollcall vote on the passage of the Peace Corps bill at 1:30 p.m. today. Senators may have scheduled their appointments accordingly, and they may not be anticipating a rollcall vote prior to 1:30.

I ask unanimous consent that the vote on the amendment by Mr. ERVIN occur immediately, back to back, following the vote on final passage of the Peace Corps bill.

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

Mr. HARRY F. BYRD, Jr. Mr. President, I ask unanimous consent that during the consideration of the pending bill, George Shanks, a member of my staff, be permitted the privilege of the floor.

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

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from Indiana (Mr. HARTKE) may be recognized now for not to exceed the remaining time prior to 1:30 p.m.

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

VETERANS DISABILITY COMPENSATION AND SURVIVOR BENEFITS ACT OF 1974

Mr. ROBERT C. Byrd. Mr. President, at the request of the distinguished Senator from Indiana (Mr. HARTKE), and the matter having been cleared on both sides of the aisle, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 766, and that there be a time limitation thereon of not to exceed 6 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Mr. President, reserving the right to object, which bill is before the Senate?

Mr. HARTKE. S. 3072.

Mr. ALLEN. I may wish to amend the bill.

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

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

Mr. ROBERT C. BYRD. Mr. President, I renew my request.

Mr. ALLEN. Mr. President, reserving the right to object, I would like the request to include the right of the Senator from Alabama to offer an amendment, whether germane or not.

Mr. ROBERT C. BYRD. With the time limitation remaining as I stated.

The PRESIDING OFFICER. Without objection, it is so ordered; with a 6-minute limitation.

The bill will be stated by title.

The bill was stated by title as follows:

A bill (S. 3072) to amend title 38, United States Code, to liberalize the provisions relating to payment of dependency and indemnity compensation, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Veterans' Affairs with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Veterans Disability Compensation and Survivor Benefits Act of 1974."

TITLE I—VETERANS DISABILITY COMPENSATION

SEC. 101. (a) Section 314 of title 38, United States Code, is amended—

(1) by striking out "$28" in subsection (a) and inserting in lieu thereof "$32";

(2) by striking out "$51" in subsection (b) and inserting in lieu thereof "$59";

(3) by striking out "$77" in subsection (c) and inserting in lieu thereof "$89";

(4) by striking out "$106" in subsection (d) and inserting in lieu thereof "$122";

(5) by striking out "$149" in subsection (e) and inserting in lieu thereof "$171";

(6) by striking out "$179" in subsection (f) and inserting in lieu thereof "$211";

(7) by striking out "$212" in subsection (g) and inserting in lieu thereof "$250";

(8) by striking out "$245" in subsection (h) and inserting in lieu thereof "$289";

(9) by striking out "$275" in subsection (i) and inserting in lieu thereof "$325";

(10) by striking out "$495" in subsection (j) and inserting in lieu thereof "$584";

(11) by striking out "$47" and "$616" and "$862" in subsection (k) and inserting in lieu thereof "$52" and "$727" and $1,017", respectively;

(12) by striking out "$616" in subsection (l) and inserting in lieu thereof "$727";

(13) by striking out "$678" in subsection (m) and inserting in lieu thereof "$800";

(14) by striking out "$770" in subsection (n) and inserting in lieu thereof "$909";

(15) by striking out "$862" in subsections (o) and (p) and inserting in lieu thereof "$1,017";

(16) by striking out "$370" in subsection (r) and inserting in lieu thereof "$437"; and

(17) by striking out "$554" in subsection (s) and inserting in lieu thereof "$654".

(b) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 102. Section 315(1) of title 38, United States Code, is amended—

(1) by striking out "$31" in subparagraph (A) and inserting in lieu thereof "$36";

(2) by striking out "$53" in subparagraph (B) and inserting in lieu thereof "$61";

(3) by striking out "$67" in subparagraph (C) and inserting in lieu thereof "$77";

(4) by striking out "$83" and "$15" in subparagraph (D) and inserting in lieu thereof "$95" and "$17", respectively;

(5) by striking out "$21" in subparagraph (E) and inserting in lieu thereof "$24";

(6) by striking out "$36" in subparagraph (F) and inserting in lieu thereof "$41";

(7) by striking out "$53" and "$15" in subparagraph (G) and inserting in lieu thereof "$61" and "$17", respectively;

(8) by striking out "$25" in subparagraph (H) and inserting in lieu thereof "$29"; and

(9) by striking out "$48" in subparagraph (I) and inserting in lieu thereof "$55".

TITLE II—SURVIVORS DEPENDENCY AND INDEMNITY COMPENSATION

SEC. 201. Section 411 of title 38, United States Code, is amended to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a widow, based on the pay grade of her deceased husband, at monthly rates set forth in the following table:

"Pay grade	Monthly rate
E–1	$215
E–2	221
E–3	228
E–4	241
E–5	248
E–6	254
E–7	266
E–8	281
E–9	[1] 294
W–1	271
W–2	282
W–3	291
W–4	307
O–1	271
O–2	281
O–3	301
O–4	318
O–5	350
O–6	394
O–7	427
O–8	467
O–9	502
O–10	[2] 549

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by sec. 402 of this title, the widow's rate shall be $316.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by sec. 402 of this title, the widow's rate shall be $589.

"(b) If there is a widow with one or more children below the age of eighteen of a deceased veteran, the dependency and indemnity compensation paid monthly to the widow shall be increased by $26 for each such child.

"(c) The monthly rate of dependency and indemnity compensation payable to the widow shall be increased by $64 if she is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.".

SEC. 202. Section 413 of title 38, United States Code, is amended to read as follows:

"Whenever there is no widow of a deceased veteran entitled to dependency and indemnity compensation, dependency and indemnity compensation shall be paid in equal shares to the children of the deceased veteran at the following monthly rates:

"(1) One child, $108.

"(2) Two children, $156.

"(3) Three children, $201.

"(4) More than three children, $201, plus $40 for each child in excess of three.".

SEC. 203. (a) Subsection (a) of section 414 of title 38, United States Code, is amended by striking out "$55" and inserting in lieu thereof "$64".

(b) Subsection (b) of section 414 of such title is amended by striking out "$92" and inserting in lieu thereof "$108".

(c) Subsection (c) of section 414 of such title is amended by striking out "$47" and inserting in lieu thereof "$55".

SEC. 204. Section 322(b) of title 38, United States Code, is amended to read as follows:

"(b) The monthly rate of death compensation payable to a widow or dependent parent under subsection (a) of this section shall be increased by $64 if the payee is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.".

SEC. 205. (a) Section 342 of title 38, United States Code, is amended by striking out "equal" and all that follows down through the end thereof and inserting in lieu thereof "those specified in section 322 of this title".

(b) Section 343 of such title is hereby repealed.

(c) The table of sections at the beginning of subchapter V of chapter 11 of title 38, United States Code, is amended by striking out the following:

"343. Conditions under which wartime rates are payable.".

SEC. 206. (a) The Administrator of Veterans' Affairs shall make a detailed study of claims for dependency and indemnity compensation relating to veterans, as defined in section 101(2), title 38, United States Code, who at time of death within six months prior to the date of enactment of this Act were receiving disability compensation from the Veterans' Administration based upon a rating total and permanent in nature.

(b) The report of such study shall include (1) the number of the described cases, (2) the number of cases in which the specified benefit was denied, (3) an analysis of the reasons for each such denial, (4) the analysis of any difficulty which may have been encountered by the claimant in attempting to establish that the death of the veteran concerned was connected with his or her military, naval, or air service in the Armed Forces of the United States, and (5) data regarding the current financial status of the widow, widower, children, and parents in each case of denial.

(c) The report together with such comments and recommendations as the Administrator deems appropriate shall be submitted to the Speaker of the House and the President of the Senate not more than thirty days after the beginning of the Ninety-fourth Congress.

TITLE III—PAYMENT OF BENEFITS TO PERSONS UNDER LEGAL DISABILITY

SEC. 301. (a) Subsection (a) of section 3202 of title 38, United States Code, is amended to read as follows:

"(a) Where it appears to the Administrator that the interest of the beneficiary would be served thereby, payment of benefits under any law administered by the Veterans' Administration may be made directly to the beneficiary or to a relative or some other person for the use and benefit of the beneficiary, regardless of any legal disability on the part of the beneficiary. Where, in the opinion of the Administrator, any fiduciary receiving funds on behalf of a Veterans' Administration beneficiary is acting in such a number of cases as to make it impractical to conserve properly the estates or to supervise the persons of the beneficiaries, the Administrator may refuse to make future payments in such cases as he may deem proper."

(b) Subsection (c) of section 3202 of title 38, United States Code, is amended by deleting the phrase "guardian, curator, conservator, or other person legally vested with the care of the claimant or his estate", following the word "any" and inserting "fiduciary or other person for the purpose of payment of benefits payable under laws administered by the Veterans' Administration" and by deleting the word "estates" and inserting the word "benefits".

(c) Subsection (e) of section 3202 of title 38, United States Code, is amended by deleting the phrase "guardian, curator, conservator, or person legally vested with the care of the beneficiary or his estate," following the words "hands of a", and inserting in lieu thereof the words "fiduciary appointed by a State court or the Veterans' Administration" and by deleting the phrase "guardian, curator, conservator, or person legally vested with the care of the beneficiary or his estate", following the word "such", and inserting in lieu thereof the word "fiduciary".

(d) Subsections (f) and (g) of section 3202 of title 38, United States Code, are hereby repealed.

SEC. 302. Subsection (a)(4) of section 1701 of title 38, United States Code, is amended to read as follows:

"(4) The term 'guardian' includes a fiduciary legally appointed by a court of competent jurisdiction, or any other person who has been appointed by the Administrator under section 3202 of this title to receive payment of benefits for the use and benefit of the eligible person.".

TITLE IV—EFFECTIVE DATES

SEC. 401. The provisions of this Act shall become effective on May 1, 1974, except that title III shall become effective on the first day of the second calendar month following enactment.

Mr. HARTKE. Mr. President, as chairman of the Committee on Veterans' Affairs, it is my privilege and pleasure to urge the Senate to approve my bill S. 3072, the Veterans Disability Compensation and Survivor Benefits Act of 1974. This measure which is cosponsored by every member of the committee combines the provisions of S. 3067, the Veterans Disability Compensation Act of 1974, introduced by the distinguished and hard-working chairman of the Subcommittee on Compensation and Pensions (Mr. TALMADGE) and my bill, S. 3072, the Survivors Dependency and Indemnity Compensation Act of 1974.

Briefly, S. 3072, as reported, has six major purposes. First, it would provide for cost-of-living increases in the rates of disability compensation for the 2.2 million service-connected disabled veterans. Increases of 15 percent are authorized for those veterans with disabilities rated from 10 to 50 percent; 18 percent increases are authorized for those veterans with disabilities rated 60 to 100 percent and similar increases are also provided for statutory awards for rates payable for severe anatomical losses.

Second, increases of 15 percent are provided in the rates of additional compensation payable for over 350,000 veterans with disabilities rated 50 percent or more who receive these additional allowances for their dependents.

Third, the rates of dependency and indemnity compensation (DIC) for 375,000 widows and children are increased by 17 percent. The additional allowances payable to those in receipt of DIC and death compensation who are in need of aid and attendance are also increased 17 percent.

Fourth, the bill provides for the equalization of the rates of death compensation to the survivors of peacetime and wartime service where death occurred before January 1, 1957, thereby eliminating the distinction between the two periods of service.

Fifth, S. 3072 authorizes a study to be conducted by the Veterans' Administration to be submitted to the Congress at the beginning of the 94th Congress of applications for dependency and indemnity compensation (DIC) by widows of veterans who had a disability rated total and permanent at the time of death.

Finally, the bill would authorize the Administrator of Veterans' Affairs to

make monetary benefit payments to the beneficiary upon the determination that the interest of the beneficiary would be served hereby, notwithstanding that a fiduciary has been appointed and regardless of any legal disability on the part of the beneficiary.

Mr. President, as is the case with all the legislation reported from the Veterans' Affairs Committee, the Veterans Disability Compensation and Survivor Benefits Act of 1974 is the result of cooperative Benefits Act of 1974 and the result of cooperative efforts on the part of the entire committee. I am paricularly indebted to Senator HERMAN E. TALMADGE, chairman of the Subcommittee on Compensation and Pensions and Senator CLIFFORD P. HANSEN, ranking minority member on both the subcommittee and the full committee, who conducted hearings reviewing the disability compensation and dependency and indemnity and death compensation programs. I would also like to thank them for their unflagging support in the development of this legislation.

The subcommittee received testimony from Administration spokesmen including that of Odell Vaughn, Chief Benefits Director, Veterans' Administration. Testimony was also received from the Disabled American Veterans, American Legion, Veterans of Foreign Wars, Paralyzed Veterans of America, Blinded Veterans Association, the American Veterans of World War II, Korea, and Vietnam Officer's Association, the Fleet Reserve Association, National Association for Uniformed Services, and the Retired Officers Association. Submitted testimony was received from the Veterans of World War I, Inc., the Gold Star Wives of America, Inc., the Military Widows, and the Noncommissioned Officers Association of the United States.

Mr. President, there can be no disagreement with the necessity of these cost-of-living increases for our disabled veterans and their survivors. As my colleagues are aware the spiraling cost of living affects those on fixed incomes with much greater severity than the rest of the population. We must assure ourselves and the Nation that these veterans who were injured in the service of their country and the survivors of those who gave their lives are protected and supported in this time of economic upheaval.

Mr. President, I ask unanimous consent that appropriated excerpts from the committee report to S. 3072 which provides further detailed explanation of the committee's action be included in the RECORD at this point.

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

BACKGROUND AND DISCUSSION

INCREASES IN DISABILITY COMPENSATION

The Veterans' Administration disability compensation program provides income for 2,206,496 veterans who have service-connected disabilities. Of this number, about 333,000 are disabled Vietnam era veterans. Compensation is paid in accord with the degree of disability. Section 355 of title 38, United States Code, provides that the ratings of disability which range from 10 to 100 percent (with additional allowances for statutory awards) for certain disabilities shall be based "as far as practical on the average impairment of earning capacity resulting from such injury for civilian occupation." Of course, other less tangible factors have also traditionally been considered by Congress in establishing compensation rates for those who sustained disabilities in the service in defense of their country.

In the light of the foregoing, the Committee periodically reviews the service-connected disability compensation program to ensure that the benefits will provide reasonable compensation for loss of earning power. Following hearings, the Committee is of the conviction that a minimum of 15-percent cost-of-living increase is warranted and necessary to protect disabled veterans from a continuing loss of purchasing power due to the rapid inflation that this country is experiencing. Disability compensation rates were last adjusted by Public Law 92-328, effective August 1, 1972. Since that time the cost of living as measured by the Consumer Price Index has risen 13.9 percent through March 30, 1974. Pertinent data on increases in the cost of living as shown by the Consumer Price Index are reflected in Table 1 as follows:

TABLE 1.—U.S. DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS—CONSUMER PRICE INDEX

[1967=100]

	1972	1973	1974
January	123.2	127.7	139.7
February	123.8	128.6	141.5
March	124.0	129.8	143.1
April	124.3	130.7	.....
May	124.7	131.5	.....
June	125.0	132.4	.....
July	125.5	132.7	.....
August	125.7	135.1	.....
September	126.2	135.5	.....
October	126.6	136.6	.....
November	126.9	137.6	.....
December	127.3	138.5	.....

Currently, the rate of inflation is increasing at an annual rate of 13.2 percent. The Committee also believes that for those veterans who are disabled 50 percent or more in degree, and those with severe anatomical losses are in greater need of increased compensation and that the majority of those veterans having lesser disability ratings are more able to supplement their compensation with earnings. Accordingly, a 15-percent cost-of-living increase is provided for veterans rated 50 percent or under. Compensation increases of 18 percent are uthorized for veterans with disabilities rated 60 percent to 100 percent. Compensation payments for anatomical losses rated in paragraphs (L) through (S), section 314 of title 38, United States Code, are also increased by 18 percent. The following table shows the current rates for disability compensation and those proposed in S. 3072, as reported, and the number of veterans placed in each rating.

TABLE 2.—COMPARISON OF COMPENSATION RATES UNDER PRESENT LAW AND UNDER S. 3072

Disability	Present law	S. 3072	Number of veterans
(a) Rated at 10 percent	$23	$32	866,465
(b) Rated at 20 percent	51	59	342,407
(c) Rated at 30 percent	77	89	313,746
(d) Rated at 40 percent	106	122	179,002
(e) Rated at 50 percent	149	171	112,682
(f) Rated at 60 percent	179	211	114,224
(g) Rated at 70 percent	212	250	73,790
(h) Rated at 80 percent	245	289	37,073
(i) Rated at 90 percent	275	325	12,892
(j) Rated at total	495	584	125,231
Limit for veterans receiving payments under (a) to (j) above			
(l) Anatomical loss or loss of use of both hands, both feet, 1 foot and 1 hand, blindness in both eyes (5/200 visual acuity or less), permanently bedridden or so helpless as to require regular aid and attendance	616	727	6,382
(m) Anatomical loss of use of 2 extremities so as to prevent natural elbow or knee action with prosthesis in place, blind in both eyes, rendering veteran so helpless as to require regular aid and attendance	678	800	2,845
(n) Anatomical loss of 2 extremities so near shoulder or hip as to prevent use of prosthesis, anatomical loss of both eyes	770	909	366
Limit for veterans receiving payments under (l) to (n) above			
(o) Disability under conditions entitling veteran to 2 or more of the rates provided in (l) through (n), no condition being considered twice in the determination or total deafness in combination with total blindness (5/200 visual acuity or less)	$862	$1,017	24
(p) If disabilities exceed requirements of any rates prescribed, Administrator of VA may allow next higher rate or an intermediate rate, but in no case may compensation exceed	862	1,017	6,354
(r) If veteran entitled to compensation under (o) or to the maximum rate under (p), and is in need of regular aid and attendance, he shall receive a special allowance of the amount indicated at right for aid and attendance in addition to whatever he is receiving under (o) or (p).	370	437	8,283
(s) Disability rated as total, plus additional disability independently ratable at 60 percent or over, or permanently housebound	554	654	7,114
Total number of cases affected			2,206,496

INCREASES IN AWARDS UNDER SECTION 314(K)

S. 3072, as reported, also provides for payment of compensation for certain specific conditions independent of any other compensation provided by not to exceed certain stated amounts.

The Veterans' Administration Regulation 1(a), part I, paragraph II(K) created by Public Law 73-2 was the forerunner of what is now 38 U.S.C. 314(K). It authorized an additional allowance of $25 monthly to persons receiving compensation and who suffered anatomical loss or loss of use of only one foot, or one hand, or one eye. The rate was increased to $35 by Public Law 79-182 effective October 1945 and to $42 by Public Law 79-662 effective September 1946. It was last increased to $47 by Public Law 82-427 in August 1952.

The "K" award while a minor portion of the total award of compensation is none the less a compensatory award for anatomical loss. Thus in light of the extraordinary inflation disabled veterans are experiencing, the Committee is of the opinion that a 10-percent increase in the "K" awards is warranted. This increase will affect 85,645 veterans presently receiving "K" awards at a full first year cost of $3.1 million.

INCREASES IN MONTHLY DEPENDENTS ALLOWANCES

Under present law additional allowances are provided for dependents of veterans who are rated 50 percent or more disabled. S. 3072, as reported, provides a 15-percent increase in dependency allowances to 358,100 veterans currently in receipt of these benefits. The additional compensation rates payable for dependents under present law and the Committee bill are shown in the following table:

TABLE 3.—MONTHLY DEPENDENTS' ALLOWANCES (FOR DEPENDENTS OF VETERANS RATED 50- TO 100-PERCENT DISABLED)

	Present law	S. 3072
Wife, no children	$31	$36
Wife and 1 child	53	61
Wife and 2 children	67	77
Wife and 3 children	83	95
Each additional child	15	17
No wife, 1 child	21	24
No wife, 2 children	36	41
No wife, 3 children	53	61
Each additional child	15	17
Mother or father, each	25	29

SCHEDULE OF RATING DISABILITIES

In a letter to Chairman Hartke, on March 4th, the President indicated an intention to make:

"Structural changes in veterans compensation which will bring the disability ratings of under-rated veterans up to a level corresponding to what survey data showed to be their actual degree of impairment."

In view of previously contemplated revisions in the disability rating schedule announced in February 1973, the Committee was concerned about the exact nature of these "structural changes" and at the Compensation and Pensions Subcommittee hearings on March 13, 1974, questioned Odell Vaughn, Chief Benefits Director of the Veterans' Administration as follows:

Senator TALMADGE: The President has indicated that he wishes to make certain structural changes in the disability rating schedule in order to increase ratings for veterans who are under-compensated. Upon what are these revisions going to be based and when will the Committee receive the proposed changes?

Mr. VAUGHN: The changes will be only on disabilities that we feel require recognition for increase and not otherwise and it will be based on studies that we have been conducting and are still conducting.

I think we have to give you that information at a later date.

Senator TALMADGE. How do you determine it?

Mr. VAUGHN. How do we determine—Mr. Taaffe?

Mr. TAAFFE. Certainly, we would have to proceed, Mr. Chairman, from the base of what we have in the way of a survey and then take what has developed in medicine since that time and examine what are the needs. What are the current problems with respect to hypertension, possibly, black lung disease, sickle cell anemia, implants such as kidney implants, heart valve implants and this kind of thing.

It may be possible——

Senator TALMADGE. What is the current status of the proposed revision in the disability rating schedule which was submitted last year and then withdrawn for further intensive study?

Mr. VAUGHN. It is no longer under study, sir.

Senator TALMADGE. In addition, to proposed decreases in disability rating schedules, which was submitted and then withdrawn last year, also it contained a number of increases.

Are all of those proposed increases included in the structural revisions which are going to be proposed?

Mr. VAUGHN. They are under consideration and as much as possible, they will be.

The Committee, which expects to receive the proposed revisions prior to any implementation, urges the Veterans' Administration to act promptly with respect to increasing compensation for those veterans whose disabilities are currently under-rated.

INCREASES IN SURVIVORS DEPENDENCY AND INDEMNITY COMPENSATION

The Dependency and Indemnity Compensation (DIC) program was created in 1965 with the passage of the Servicemen and Veterans Survivors Benefits Act (Public Law 84–881).

DIC payments are authorized for widows, unmarried children under 18 (as well as certain helpless children and those between 18 and 23 if attending a VA-approved school), and certain parents of servicemen or veterans who die on or after January 1, 1957, from: (a) a disease or injury incurred or aggravated in line of duty while on active duty or active duty for training; or (b) an injury incurred or aggravated in line of duty while on inactive duty training; or (c) a disability otherwise compensable under laws administered by VA.

Widows, children, and parents who are on the rolls, or found to be eligible, for death compensation by reason of a death occurring before January 1, 1957 may elect to receive DIC payments in lieu of death compensation. They cannot thereafter choose to receive death compensation.

Prior to enactment of the DIC program the survivors of military personnel whose deaths were due to service-connected causes might have been eligible for as many as five differing survivor benefits.

In 1969, Public Law 92–96 was enacted which replaced the original DIC formula with a table of rates related to the pay grade of the uniformed services at specific dollar rates. An effort was made at that time to increase all widows payments to an extent equal to the cost of living since the 1965 Act. A further adjustment in Public Law 92–197 provided a 10-percent increase in benefits.

The current DIC program provides benefits to more than 375,000 beneficiaries. The following table shows the current and expected caseload for DIC by fiscal years:

TABLE 4.—AVERAGE NUMBER OF SURVIVOR COMPENSATION CASES

	1973 actual	1974 estimate	1975 estimate	Increase (+) or decrease (−)
Indian Wars	1	1	1	
Civil War	14	11	9	−2
Spanish American War	312	280	260	−20
Mexican border period	2	2	2	
World War I	36,825	36,700	36,600	−100
World War II	202,817	199,500	196,500	−3,000
Korean conflict	39,484	39,600	39,700	+100
Vietnam era	45,959	49,000	51,800	+2,800
Peacetime service	49,161	49,500	49,800	+300
Total	374,575	374,594	374,672	+78

Title II of S. 3072, as reported, provides a standard cost-of-living increase in dependency and indemnity compensation rates of 17 percent for widows and children. The Committee believes these increases are justified by the fact that since DIC rates were last adjusted January 1, 1972, the Consumer Price Index has increased 16 percent by March 30, 1974 as reflected in Table 1 cited earlier in this report. Additional allowances for widows in need of aid and attendance, helpless children, children between the ages of 18 and 23 attending schools, and widows and dependent parents in receipt of death compensation in need of aid and attendance are also increased by 17 percent. Proposed and existing rates are shown in the following table:

TABLE 5.—COMPARISON OF DIC RATES UNDER PRESENT LAW AND S. 3072

Pay grade	Present law	S. 3072	Pay grade	Present law	S. 3072
E–1	$184	$215	W–4	$262	$307
E–2	189	221	O–1	232	271
E–3	195	228	O–2	240	281
E–4	206	241	O–3	257	301
E–5	212	248	O–4	272	318
E–6	217	254	O–5	299	350
E–7	227	266	O–6	337	394
E–8	240	281	O–7	365	427
E–9	251	294	O–8	399	467
W–1	232	271	O–9	429	502
W–2	241	281	O–10	469	549
W–3	249	291			

EQUALIZATION OF PEACETIME AND WARTIME RATES OF DEATH COMPENSATION

The Death Compensation program provides benefits for the survivors of servicemen and veterans who died of service-connected causes before January 1, 1957. Currently, there are 116,791 survivors receiving benefits under death compensation. Of that number 4,453 are classified as "peacetime" survivors under this program by virtue of the deceased veteran's period of service. Current law provides that "peacetime survivors are entitled to death compensation at the rate of 80 percent of that received by survivors of veterans who served during a 'wartime' " period.

S. 3072, as reported, would equalize the rates of compensation paid to survivors of veterans who died of service-connected conditions irrespective of calendar period of service.

This action is consistent with past Congressional action on other Veterans' Administration programs which have abandoned a wartime/peacetime distinction. Following extensive study, Congress adopted a new program of Dependency and Indemnity Compensation in the Servicemen's and Veterans' Service Benefits Act of 1956 (P.L. 92–328) in which no distinction is made between wartime and peacetime service for the payment of compensation for service-connected deaths. In Public Law 91–101, Congress also voted to expand medical benefits to make any veteran—wartime or peacetime—over 65 eligible for Veterans' Administration hospital care and related outpatient care for non-service-connected disabilities without having to show financial inability. Finally, in the 92d Congress, peacetime/wartime rates of compensation for service-connected disabled veterans were equalized by Public Law 92–328. As noted there has never been a distinction in the DIC program of survivor benefits and the Committee thus believes that to continue such an arbitrary restriction for death compensation would be inequitable.

STUDY OF AUTOMATIC ENTITLEMENT TO DIC FOR CERTAIN WIDOWS

The Committee received numerous requests from veterans' organizations to con-

sider the creation of automatic presumption of service-connected death in the case of veterans who are totally and permanently service-connected disabled so that a widow of such a veteran would be automatically entitled to receive Dependency and Indemnity Compensation (DIC). Appearing before the Subcommittee on Compensation and Pension, representatives of the Disabled American Veterans testified:

". . . We think it reasonable to say that a veteran who has suffered the distress and debilitating effects of a service-related total disability . . . should have statutory assurance that upon his death his widow will be provided for by payment of Dependency and Indemnity Compensation. In an overwhelming majority of these cases, the totally disabled veteran is unable to pursue a gainful occupation. He very definitely had no opportunity to make adequate provisions for his survivors."

The American Legion testified:

"While there is provision in Veterans' Administration regulations for a finding of service-connected death in individual cases on the basis that the service-connected death contributed to death from another cause, some deserving cases continue to be denied. Specifically, the regulation states that it must be shown that it contributed substantially or materially; that it combined to cause death; that it aided or lent assistance to the production of death. It is not sufficient that it causally shared in producing death, but rather that there was a causal connection. A statutory provision, such as we suggest, would automatically resolve all doubt in favor of service connection for cause of death where death was not due to an accident."

The Blinded Veterans Association evidenced strong concern for such automatic presumption and testified that:

"At the present time, when a permanently and totally disabled veteran in receipt of disability compensation dies from causes not clearly service-connected, his survivors are not eligible for DIC. The veteran's survivors are left to whatever they may be entitled under the pension system . . . It works a very unusual hardship on the wife who has been with him (the disabled veteran) all the years depriving her of an opportunity to get any gainful employment to supplement the income and to have something happen where she has to go on welfare after his demise, is not treating her the right way at all."

The Veterans' Administration, however, takes an opposing view. Odell Vaughn, Chief Benefits Director of the VA testified that automatic presumption of service connection would:

". . . thus place the survivors of certain veterans who die of non-service-connected cause on a parity with survivors of veterans who die of an actually service-connected cause. The Veterans' Administration finds no justification for presuming a death to be service connected when the evidence does not support such a finding."

In light of the conflicting viewpoints and the lack of available data at this time the Committee has directed the Veterans' Administration to conduct a study, to be submitted to the Congress not later than 30 days after the beginning of the 94th Congress of applications for Dependency and Indemnity Compensation (DIC) by widows of veterans who at the time of their death had a service-connected disability rated total and permanent in nature. The particular emphasis of the study is to be the disposition of these cases, the difficulty in proving service-connected death, and the financial situation of those widows and families denied DIC. It is the understanding of the Committee that part of this investigation has already begun in response to previous Committee inquiries.

CONSIDERATION OF AUTOMATIC INCREASES IN COMPENSATION AND DIC BENEFITS

The Committee also received recommendations to put an automatic escalator provision for Compensation and Dependency and Indemnity Compensation (DIC) programs. Under these proposals the rates for Compensation and DIC would be automatically adjusted once a year to reflect changes in the Consumer Price Index. After consideration, the Committee does not believe that adoption of an automatic yearly adjustment provision is warranted at this time. First, the necessary periodic review of the adequacy of Compensation and DIC by Congress serves as an appropriate occasion for oversight of the entire program which often provides other needed adjustments which might otherwise be overlooked. In the 92nd Congress, for example, hearings in the compensation programs resulted in the creation of an additional clothing allowance for disabled veterans whose prosthetic device tends to tear or wear out their clothing and in the equalization of wartime/peacetime compensation rates.

Second, the Committee believes it unwise to tie these important programs to the one index to the exclusion of all others. For example, "Average Monthly Earnings" is another factor that the Committee often considers when adjusting rates. On occasion Congress has also seen fit to provide selective variable increases for the more seriously disabled rather than a standard across-the-board increase which would be the result from any automatic adjustment provision.

Third, the Committee is conscious of the opposition to an automatic cost-of-living provision expressed by several veterans' organizations. In testimony received by the Subcommittee on Compensation and Pensions, representatives of the Disabled American Veterans testified:

". . . we must, with due respect take exception to the President's proposal to establish a future system of automatic cost-of-living increases in compensation payments, as measured by Consumer Price Index. The DAV National Convention has refused to adopt any fixed policy that would tie disability compensation increases to the Consumer Price Index . . . Accordingly, we feel strongly that the subject of compensation adjustments should remain under control of this Committee."

The Veterans of Foreign Wars also testified that they disagreed:

" . . . with the President's recommended automatic adjustment in benefits, as measured by the Consumer Price Index. The record shows that since 1933 the cost of living, according to the Consumer Price Index has increased by approximately 123 percent. During that same period, however, increases in disability compensation rates have far outstripped the Consumer Price Index increases. For example, the increases for the 100-percent service-connected disabled have been increased by approximately 450 percent since 1933 . . .

"The Veterans of Foreign Wars wants the Congress to keep control of the Compensation and DIC programs, so that the sacrifice made by these veterans wounded and killed on the battlefield will never be forgotten."

Fourth, the Committee believes that if the rate of inflation continues at its present pace that Congress can adjust the rates as quickly if not more so than any provision which would adjust the rate on a once a year basis.

Finally, it should be observed that based on the historical record, an automatic increase provision would probably result in lesser increases than those which have been authorized in the past. The following table shows increases in the compensation program since 1954:

TABLE 6.—HISTORY OF WARTIME SERVICE-CONNECTED COMPENSATION INCREASES

Sec. 314, title 38, subpar.–	Percent	July 1, 1933	Plus percent increase equals—	Jan. 19, 1934	Plus percent increase equals—	Public Law 312, 78th Cong., June 1, 1944	Public Law 182, 79th Cong., Oct. 1, 1945	Plus percent increase equals—	Public Law 662, 79th Cong., Sept. 1, 1946	Plus percent increase equals—	Public Law 339, 81st Cong., Dec. 1, 1949	Plus percent increase equals—	Public Law 356, 82d Cong., July 1, 1952	Plus percent increase equals—	Public Law 427, 82d Cong., Aug. 1, 1952	Plus percent increase equals—
(a)	10	$9	11.1	$10	15	$11.50		20	$13.80	8.7	$15	5	$15.75			7.9
(b)	20	18	11.1	20	15	23.00		20	27.60	8.7	30	5	31.50			4.8
(c)	30	27	11.1	30	15	34.50		20	41.40	8.7	45	5	47.25			5.8
(d)	40	36	11.1	40	15	46.00		20	55.20	8.7	60	5	62.00			4.8
(e)	50	45	11.1	50	15	57.50		20,	{69.00 / 60.00}	8.7	75	15	86.25			5.5
(f)	60	54	11.1	60	15	69.00		20	82.80	8.7	90	15	103.50			5.3
(g)	70	63	11.1	70	15	80.50		20	96.60	8.7	105	15	120.75			5.2
(h)	80	72	11.1	80	15	92.00		20	110.40	8.7	120	15	138.00			5.0
(i)	90	81	11.1	90	15	103.50		20	124.20	8.7	135	15	155.25			5.0
(j)	100	90	11.1	100	15	115.00		20	138.00	8.7	150	15	172.50			4.9
Subpar, (s) (housebound cases—Public Law 86–663, effective Sept. 1, 1960																
(l)		150			33.3		$200	20	240.00					10.8	$266	4.9
(m)		175			34.3		235	20	282.00					11.0	313	5.1
(n)		200			32.5		265	20	318.00					11.0	353	5.1
(o)		250			20.0		300	20	360.00					11.1	400	5.0
(p)							300	20	360.00					11.1	400	5.0
Subpar, (r) "A and A" nonhospitalization, Public Law 85–782, effective Oct. 1, 1958																
(k)		25			40.0		35	20	42.00					11.9	47	
(q)															67	

TABLE 6.—HISTORY OF WARTIME SERVICE-CONNECTED COMPENSATION INCREASES

Sec. 314, title 38, subpar.—	Public Law 695, 83d Cong., Oct. 1, 1954	Plus percent increase equals—	Public Law 85–168, Oct. 1, 1957	Plus percent increase equals—	Public Law 87–645, Oct. 1, 1962	Plus percent increase equals—	Public Law 89–311, Oct. 31, 1965	Plus percent increase equals—	Public Law 90–493, Jan. 1, 1969	Plus percent increase equals—	Public Law 91–376, July 1, 1970	Plus percent increase equals—	Public Law 92–328, Aug. 1, 1972	Plus percent increase equals—	S. 3072	Percent increase from Jan. 1, 1969
(a)	$17	11.8	$19	5.3	$20	5.0	$21	9.5	$23	8.7	$25	12.0	$28	15	32	35.7
(b)	33	9.1	36	5.6	38	5.3	40	7.5	43	7.0	46	10.8	51	15	59	32.7
(c)	50	10.0	55	5.5	58	3.4	60	8.3	65	7.7	70	10.0	77	15	89	32.7
(d)	66	10.6	73	5.5	77	6.6	82	8.5	89	7.9	96	10.4	106	15	122	33.3
(e)	91	9.9	100	7.0	107	5.6	113	8.0	122	10.7	135	10.3	149	15	171	36.0
(f)	109	10.1	120	6.7	128	6.3	136	8.1	147	10.9	163	9.8	179	18	211	38.7
(g)	127	10.2	140	6.4	149	7.4	161	8.1	174	10.9	193	9.8	212	18	250	38.7
(h)	145	10.3	160	6.3	170	9.4	186	8.1	201	10.9	223	9.9	245	18	289	38.8
(i)	163	9.8	179	6.7	191	9.4	209	8.1	226	10.6	250	10.0	275	18	325	38.6
(j)	181	24.3	225	11.1	250	20.0	300	33.3	400	12.5	450	10.0	495	18	584	40.5
Subpar. (s) (house-bound cases) Public Law 86–663, effective Sept. 1, 1960			265	9.4	290	20.7	350	28.8	450	12.0	504	9.9	554	18	654	39.9
(l)	279	10.8	309	10.0	340	17.6	400	25.2	500	12.0	560	10.0	616	18	727	40.0
(m)	329	9.1	359	8.6	390	15.4	450	22.2	550	12.0	616	10.1	678	18	800	40.1
(n)	371	8.1	401	9.7	440	19.3	525	18.2	625	12.0	700	10.0	770	18	909	40.0
(o)	420	7.1	450	16.7	525	14.3	600	16.7	700	12.0	784	9.9	862	18	1,017	39.9
(p)	420	7.1	450	16.7	525	14.3	600	16.7	700	12.0	784	9.9	862	18	1,017	39.9
Subpar. (r) "A and A" non-hospitalization, Public Law 85–782, effective Oct. 1, 1958			150	33.3	200	25.0	250	20.0	300	12.0	336	10.1	370	18	437	40.1
(k)														10	52	10
(q)																

PAYMENT OF BENEFITS TO PERSONS UNDER LEGAL DISABILITY

On April 29, 1974, the Veterans' Administration submitted a draft provision to the Congress relating to the payment of monetary benefits to persons under legal disability.

Currently, in 38 U.S.C. 3202, the law provides that where any payment of monetary benefits by the Veterans' Administration is to be made to a minor or to a mentally incompetent person or under other legal disability adjudged by a court of competent jurisdiction, the payment may be made to the person who has been constituted guardian, curator, or conservator by the laws of the State of the beneficiary's residence, or is otherwise legally vested with the care of the claimant or his estate.

The Committee is concerned that administrative determinations of long standing tend to support the viewpoint that the Administrator of Veterans' Affairs lacks the authority to make direct payments of benefits to minors or to persons under a legal disability, other than mental incompetency adjudged by a court of competent jurisdiction. Congressional action further adds to this assumption by providing authority to pay monetary benefits directly to minor widows (section 2, Public Law 78–144, embodied in 38 U.S.C. 3202(g)), and by specifically expecting the provisions of 38 U.S.C. 1701(c), authorizing payment of educational assistance benefits to minors under certain circumstances, from the application of 38 U.S.C. 3202(a).

This bill would authorize the Administrator to make direct monthly payments to a beneficiary, or a relative or some other person for the use and benefit of the beneficiary, upon a determination that the interest of the beneficiary would be served thereby even though a fiduciary has been appointed for the beneficiary. This would include the direct payment of benefits to any beneficiary regardless of his status as a minor under the laws of the State where he resides or is domiciled.

The Committee favors enactment of this provision not only because it clarifies the question of the Administrator's authority but it also would liberalize current practices which could represent a substantial savings both to the Government, since it would be spared the administative costs of supervising fiduciary accounts, and to the beneficiary, since he or she would not be charged with court costs and fiduciary fees. This savings would be particularly sizable in cases where the estate is not large and where the monetary benefits paid are of necessity applied each month to the support of the claimant.

For these reasons, the Committee favorably reports this measure out to the Senate and recommends adoption of title III of S. 3072, as reported.

COST ESTIMATES

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91–510, 91st Congress), the Committee, based on information supplied by the Veterans' Administration, estimates that the costs attributable to this bill, S. 3072, are approximately $566.8 million the first year, gradually decreasing to $563.2 million the fifth year.

The following table shows the five-year cost estimate of S. 3072, as reported:

TABLE 7.—5-YEAR COST OF S. 3072; AS REPORTED

Section and provision	Fiscal year cost (in millions) 1975	1976	1977	1978	1979
101. 15 to 18-percent increase in disability compensation	$445.8	$444.1	$442.4	$439.7	$436.0
102. 15-percent increase additional allowances for dependents	18.3	18.2	18.1	18.0	17.9
201. 17-percent DIC widows	93.7	95.3	96.9	98.5	100.3
202. 17-percent increase in DIC for children	7.1	7.2	7.3	7.4	7.5
203. 17-percent increase in aid and attendance allowances	1.3	1.3	1.3	1.3	1.3
204. 17-percent increase in aid and attendance for widows and dependent parents in receipt of death compensation	(1)	(1)	(1)	(1)	(1)
205. Equalization of peacetime rates and wartime compensation	$0.6	$0.5	$0.4	$0.3	$0.1
206. Study of presumption of service connection	(1)	(1)	(1)	(1)	(1)
301. Liberalization of payments of benefits to persons under legal disability	(2)	(2)	(2)	(2)	(2)
302. Change in definition of guardian	(1)	(1)	(1)	(1)	(1)
Total	566.6	566.6	566.4	565.2	563.2

[1] No cost.

[2] Estimate of savings unavailable.

TABULATION OF VOTES CAST IN COMMITTEE

Pursuant to section 133(b) of the Legislative Reorganization Act of 1946, as amended, the following is a tabulation of votes cast in person or by proxy of the Members of the Committee on Veterans' Affairs on a motion to report S. 3072, with amendments, favorably to the Senate:

Yeas—9.

Vance Hartke, Herman E. Talmadge, Jennings Randolph Harold E. Hughes, Alan Cranston, Clifford P. Hansen, Strom Thurmond, Robert T. Stafford, James A. McClure.

Nays—0.

SECTION-BY-SECTION ANALYSIS AND EXPLANATION OF S. 3072, AS REPORTED

Section 1

This section provides that the proposed act may be cited as the "Veterans Disability Compensation and Survivor Benefits Act of 1974."

TITLE I—VETERANS DISABILITY COMPENSATION

Section 101

Subsection (a) provides increases in the basic rates of service-connected disability compensation payable under section 314 of title 38, United States Code, ranging from 15 percent to 18 percent depending upon the degree of severity of disability. Increases of 15 percent are provided for disabilities rated 10 to 50 percent. Increases of 18 percent are

provided for disabilities rated 60 to 100 percent. Currently, a veteran with a 10-percent disability receives $28 monthly and a veteran with a disability rated at 100 percent receives $495, the rates would be increased to $32 and $584, respectively. An increase of 18 percent is provided for all higher statutory awards involving combinations of severe disabilities. A 10-percent increase is provided for the statutory awards payable under section 314(k).

Subsection (b) authorizes administrative adjustment consistent with the rate increases specified in subsection (a), of the rates of disability compensation payable to persons undersection 10 of Public Law 85–857 who are not in receipt of compensation under chapter 11 of title 38, United States Code.

Section 102

This section provides increases in the additional allowances payable under section 315 of title 38, United States Code to service-connected disabled veterans with spouses, children, and dependent parents when the veteran is rated 50 percent or more disabled. These allowances are increased by 15 percent and would affect approximately 358,100 veterans.

TITLE II—SURVIVORS DEPENDENCY AND INDEMNITY COMPENSATION

Section 201

Subsection (a) would increase the rates of dependency and indemnity compensation (DIC) payable under section 411 to the widows of veterans who died of service-connected causes. Currently, the minimum amount of DIC payable is for the widow of a veteran who attained the grade of E–1, $184 monthly, ranging upward to the DIC payable to the widow of a veteran who attained the grade of 0–10, $469 per month. These rates would be increased by 17 percent or $215 per month for an E–1, to $549 per month for an 0–10.

Subsection (b) would increase the additional monthly allowance payable under section 411(b) to a widow receiving DIC for each child under eighteen by 17 percent from $22 to $26.

Subsection (c) would provide a 17-percent increase in the additional allowance payable under section 411(c) to a widow in receipt of DIC who is in need of aid and attendance from $55 per month to $64.

Section 202

This section would provide a 17-percent increase in the rates of DIC payable under section 413 for children when there is no widow entitled. Currently the rates range from $92 for one child to $172 for three children plus $34 per month for each additional child. Then increases would provide rates of $108, to $201, respectively, with $40 for each additional child.

Section 203

Subsection (a) would provide a 16-percent increase in the additional allowance payable under section 414(a) to a child eligible for DIC who had attained the age of eighteen and is permanently incapable of self-support from $55 to $64 per month.

Subsection (b) would provide an increase of 17 percent in the additional allowance payable under section 414(b) to a widow receiving DIC when there is a child eligible who has attained the age of eighteen and is permanently incapable of self-support from $92 to $108 per month.

Subsection (c) would provide a 17-percent increase in the additional allowance payable under section 414(c) to a widow in receipt of DIC when there is a child pursuing a course of education approved under section 104 from $47 per month to $55.

Section 204

This section would provide a 17-percent increase in the additional allowance payable under section 322(b) for a widow or dependent parent in receipt of death compensation who is in a nursing home or in need of aid and attendance from $55 per month to $64.

Section 205

This section would provide for the equalization of the rates of death compensation payable under sections 322 and 342 to the survivors of veterans of peacetime and wartime service, where death occurred before January 1, 1957, thereby eliminating the distinction between the two periods of service. Approximately 4,453 would be affected by this provision.

Section 206

This section directs the Veterans' Administration to conduct a study to be submitted to the Congress not more than 30 days after the beginning of the 94th Congress of applications for Dependency and Indemnity Compensation (DIC) by widows of veterans who at the time of their death had a disability rated total and permanent in nature, with particular attention toward the disposition of these cases, the difficulty in proof of service-connected death, and an examination of the current financial situation of those widows and families denied DIC.

TITLE III—PAYMENT OF BENEFITS TO PERSONS UNDER LEGAL DISABILITY

Section 301

Subsection (a) amends section 3202(a) of chapter 55 of title 38, United States Code, to permit the Administrator, in the interest of the beneficiary, to make direct monthly payments to the beneficiary, or to a relative or some other persons in his or her behalf, notwithstanding the fact that a fiduciary has been appointed. This includes the direct payment of benefits to any beneficiary regardless of the fact that the beneficiary is a minor under the laws of the State where he resides or is domiciled.

Under the present law, a degree of doubt exists as to the authority of the Administrator to make direct benefit payments to minors or to persons under a legal disability, other than mental incompetency adjudged by a court of competent jurisdiction. This amendment would clarify the question of the Administrator's authority and would liberalize current practices which could represent substantial savings both to the Government and the beneficiary, particularly in cases where the estate is not large and where the monetary benefits paid are of necessity applied each month to the support of the claimant, in administrative, court, and fiduciary costs.

Subsection (b) amends section 3202 (c) to conform with the amendments to section 3202(a).

Subsection (c) amends section 3202(e) to conform with the amendments to section 3202(a).

Subsection (d) repeals sections 3202(f) and 3202(g) of chapter 55 of title 38, United States Code, since section 301 of this title supplants the provisions of these sections.

Section 302

This section amends section 1701(a)(4) of chapter 35 of title 38, United States Code, by changing the definition of "guardian" to include a person appointed by the Administrator for the purposes of receiving payment of benefits for the use and benefit of the eligible person under section 3202 of chapter 55 as amended by section 301 of this title.

TITLE IV—EFFECTIVE DATES

Section 401

Provides that Title I increases in disability compensation and Title II increases in dependency and indemnity compensation shall become effective May 1, 1974. Title III shall become effective on the first day of the second calendar month following enactment.

Mr. HARTKE. Mr. President, I urge my colleagues to support S. 3072, the Veterans' Disability Compensation Act of 1974.

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

The PRESIDING OFFICER. The clerk will call the roll.

Th second assistant legislative clerk proceeded to call the roll.

Mr. HARTKE. 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. HARTKE. Mr. President, I yield to the Senator from Alabama for the purpose of——

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

Mr. HARTKE. I yield.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the vote on the Peace Corps bill begin at the hour of 1:35 p.m., rather than 1:30, to allow some Senators to get to the floor.

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

Mr. ALLEN. Mr. President, I offer an amendment and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read the amendment, as follows:

Amend S. 3072 by adding the following on page 13 between lines 7 and 8:

Title III—That the date for the national celebration of Veterans Day if changed from the 4th Monday in October to November 11 which rather date henceforth should be known as Veterans Day.

Renumber titles.

Mr. ALLEN. Mr. President, I had a bill which accomplishes this very same purpose, but it has not moved very far or very fast. This amendment would change Veterans Day from the fourth Monday in October to November 11. Since this is a veterans' bill, I would like to offer this amendment, if I may do so.

Mr. HARTKE. Mr. President, I am in sympathy with the purpose of the amendment of the Senator from Alabama, and have told him so. The jurisdiction for setting of holidays is in the Judiciary Committee. Most of the members of the Veterans Committee are in support of moving Veterans Day back to November 11 and have joined in cosponsoring S. 3079 introduced by Senator THURMOND which is currently pending in the Judiciary Committee.

I would respectfully request the Senator from Alabama to withhold his amendment, with the hope that the Judiciary Committee will move on it, but I have assured him that, in the event it does not act on it at all that I would be willing to accept it as an amendment to

another veterans bill. However, the pending bill deals with disabled veterans' compensation and survivors' benefits, and I would not want to have the bill jeopardized simply by virtue of the fact that there would be a jurisdictional question involved with respect to the ultimate disposition of the bill.

Mr. ALLEN. I thank the Senator. Do I understand the Senator to give assurances to the Senator from Alabama that he will, at a near, later date, agree to support this amendment as an amendment to another veterans bill, provided we are not able to get the Judiciary Committee to move?

Mr. HARTKE. Yes. The Senator from Alabama states my position correctly, and I give him that assurance now that I would not object to an amendment if the Judiciary Committee refuses to take any action on the measure.

Mr. ALLEN. I did not know that the bill was before the Judiciary Committee. I feel sure the distinguished chairman of the committee (Mr. EASTLAND) would help get the bill out. I know he would favor this proposal, also. But, on the assurance of the Senator from Indiana that he will work with the Senator from Alabama to get Veterans' Day changed from the fourth Monday in October back to November 11, I will withdraw the amendment. Is that correct?

Mr. HARTKE. That is correct.

The PRESIDING OFFICER. The amendment is withdrawn.

The question is on agreeing to the committee amendment in the nature of a substitute for the bill.

The amendment was agreed to.

Mr. THURMOND. Mr. President, I rise in support of S. 3072, the Veterans Disability Compensation and Survivors' Benefits Act of 1974.

The problems of our service disabled and their survivors merit our closest attention. Over 2,300,000 disabled veterans receive compensation benefits. The dependency and indemnity compensation program provides benefits for some 375,000 survivors of veterans who died of service related causes.

Often, because of physical or mental disabilities, these veterans need the most assistance in keeping up with inflation.

The provisions of S. 3072 will help our disabled veterans keep pace with the increasing costs of living.

Mr. President, I urge my colleagues to support S. 3072.

Mr. HANSEN. Mr. President, I rise in support of S. 3072, a bill to amend title 38, United States Code, to liberalize the provisions relating to payments of dependency indemnity compensation and other purposes.

The compensation provision of this bill provides for a 15-percent increase in benefits to our service-connected veterans who have given so much in the defense of this Nation. This 15 percent matches the amount of the cost price index increase. This is a provision which we owe and are more than willing to grant. I am only sorry that we could not even provide greater increases to these so deserving individuals.

This bill also provides for a 17-percent increase in benefits on the dependency and indemnity compensation. This is in accordance with the cost price index, since our last increase granted during the 92d Congress. We must at all times assure these individuals that the Government has not forgotten their contribution to this Nation.

I want to congratulate Senator HARTKE and his staff for their perseverance in proposing this bill, and presenting it to the floor for a vote. I hope that my colleagues will join me in unanimous approval.

Mr. DOLE. Mr. President, I am glad to see that today we are considering legislation to increase service-connected disability compensation and dependency and indemnity compensation.

PRESENT RATES INADEQUATE

Since veterans compensation was last adjusted in 1972, the cost of living index has risen sharply. The rate of compensation established at that time has become grossly inadequate and the increases we are considering today will help this situation.

The energy crisis has greatly contributed to the increased cost of living. I have talked to a large number of people in Kansas whose heating bills for propane more than doubled last winter and in some cases even tripled. And these added heating expenses occurred after all possible measures were taken to reduce heating requirements and to conserve energy.

COST OF LIVING UP

The soaring price of gasoline also has added more financial burdens. Our disabled veterans as a group are probably more greatly affected by this than are most people. This is because disabled veterans are more dependent upon automobile transportation. A man with an artificial leg obviously cannot walk to his grocery store or somewhere else for a necessary item as readily as other men might. A similar problem often exists for veterans with other disabilities.

This bill essentially provides a cost-of-living increase. It has been needed for many months. So, on behalf of the disabled veterans, widows, and dependent children in Kansas who receive this compensation, I think it is appropriate that we are considering this bill today.

IMPORTANT ISSUE

I can personally speak for the importance of this issue from the volume of mail and calls I have received in my office. The Veterans' Affairs Committee is to be commended for promptly bringing this matter to the Senate for a vote and I hope it will be just as promptly approved here.

Mr. President, this measure should not be controversial and I think it should have the support of every Member of the Senate. After all, no amount of money can ever repay a veteran for the loss of a limb or his health or for the permanent discomfort he may have to endure.

No amount of money can reimburse those who lost a husband or a father prematurely because of service-connected death or disability. This compensation is only a poor substitute for the life, career, and happiness that might have been except for the sacrifice made in the service to this Nation.

Mr. President, I support this legislation and I hope my colleagues will join me. Hopefully, it will improve the compensation this country owes to those who have made sacrifices for it.

Mr. McCLURE. Mr. President, I rise in support of S. 3072, a bill to liberalize the provisions relating to payments of veterans' disability compensation and survivor benefits. Compensation is paid in accord with the degree of service-connected disability, as based on the average impairment of earning capacity resulting from such injury. Likewise payments are made to survivors of veterans whose deaths were due to service-connected causes.

Basically, this bill will provide cost-of-living increases in the following amounts: Disability compensation for veterans rated 50 percent or under, 15 percent; disability compensation for veterans rated 60 percent or more, 18 percent; anatomical loss—"K" award—10 percent; awards for dependents of veterans rated 50 percent or more, 15 percent and survivors DIC, 17 percent.

The bill also provides for the equalization of the rates of death compensation to the survivors of veterans of peacetime and wartime service, where death occurred prior to January 1, 1957.

Your vote this afternoon for S. 3072 will have the appreciation by the 2,206,496 disabled veterans in America. It will also benefit more than 374,600 survivors of veterans who died of service-connected causes.

S. 3072: MUCH NEEDED INCREASES IN RATES OF VETERANS DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION—DIC

Mr. CRANSTON. Mr. President, I am delighted that the Senate is acting so promptly today to pass legislation increasing substantially the rates of veterans disability compensation and the rates of DIC—dependency and indemnity compensation. I especially want to congratulate the distinguished chairman of the Senate Committee on Veterans' Affairs, Senator HARTKE, for his excellent leadership and fine efforts in making timely Senate approval of this measure possible.

S. 3072, as reported from committee, includes the provisions of S. 3072, as introduced—Senator HARTKE's bill to increase the rates of DIC and S. 3067, as introduced—Senator TALMADGE's bill to increase the rates of disability compensation. I was privileged to join with my colleagues on the Veterans' Affairs Committee in cosponsoring both these bills.

Mr. President, rapid increases in the cost of living have had a significant impact on all persons trying to live on fixed incomes, particularly—the 2,197,000 veterans receiving compensation for service-connected injuries and the 375,000 widows of veterans who died of service-connected conditions now receiving survivors benefits. The Vietnam conflict has increased compensation rolls by 371,612

Vietnam-era veterans drawing compensation payments.

The projected fiscal year 1975 budget at present rates is $3.18 billion for compensation payments. In order to meet inflation costs and help provide higher rates in areas now undercompensated, the committee bill provides for a 15-percent increase for veterans with disabilities rated 10 to 50 percent; an 18-percent increase for those with 60- to 100-percent disabilities and for special awards for anotomical losses except "K" awards which are increased 10 percent. This would provide about $464.1 million in additional compensation payments in the first year alone.

Mr. President, the fiscal year 1975 budget also includes $760 million for widows currently drawing dependency and indemnity compensation—DIC. Depending on the effective date of enactment of S. 3072 raises DIC rates by 17 percent. This would provide at least an additional $102.1 million in DIC benefits for the first year.

Mr. President, with respect to veterans with total and permanent disability ratings of long standing—20 years or more—S. 3067 as is introduced proposed establishing an automatic statutory presumption, following the veteran's death, that his widow will be entitled to DIC. It is often difficult to prove that the immediate cause of death of a totally and permanently disabled veteran was service connected, because of numerous side effects of the disabling condition. But I believe that families of totally and permanently disabled veterans who have come to rely over an extended period of time on VA disability compensation payments should be given peace of mind in the knowledge that income in the form of DIC benefits will continue when the veteran is no longer there.

In addition, Mr. President, S. 3067 proposed to establish this presumption of service-connected death in the case of a veteran who was discharged or retired from active duty with a total and permanent disability rating.

The reported bill, however, directs the VA to carry out a study of such a provision and to report not later than 30 days after the convening of the 94th Congress. This seemed a necessary compromise, and I hope we will have a favorable study from the VA.

Finally, S. 3072, as reported, would eliminate the remaining peacetime/wartime distinction in effect for those receiving survivors benefits under the pre-1956 DIC program known as death compensation. I have led the fight for the past several years to eliminate all wartime/peacetime distinctions under title 38. We have been very successful thus far in removing most of these unfair discriminations.

Mr. President, I am hopeful that the House will act promptly on the Senate bill and that we can reconcile rapidly, any differences between this bill and the House committee bill now pending on the House calendar. I feel confident that the President will sign this bill although it is somewhat more generous than the proposal he made belatedly this year after submission at his fiscal year 1975 budget request and legislative program.

The bill was ordered to be engrossed for a third reading, read the third time, and passed as follows:

S. 3072

An act to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their survivors; 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 "Veterans Disability Compensation and Survivor Benefits Act of 1974".

TITLE I—VETERANS DISABILITY COMPENSATION

SEC. 101. (a) Section 314 of title 38, United States Code, is amended—

(1) by striking out "$28" in subsection (a) and inserting in lieu thereof "$32";

(2) by striking out "$51" in subsection (b) and inserting in lieu thereof "$59";

(3) by striking out "$77" in subsection (c) and inserting in lieu thereof "$89";

(4) by striking out "$106" in subsection (d) and inserting in lieu thereof "$122";

(5) by striking out "$149" in subsection (e) and inserting in lieu thereof "$171";

(6) by striking out "$179" in subsection (f) and inserting in lieu thereof "$211";

(7) by striking out "$212" in subsection (g) and inserting in lieu thereof "$250";

(8) by striking out "$245" in subsection (h) and inserting in lieu thereof "$289";

(9) by striking out "$275" in subsection (i) and inserting in lieu thereof "$325";

(10) by striking out "$495" in subsection (j) and inserting in lieu thereof "$584";

(11) by striking out "$47" and "$616" and "$862" in subsection (k) and inserting in lieu thereof "$52" and "$727" and "$1,017", respectively;

(12) by striking out "$616" in subsection (l) and inserting in lieu thereof "$727";

(13) by striking out "$678" in subsection (m) and inserting in lieu thereof "$800";

(14) by striking out "$770" in subsection (n) and inserting in lieu thereof "$909";

(15) by striking out "$862" in subsections (o) and (p) and inserting in lieu thereof "$1,017";

(16) by striking out "$370" in subsection (r) and inserting in lieu thereof "$437"; and

(17) by striking out "$554" in subsection (s) and inserting in lieu thereof "$654".

(b) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 102. Section 315(1) of title 38, United States Code, is amended—

(1) by striking out "$31" in subparagraph (A) and inserting in lieu thereof "$36";

(2) by striking out "$53" in subparagraph (B) and inserting in lieu thereof "$61";

(3) by striking out "$67" in subparagraph (C) and inserting in lieu thereof "$77";

(4) by striking out "$83" and "$15" in subparagraph (D) and inserting in lieu thereof "$95" and "$17", respectively;

(5) by striking out "$21" in subparagraph (E) and inserting in lieu thereof "$24";

(6) by striking out "$36" in subparagraph (F) and inserting in lieu thereof "$41";

(7) by striking out "$53" and "$15" in subparagraph (G) and inserting in lieu thereof "$61" and "$17", respectively;

(8) by striking out "$25" in subparagraph (H) and inserting in lieu thereof "$29"; and

(9) by striking out "$48" in subparagraph (I) and inserting in lieu thereof "$55".

TITLE II—SURVIVORS DEPENDENCY AND INDEMNITY COMPENSATION

SEC. 201. Section 411 of title 38, United States Code, is amended to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a widow, based on the pay grade of her deceased husband, at monthly rates set forth in the following table:

"Pay grade:	*Monthly rate*
E-1	$215
E-2	221
E-3	228
E-4	241
E-5	248
E-6	254
E-7	266
E-8	281
E-9	[1] 294
W-1	271
W-2	282
W-3	291
W-4	307
O-1	271
O-2	281
O-3	301
O-4	318
O-5	350
O-6	394
O-7	427
O-8	467
O-9	502
O-10	[2] 549

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by sec. 402 of this title, the widow's rate shall be $316.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by sec. 402 of this title, the widow's rate shall be $589.

"(b) If there is a widow with one or more children below the age of eighteen of a deceased veteran, the dependency and indemnity compensation paid monthly to the widow shall be increased by $26 for each such child.

"(c) The monthly rate of dependency and indemnity compensation payable to the widow shall be increased by $64 if she is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person."

SEC. 202. Section 413 of title 38, United States Code, is amended to read as follows:

"Whenever there is no widow of a deceased veteran entitled to dependency and indemnity compensation, dependency and indemnity compensation shall be paid in equal shares to the children of the deceased veteran at the following monthly rates:

"(1) One child, $108.

"(2) Two children, $156.

"(3) Three children, $201.

"(4) More than three children, $201, plus $40 for each child in excess of three.".

SEC. 203. (a) Subsection (a) of section 414 of title 38, United States Code, is amended by striking out "$55" and inserting in lieu thereof "$64".

(b) Subsection (b) of section 414 of such title is amended by striking out "$92" and inserting in lieu thereof "$108".

(c) Subsection (c) of section 414 of such

title is amended by striking out "$47" and inserting in lieu thereof "$55".

SEC. 204. Section 322(b) of title 38, United States Code, is amended to read as follows:

"(b) The monthly rate of death compensation payable to a widow or dependent parent under subsection (a) of this section shall be increased by $64 if the payee is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.".

SEC. 205. (a) Section 342 of title 38, United States Code, is amended by striking out "equal" and all that follows down through the end thereof and inserting in lieu thereof "those specified in section 332 of this title.

(b) Section 343 of such title is hereby repealed.

(c) The table of sections at the beginning of subchapter V of chapter 11 of title 38, United States Code, is amended by striking out the following:

"343. Conditions under which wartime rates are payable.".

SEC. 206. (a) The Administrator of Veterans' Affairs shall make a detailed study of claims for dependency and indemnity compensation relating to veterans, as defined in section 101(2), title 38, United States Code, who at time of death within six months prior to the date of enactment of this Act were receiving disability compensation from the Veterans' Administration based upon a rating total and permanent in nature.

(b) The report of such study shall include (1) the number of the described cases, (2) the number of cases in which the specified benefit was denied, (3) an analysis of the reasons for each such denial (4) an analysis of any difficulty which may have been encountered by the claimant in attempting to establish that the death of the veteran concerned was connected with his or her military, naval, or air service in the Armed Forces of the United States, and (5) data regarding the current financial status of the widow, widower, children, and parents in each case of denial.

(c) The report together with such comments and recommendations as the Administrator deems appropriate shall be submitted to the Speaker of the House and the President of the Senate not more than thirty days after the beginning of the Ninety-fourth Congress.

TITLE III—PAYMENT OF BENEFITS TO PERSONS UNDER LEGAL DISABILITY

SEC. 301. (a) Subsection (a) of section 3202 of the title 38, United States Code, is amended to read as follows:

"(a) Where it appears to the Administrator that the interest of the beneficiary would be served thereby, payment of benefits under any law administered by the Veterans' Administration may be made directly to the beneficiary or to a relative or some other person for the use and benefit of the beneficiary, regardless of any legal disability on the part of the beneficiary. Where, in the opinion of the Administrator, any fiduciary receiving funds on behalf of a Veterans' Administration beneficiary is acting in such a number of cases as to make it impracticable to conserve properly the estates or to supervise the persons of the beneficiaries, the Administrator may refuse to make future payments in such cases as he may deem proper."

(b) Subsection (c) of section 3202 of title 38, United States Code, is amended by deleting the phrase "guardian, curator, conservator, or other person legally vested with the care of the claimant or his estate", following the word "any" and inserting "fiduciary or other person for the purpose of payment of benefits payable under laws administered by the Veterans' Administration" and by deleting the word "estates" and inserting the word "benefits".

(c) Subsection (e) of section 3202 of title 38, United States Code, is amended by deleting the phrase "guardian, curator, conservator, or person legally vested with the care of the beneficiary or his estate," following the words "hands of a", and inserting in lieu thereof the words "fiduciary appointed by a State court or the Veterans' Administration" and by deleting the phrase "guardian, curator, conservator, or person legally vested with the care of the beneficiary or his estate", following the word "such", and inserting in lieu thereof the word "fiduciary".

(d) Subsections (f) and (g) of section 3302 of title 38, United States Code, are hereby repealed.

SEC. 302. Subsection (a)(4) of section 1701 of title 38, United States Code, is amended to read as follows:

"(4) The term 'guardian' includes a fiduciary legally appointed by a court of competent jurisdiction, or any other person who has been appointed by the Administrator under section 3202 of this title to receive payment of benefits for the use and benefit of the eligible person.".

TITLE IV—EFFECTIVE DATES

SEC. 401. The provisions of this Act shall become effective on May 1, 1974, except that title III shall become effective on the first day of the second calendar month following enactment.

The title was amended so as to read: "A bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their survivors; and for other purposes."

PEACE CORPS AUTHORIZATION ACT, 1975

The Senate continued with the consideration of the bill (H.R. 12920) to authorize additional appropriations to carry out the Peace Corps Act, and for other purposes.

Mr. MANSFIELD. Mr. President, now that the veterans bill has been disposed of, I ask unanimous consent that it now be in order to call the roll on the Peace Corps bill.

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

Under the previous order, the question is on passage of H.R. 12920. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent—this has been cleared all the way around—that, in view of the fact that there will be two back-to-back votes, the first one 15 minutes, the second one takes 10 minutes.

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

The legislative clerk called the roll.

Mr. EASTLAND. On this vote I have a pair with the Senator from Ohio (Mr. METZENBAUM). If he were present, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Florida (Mr. CHILES), the Senator from Idaho (Mr. CHURCH), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Hawaii (Mr. INOUYE), the Senator from Ohio (Mr. METZENBAUM), the Senator from Maine (Mr. MUSKIE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from California (Mr. TUNNEY), would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), and the Senator from Utah (Mr. BENNETT) are necessarily absent.

I also announce that the Senator from North Dakota (Mr. YOUNG) is absent on official business.

I further announce that the Senator from Florida (Mr. GURNEY) is absent due to illness in the family.

The result was announced—yeas 76, nays 9, as follows:

[No. 172 Leg.]

YEAS—76

Abourezk	Hart	Moss
Aiken	Hartke	Nelson
Bartlett	Haskell	Nunn
Bayh	Hatfield	Packwood
Beall	Hathaway	Pastore
Bentsen	Hollings	Pearson
Bible	Hruska	Pell
Brock	Huddleston	Percy
Brooke	Hughes	Proxmire
Buckley	Humphrey	Randolph
Burdick	Jackson	Ribicoff
Cannon	Javits	Roth
Case	Johnston	Schweiker
Clark	Kennedy	Scott, Hugh
Cook	Long	Sparkman
Cranston	Magnuson	Stafford
Curtis	Mansfield	Stevens
Dole	Mathias	Stevenson
Domenici	McClellan	Symington
Dominick	McClure	Taft
Eagleton	McGee	Talmadge
Fannin	McGovern	Tower
Fong	McIntyre	Weicker
Goldwater	Metcalf	Williams
Griffin	Mondale	
Hansen	Montoya	

NAYS—9

Allen	Cotton	Scott,
Byrd,	Ervin	William L.
Harry F., Jr.	Helms	Stennis
Byrd, Robert C.		Thurmond

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Eastland

NOT VOTING—14

Baker	Church	Metzenbaum
Bellmon	Fulbright	Muskie
Bennett	Gravel	Tunney
Biden	Gurney	Young
Chiles	Inouye	

So the bill (H.R. 12920) was passed.

Mr. SPARKMAN. I move to reconsider the vote by which the bill was passed.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COVERAGE AND PROTECTION FOR EMPLOYEES OF NONPROFIT HOSPITALS

The Senate continued with the consideration of the bill, S 3203, to amend the National Labor Relations Act to extend its coverage and protection to employees of nonprofit hospitals, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator from North Carolina may proceed for 2 minutes.

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

Mr. ERVIN. I just want to explain

what the next vote is on. It is on an amendment which I offered to continue in existence the exemption which church-supported hospitals have always enjoyed not to be under the jurisdiction of the National Labor Relations Board.

I think it is pretty bad to allow the regulations of Caesar to go to regulating the affairs of God, and therefore I urge the adoption of my amendment.

Mr. CRANSTON. Mr. President, I ask unanimous consent that I may speak for 2 minutes also.

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

Mr. CRANSTON. Mr. President, the committee position in opposition to this amendment is based upon the fact that many of the hospitals operated by religious orders of one sort or another were built by public funds, or there were public contributions to them under other programs, or they are thoroughly infected with the public interest and subject to various types of public regulation.

It is the feeling of the committee that if we permit an exemption, there will be other requests for other exemptions in other areas of activity. We have had support from a number of the religious groups in our country for inclusion under the NLRA and the workers of their hospitals are certainly entitled to the same protection as workers in all other hospitals would be provided under this bill.

The PRESIDING OFFICER (Mr. HATHAWAY). The question is on agreeing to the amendment of the Senator from North Carolina. 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 Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Hawaii (Mr INOUYE), the Senator from Montana (Mr. METCALF), the Senator from Ohio (Mr. METZENBAUM), the Senator from Maine (Mr. MUSKIE), and the Senator from California (Mr. TUNNEY) are ncessarily absent.

I further announce that, if present and voting, the Senator from Ohio (Mr. METZENBAUM) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), and the Senator from Utah (Mr. BENNETT) are necessarily absent.

I also announce that the Senator from North Dakota (Mr. YOUNG) is absent on official business.

I further announce that the Senator from Florida (Mr. GURNEY) is absent due to illness in the family.

The result was announced—yeas 36, nays 50, as follows:

[No. 173 Leg.]

YEAS—36

Allen	Cotton	Griffin
Bartlett	Curtis	Hansen
Bible	Dole	Hatfield
Brock	Domenici	Helms
Buckley	Dominick	Hruska
Byrd, Harry F., Jr.	Eastland	Johnston
	Ervin	Long
Byrd, Robert C.	Fannin	McClellan
Cannon	Goldwater	McClure
McGee	Scott, William L.	Talmadge
Mondale	Sparkman	Thurmond
Moss	Stennis	Tower
Nunn		

NAYS—50

Abourezk	Hathaway	Pearson
Aiken	Hollings	Pell
Bayh	Huddleston	Percy
Beall	Hughes	Proxmire
Bentsen	Humphrey	Randolph
Brooke	Jackson	Ribicoff
Burdick	Javits	Roth
Case	Kennedy	Schweiker
Chiles	Magnuson	Scott, Hugh
Clark	Mansfield	Stafford
Cook	Mathias	Stevens
Cranston	McGovern	Stevenson
Eagleton	McIntyre	Symington
Fong	Montoya	Taft
Hart	Nelson	Weicker
Hartke	Packwood	Williams
Haskell	Pastore	

NOT VOTING—14

Baker	Fulbright	Metzenbaum
Bellmon	Gravel	Muskie
Bennett	Gurney	Tunney
Biden	Inouye	Young
Church	Metcalf	

So Mr. ERVIN'S amendment was rejected.

Mr. JAVITS. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. CRANSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMINICK. Mr. President, a parliamentary inquiry. There is no time limitation on this bill, is there?

The PRESIDING OFFICER (Mr. BARTLETT). The Senator is correct.

Mr. DOMINICK. Mr. President, unfortunately I got tied up and was unable to make my opening statement earlier. A great many of my views are in the individual views in the committee report.

I think it would be worthwhile, while we have some Senators still in the Chamber, to set forth some of the concerns which are troublesome to me and, I hope, to other Senators.

Mr. President, this bill removes an exemption that has been in effect since 1947 for nonprofit hospitals. The committee has recognized the unique nature of the hospital industry by writing in special requirements affecting labor-management relations including a provision requiring a 10-day notice prior to striking or picketing. I support such special treatment, but I also believe the bill can be improved by the addition of other amendments. The public interest, I believe, in the need for uninterrupted health care delivery at all times is paramount in considering legislation for bringing health care institutions under Federal labor relations laws.

I want to make it clear that I am not opposed to the idea of collective bargaining between management and labor in this area. What I am concerned about, however, is ultimate disruption in health care institutions caused by organization drives and related activities such as strikes and slowdowns.

In many communities in this country, a strike at a hospital could be disastrous because of a lack of alternative systems of health care delivery. Approximately 50 percent of the community hospitals in the United States are in nonmetro areas and in many instances the distance between hospital facilities range from 20 to 70 miles. The situation that we would see if a hospital were to be shutdown in one of these communities would cause the people there to be innocent victims. While the committee has built in a 10-day notice requirement, this requirement provides little relief for patients who need medical care from a hospital shutdown.

Mr. President, I want to interpolate in my prepared statement a little bit. I was in a hospital talking to some of the management just the other day in my own State. They have 75 beds for psychiatric care patients. The 10-day waiting period is supported to be satisfactory so that if the hospital should be shut down they can move the patients to another hospital. But there is no other hospital in the Denver metropolitan area which is equipped or has the ability to take care of 75 psychiatric health care patients. There just is not any. In effect they would be thrown out in the cold in the event of a strike, or lack of ability to reach agreement, or in case pickets were set up and no one could come to the hospital to supply the needs of the patients.

Rural communities with only one hospital would certainly not be the only communities which could be adversely affected. In large as well as small communities with more than one hospital, it is not uncommon that one hospital is much larger in terms of number of inpatients and outpatients for which it can provide services. Again, if that hospital were to be closed by a strike, the subsequent demand on the services of other hospitals in the same community must ultimately result in injury to the public interest—which I interpret in this particular text to mean patient care. In other words, the public interest seems to me to be patient care and not anything else.

Mr. President, many of us are familiar with the stories generated by recent hospital strikes. Just last fall in New York City, workers at 48 voluntary hospitals and nursing homes went out on strike. Headlines that appeared during the strike give a clear picture of what happens when health care institutions face worker strikes: "Strike Curtails Medical Services at Hospitals Here," "Orderlies Jobs Assumed by Hospitals' Executives," "Health Emergency Declared in Strike," "A Bathless Day for the Elderly," "Violence Erupts and Garbage Piles Up in Second Day of Hospital Strike," "Struck Hospitals Discharging Thousands of Patients."

I could go on with similar stories in this strike or in the strike which recently occurred in San Francisco.

Mr. President, the point, I believe, is clear that health care is not a typical industry. Health care delivery by its very nature most often is an immediate service, one in which delay may mean aggravation of sickness and/or death. As pointed out before our committee, hospitals cannot rely on storage yards or warehouses to build up reserve supplies.

It is, I believe, this nature of hospital care which in the end must be the most

important consideration in the appropriate treatment for nonprofit hospitals under the NLRA.

In addition, Mr. President, to the need for greater protection from strikes and/or slowdowns, there are several other features of this bill which are of concern to me. This bill, for example, does not have any period of time between enactment and effective date. I do not believe, in fairness to all the parties involved, that this legislation which preempts the laws of several States as well as establishes new rules governing employer-employee relationships in this area, that this bill should become effective immediately. In many communities knowledge of the change in this act and the ramifications of the changes will not be obtained on the date of enactment. More likely, information will be disbursed through regular association newsletters and other informational services which could be weekly, biweekly or even monthly. I believe that time should be given for this type of information to be assimilated and knowledge of the consequences to be gained.

I hope that improvements will be made in this act to better protect the public interest in health care delivery.

Mr. President, during the hearings before our committee in August of 1973, some representatives of the Colorado Hospital Association appeared. I ask unanimous consent that the remarks of Mr. Brekke, president and chief executive officer of the Colorado Hospital Association, and other representatives of the Colorado Hospital Association, be printed in the RECORD at this point.

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

REMARKS OF ARVID BREKKE

I am Arvid Brekke, President and Chief Executive Officer of the Colorado Hospital Association. I wish to thank the Committee for this opportunity to appear and present our concerns related to the proposed changes to The National Labor Relations Act.

The Colorado Hospital Association represents all of the Colorado hospitals including public, private, general and speciality hospitals. Our concern is based on the possibility that passage of S-794 could deprive our patients of their right to uninterrupted care while being treated in our hospitals.

With me are Sister Myra James, the Administrator of Penrose Hospital in Colorado Springs, Colorado, a 374 bed, private, general hospital that would be directly affected by this proposed amendment. She will present the position of the Colorado Hospital Association as Chairman of the Board of Trustees of the Colorado Hospital Association.

Also, with us is Mr. Tom Sangster, Assistant Director/Industrial Relations, a member of the Association staff.

Mr. Sangster and I are here with Sister to present and support the position of the Association and to make ourselves available to answer any questions you might have regarding this stand taken by the Colorado hospitals.

Without further delay, I would like to introduce Sister Myra James, Administrator of Penrose Hospital, Colorado Springs, Colorado, who will present our thoughts on S-794.

As Chairman of the Board of Trustees of the Colorado Hospital Association, which represents 94 public and private, special, acute general and long term hospitals in Colorado, I would like to go on record as informing you that our membership is in opposition to S-794 (H.R. 1236).

We are in support of the American Hospital Association's position that passage of this proposal would be disruptive to patient care. We also acknowledge that in this support, there are degrees of difference in the most perfect solution. These vary from outright defeat of the proposed amendment to varying degrees of additional compromising amendments. However, we wish to make it clear that these slight differences should not be construed to mean there is not a very basic commonality of philosophy in opposition to S-794.

To make this change in the health delivery to patients, as would be initiated by passage of this proposal, seems inconsistent with the stated Right of the American citizen to good health care. Patient care cannot be good patient care unless delivered on an uninterrupted basis. This inconsistency is emphasized by the right of employees to strike a hospital as being a superior status, to that of the patient in receiving the care needed.

The application of the act to the not-for-profit hospital field could do nothing more than compound the acute problems in the health delivery system that now exists. One needs only to consider the fact that the act is built on the economic principle of profit. In striving to obtain what labor and management thought was their fair share, it became necessary to develop some rules to this profit business environment that would insure an orderly process of reaching a solution. Since this basic premise of an economic gain for individuals is not present in the not-for-profit hospital system, it means the underlying reasoning for the act is not applicable to the health care field. In addition, just developing an orderly process to resolve disputes falls far short of the guarantee needed by hospital patients to their right to continuing health care. The attempt to build this mountain of labor relations legislation on top of a field, whose purpose for existing is to bring relief to the ill and injured, is inconsistent with the American way of helping those that are in need of help.

The delivery of patient care goes well beyond just being a business. It is of a personal nature between the individual receiving the care (be it a child in a specialized children's hospital, an unconscious emergency patient needing immediate life saving attention in a general hospital or a geriatric patient in an extended care unit) and that particular individual giving the care. As such, to treat such a personalized relationship as just another national industry by swallowing it up in an all encompassing legislation is wrong.

It has, and continues to be, the position of the Colorado Hospital Association that the delivery of health care in hospitals is a local issue in nature and any disruptions of service created by management and labor differences are acute only to those in the immediate geographical area. As such, the rules surrounding the resolving of such differences should be, and can best be, initiated and carried out by those individuals close to the problem. We contend that the most equitable means by which these differences can be resolved is through rules, regulations and statutes generated by those people at the State level.

A review of the position of those that have come before this Committee would indicate that our reasoning is correct. You will note that the States having understandable and workable statutes have presented the case that they can best handle their own problems on the State level. Whereas, those that have State laws that present many problems are asking for passage of this amendment to the act with the hope of alleviating their problems. This indicates good (or bad) State laws and local regulations are effective in expediting relief in labor problems (or compounding the same).

The proponents of this amendment would suggest that its passage would eliminate the strike for recognition and thereby put an end to strikes in hospitals. This could not be further from the truth. First, the act as it now exists, does not prohibit recognition strikes and secondly only a cursory inspection of the strikes against hospitals in the past few years would show they were predominantly for reasons other than recognition. The very need for the existence of hospitals and their need to be in continuous operation is incompatible with the manner by which the approach to settlement of industrial strikes is handled under the act.

This inverse relationship between problem and solution makes it impossible for the Colorado Hospital Association to accept the premise that passage of this amendment to the act would benefit the citizens of the State of Colorado.

Not to point out the mechanical shortcomings of the act as applied to the health care delivery field would be an act of omission on our part even though these points have been brought up earlier and no doubt will be discussed later. However, we would like to concentrate quickly on five points.

To have strikes in the health care institution would not serve the public's best interests in any way. The argument that there is injunctive relief is shallow indeed when reviewing the amount of time required to obtain such a relief. As such, the act, as it stands now, does not address itself to this very acute problem.

Compulsory arbitration has been suggested by many people as the solution of the strike problem. Such compulsory arbitration could be considered as a "trade off" to a no strike clause. We find this to be objectionable for two reasons: 1) someone not faced with a cost of settlement, interruption in the service and no true understanding of the nature of the particular health care institution is not the most qualified to solve any of their problems; 2) when compulsory arbitration is built-in in advance all parties concerned have a tendency to hold off getting down to the task of solving the issue. They play their highest card when it counts, that is, with the arbitrator. The result of this is an interruption of service for a longer period of time than would normally be the case.

Determining the bargaining units in hospitals could become a nightmare. There are approximately two hundred potential bargaining units as now defined by the act within the walls of almost every hospital. Such a proliferation of units would make contract negotiations impossible.

Just who is and who is not management? Particular considerations must be given in a hospital to the professional groups that are employed therein. Examples are residents, interns, nurses, etc. The 7-day week, 24-hour a day operation creates a need for a great deal more supervision than is found in most non-hospital settings. In this case, individuals holding non-supervisory positions may, at some time during the term of their employment, find themselves in a position of supervision. The act, as it is now written, does not take into consideration this problem.

Finally, the open shop needs of a hospital are not given the consideration required. The nature of the health care professionals must be recognized beyond that allowed in the act. There must be an opportunity for those employees whose preference is to relate to their professional organization, rather than to a non-professional collective bargaining representatives to do so through the open shop.

These are only a few of the technical problems now existing in the act. Those who ask for favorable consideration of the proposal

say the need for affrmative action is to create better management of the hospitals. It is our contention that these points alone are enough to show that passage would make hospital management even more complex and the patient would be the one hurt.

If it is the opinion of the members of this committee that the employee rights, through collective bargaining, to strike and create an interruption of health care delivery, demand a higher return in the form of wages or benefits which must come directly from the patient and thereby increase his cost for services and to dictate the form of the health care service to be delivered by the hospital, then an affirmative vote would be cast for the act. However, if the members of the committee feel that the health care delivery employee's rights are not superior to that of the patient, the employee should not have the right to interrupt the health care of the patient, dictate a much higher price he must pay and determine the degree of service the patient will get, then we ask for a negative vote on this proposal.

AMENDMENT NO. 1211

Mr. DOMINICK. Mr. President, I call up my amendment No. 1211.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

At the end of the bill, add the following new section:

SEC. 2. The amendments made by this Act shall become effective on the sixtieth day after its date of enactment.

Mr. DOMINICK. Mr. President, I should like to modify my amendment by changing the word "sixtieth" to "thirtieth."

The PRESIDING OFFICER. The Senator has a right to modify the amendment.

The amendment is so modified.

The modified amendment is as follows:

At the end of the bill, add the following new section.

SEC. 2. The amendments made by this Act shall become effective on the 30th day after its date of enactment.

Mr. DOMINICK. Mr. President, this amendment deals with the subject that I mentioned in my opening statement. I hope the manager of the bill will accept the amendment.

Instead of becoming effective on the date it may be signed by the President, my amendment allows 30 days to pass, so that news of these changes can be disseminated to interested parties and they can revamp their procedures accordingly.

On the possibility that this bill might pass, many union people are already organizing among themselves as to what action they intend to take insofar as the hospitals are concerned. That is all right, so far as they are concerned. But many of the rural hospitals do not have the faintest idea that this bill is going to pass or what it may mean so far as their operations are concerned.

So I ask the manager of the bill if he will respond, so that I have some idea about how people feel about it.

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

Mr. DOMINICK. I yield.

Mr. TAFT. I am happy to respond to the Senator.

I think the Senator has pointed out a practical problem. Perhaps it is not quite as serious as the Senator has considered, because I know that the hospital associations, in which I believe all hospitals are involved, or nursing home associations have been sending out bulletins regarding this measure and alerting their membership to extension of the act.

Of course, there will be a delay after the Senate acts, if the Senate passes the bill, and a delay before the House acts before the bill can become law. However, I see nothing to be lost by taking a reasonable time for the effective date, and the 30-day modification of the amendment is a satisfactory time.

I can speak for the rest of the managers of the bill and for myself in saying that I would be willing to accept the 30-day period that the Senator has suggested.

Mr. DOMINICK. I sincerely thank the Senator from Ohio. I have worked with him on a number of other cases and problems, and he is exhibiting his usual degree of flexibility and fairness, which I sincerely appreciate.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. DOMINICK. Mr. President, Senator Tower is planning on bringing up his amendment at 2:30, and it is a fairly extensive amendment.

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

Mr. DOMINICK. I yield.

Mr. TAFT. I have a question with regard to part of the Senator's opening statement.

With regard to the 10-day notice of strike provision, I listened with a good deal of interest to the Senator's discussion of the problems that have arisen in New York in recent months with regard to strikes and the circumstances of patients in these hospitals.

I concur with the Senator. The reason why I have moved ahead with the proposed legislation is that I feel it is a degree of protection that does not exist today for the patients and would not exist by a simple extension of the National Labor Relations Act. The 10-day extension which we have included in the bill, plus the mandatory participation of the Mediation and Conciliation Service, is designed in that direction, and I think is properly designed in that direction, rather than going the route that the Senator seems to imply—a strict no-strike clause.

My question is this: Is it not true that the strikes that have occurred, that we have heard about in the press and in which I believe there has been severe jeopardy to the patients involved, have occurred in New York, a State in which it is illegal to strike a hospital. The strike the Senator refers to was also I believe a violation of the Economic Stabilization Act.

Mr. DOMINICK. I do not have the faintest idea, except that I had thought that in New York they permit a strike in hospitals.

Mr. TAFT. There is a strike prohibition as I understand it.

Mr. DOMINICK. Therefore, a strike was illegal and it happened anyway.

Mr. TAFT. Yes.

What I am trying to say to the Senator is that even if there is a no-strike clause put into effect, it is not going to stop strikes, and it is not going to take care of the patients' problems. What we need is a resolution of the difficulties and a method of resolving them that is going to prevent strikes from occurring. The best approach is to improve labor relations in these areas and improve the method of working out the differences, before the strikes occur.

Even with this bill, strikes will not be prevented. They will be reduced, especially in the recognition area. Even with a strike ban under this bill, strikes still will occur, under given circumstances.

Mr. DOMINICK. It is hard for me logically to understand how we are going to have fewer strikes when we specifically permit strikes under certain requirements in Federal law. So I have trouble with that. In any event I am not offering a no-strike clause. I have not suggested that we do. What I have suggested, and that would be the amendment I shall bring up next, and I hope serious consideration would be given to it, is a 60-day cooling off period.

Mr. President, I now call up my amendment No. 1212.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant 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, ordered to be printed in the RECORD, is as follows:

At the end of the bill, add the following new section:

SEC. 2. The National Labor Relations Act is amended by redesignating title V (and all references thereto) as title VI and by redesignating sections 501 through 503 (and all references thereto) as 601 through 603, respectively, and by inserting immediately after title IV the following new title:

"TITLE V—COOLING OFF PERIOD IN LABOR DISPUTES IN THE HEALTH CARE INDUSTRY

"SEC. 501. (a) Whenever, in the opinion of the Director of the Federal Mediation and Conciliation Service a threatened or actual strike or lockout affecting a health care institution will, if permitted to occur or to continue, substantially interrupt the delivery of health care in the locality concerned, the Director shall establish a board of inquiry to invesigate the issues involved in the dispute and to make a written report to him within thirty days after the establishment of such a board. Each such board shall be composed of such number of individuals the Director may deem desirable. No member appointed under this section shall have a pecuniary or other interest in any employee organization or any health care institution involved in the dispute which is the subject of the inquiry of the board.

"(b)(1) Members of any board established under this section who are otherwise employed by the Federal Government shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out its duties under this section.

"(2) Members of any board established

under this section who are not subject to paragraph (1) shall receive compensation at a rate prescribed by the Director but not to exceed the daily rate prescribed for GS–18 of the General Schedule under section 5332 of title 5, United States Code, including travel for each day they are engaged in the performance of their duties under this section and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties under this section.

"SEC. 502. After the establishment of a board under section 501 of this title and for thirty days after any such board has furnished its report to the Director, no change in the status quo in effect prior to the expiration of the contract in the case of negotiations for a contract renewal, or in effect prior to the time of the impasse in the case of an initial bargaining negotiation except by agreement, shall be made by the parties to the controversy.

"SEC. 503. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.".

Mr. DOMINICK. Mr. President, I think I can explain the amendment to my distinguished friend from Ohio and to those who read the RECORD. I can explain the amendment quite simply.

What I am trying to do here is to give the maximum flexibility so that those workers who feel they are aggrieved and have been unable to reach an agreement on what they think are their rights, and the hospital group trying to run a hospital and thereby protect the patient, will, when they reach an impasse, have a 60-day cooling off period before any strike can be put into effect. It does not seem to me that that would be difficult.

It is not as though we would be doing something new. The Railway Labor Act has a cooling off period of a very substantial nature, 90 days. Surprisingly enough, this has put us in a pretty good position before in this Congress, and I do not mean the 93d Congress; I mean since I have been in Congress. It has helped materially to straighten out strikes which otherwise would be almost a national disaster.

Under the bill as written there is no definitive resolution in the bill for impasses in bargaining. My amendment would not be a definitive resolution either, but would simply add one additional requirement before the alternate means to break an impasse, namely a strike, could be employed.

My amendment would allow the director of the Federal Conciliation and Mediation Service once the prescribed procedures under S. 3203 have been exhausted to implement a "60 day cooling off" period if in his judgment the interest in the public in uninterrupted health care delivery would be jeopardized by a threatened strike. During that 60 day period a special panel would be appointed to make findings and report recommendations within 30 days after the "cooling off" period began.

He would not have to put it in but he can use it if he wants to. During that 60-day period a special panel would be appointed to make findings and report recommendations within 30 days after the "cooling off period" began.

I know there are house staff physicians who are in favor of this bill. They have called me and talked to me both in my State and here. They have said that house staff physicians or physicians of any kind would never go on strike. When I asked if that would also apply to people who work in the hospitals who are not physicians and who are not medics. Their answer was that they said they have no idea. If the dining room, the cafeteria and special food servicees are shut down by a strike a hospital can effectively be crippled just as if the doctors were on strike. So my amendment provides for a 60-day cooling off period.

Mr. President, I again would point out to my colleagues that my amendment is not an original concept in the field of labor relations. This type of authority exists in the Railroad Act in which the President himself can call for a cooling-off period. In that case as in this, a decision was made in passage of the legislation that the uniqueness of the services provided called for specialized treatment. I submit that in the area of health care delivery, the need for such a treatment is just as strong.

I believe that my amendment will aid in resolving some of the major problems with this bill as they relate to the closing down of health care institutions in at least three different circumstances.

First of all, every State in the Union has, I believe, rural localities in which there is only one hospital serving a significant number of people. In my own State, for example, there are at least 40 communities being served by one and only one hospital within the community. In many instances if that hospital were to be shut down by a strike, the nearest available hospital facility would be at least 20 miles away. I emphasize that that is only a minimum figure and in some cases the distance is much greater. It seems rather basic that closing down a hospital in any one of those communities is certainly not in the public interest.

Even if it were in the public interest it certainly is not going to help the patients, and I think they are the special interest in this case.

Second, there also exists the situation in which the services provided by one health facility are much larger and more extensive than the available services in the same community or area. Such a situation is not limited to "rural" communities, for there are many urban areas in this country where one or two hospitals are much larger than the others combined. Again, in my own State, for example, one hospital in the city of Colorado Springs is twice as large as any other hospital in the city.

If that big hospital were to close down, there are not the facilities to take care of the patients who would be evicted from the hospital. Probably this is true at Massachusetts General Hospital, is probably true in Chicago, and in a variety of other areas. I believe it is true in a great many areas of our country.

Third, there are situations in every metropolitan area in this country in which there exists large, highly specialized hospitals providing treatment for a very limited number of types of patients. I refer, of course, to hospitals treating children only, or psychiatric patients only, or as we have in Denver, hospitals treating asthmatic patients.

There is no way other hospitals can take up the slack and provide the expertise which these particular hospitals have developed over a period of time.

Mr. President, these are three situations in which the paramount public interest will not be served by the threats of work stoppages or strikes. I am sure that there are many others. I believe that additional safeguards in the bill, especially such as my amendment which requires a finding of jeopardy to delivery of health care, are needed.

So it seemed to me that despite the very fine work of the Senator from Ohio (Mr. TAFT) in trying to get the necessary procedure together to prevent any disruptions of patient care, we do not have the safeguards in this bill such as provided in the amendment which I offer.

My amendment does not alter the nature and intent of this bill: extension of the NLRA to nonprofit hospitals. It does, however, provide an additional protection for the public by requiring the parties to go through an additional period of time during which period additional efforts would be made to resolve the impasse. I submit that such a requirement is in the public interest, and I would urge my colleagues to adopt the same.

Mr. TAFT. Mr. President, as I understand the amendment offered by the Senator from Colorado, it would give the Federal Mediation and Conciliation Service authority to appoint a board of inquiry within 30 days of a threatened or actual strike or lock out affecting a health care institution. The applicable standard would be a local one. The director of the service would appoint a board of inquiry to investigate the issues or potential issues and have such report completed within the 30-day period. For the 30-day report period and 30 days after such report has been furnished no change in the status quo would be permitted.

While I certainly can understand the motivation on the part of the Senator in offering the amendment, I question whether it is an advantageous procedure to establish. First, I do not believe it would be proper to involve the FMCS in a dispute with regard to fact-finding. The mediation service is to be a neutral party to resolve disputes. The procedure established in the amendment would tend to place the service in a non-neutral stance on issues subject to bargaining.

Second, S. 3203, has already numerous built-in protections, including a provision for mandatory mediation. As the Senator is no doubt aware, section 8(d) of the National Labor Relations Act would be expanded to apply to initial contract negotiations and the current 60-day period of prior notification would be expanded to 90 days. These additions to the act, I believe, are responsive to the problems that the Senator is concerned with.

Third, the proposed cooling-off period would have the potential to heighten tensions and prolong negotiations. As was pointed out during the last Congress in considering procedures to alleviate emergency strikes, statutory cooling-off procedures have a tendency to become automatic and used as leverage by either

party to the dispute and in fact do not bring agreement. I question whether such procedure particularly is applicable to labor disputes in health care institutions, as a hospital might be placed in an extremely difficult position and perhaps be forced to settle on unreasonable terms due to public pressure to keep the hospital open.

I noted with some interest the Senator's analogy to the National Labor Railway Act. The Railway Labor Act procedure with respect to work rules and cooling off periods is hardly ideal.

I therefore ask that the amndment be defeated. I do not think it would help in the passage of this bill, and I do not think it would provide us with the necessary or desirable mechanism to add to the already carefully worked out protections that have been written into the bill.

If in the future the Congress finds that the provisions of the bill are not working in this proposed legislation, changes such as a cooling-off period should be considered as I stated; however, I do question inclusion of the Federal Concilitation and Mediation Service in any dispute. I cannot support the Senator's amendment.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 12993. An act to amend the Communications Act of 1934 to provide that licenses for the operation of broadcasting stations may be issued and renewed for terms of 4 years, and for other purposes; and

H.R. 14368. An act to provide for means of dealing with energy shortages by requiring reports with respect to energy resources, by providing for temporary suspension of certain air pollution requirements, by providing for coal conversion, and for other purposes.

ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills:

S. 1115. An act to amend the Controlled Substances Act to provide for the registration of practitioners conducting narcotic treatment programs;

H.R. 9293. An act to amend certain laws affecting the Coast Guard; and

H.R. 11793. An act to reorganize and consolidate certain functions of the Federal Government in a new Federal Energy Administration in order to promote more efficient management of such functions.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. ALLEN).

HOUSE BILL REFERRED

The bill (H.R. 12993) to amend the Communications Act of 1934 to provide that licenses for the operation of broadcasting stations may be issued and renewed for terms of 4 years, and for other purposes, was read twice by its title and referred to the Committee on Commerce.

ORDER TO HOLD H.R. 14368 AT THE DESK

Mr. MANSFIELD. Mr. President, I ask unanimous consent that H.R. 14368, which has just come over from the House, be held at the desk indefinitely.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. MANSFIELD. There are some questions that the leadership wants to work out in respect to this bill. That is why I made the request.

Mr. TAFT. Mr. President, I was unable to hear the majority leader.

Mr. MANSFIELD. I asked that a bill sent over from the House be held at the desk so we can work out some questions.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

COVERAGE AND PROTECTION FOR EMPLOYEES OF NONPROFIT HOSPITALS

The Senate continued with the consideration of the bill, S. 3203, to amend the National Labor Relations Act to extend its coverage and protection to employees of nonprofit hospitals, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. DOMINICK. Mr. President, I just want to make a couple of comments on what has been said by the Senator from Ohio (Mr. TAFT), who is very reasonable, as usual. I first ask for the yeas and nays on this amendment.

The yeas and nays were ordered.

Mr. DOMINICK. The Senator from Ohio, I think, may have misstated himself or did not fully understand the amendment. It does not give just 30 days, it gives 60 days, and the Federal Mediation Service is not involved except to the extent of picking a board, which then has 30 days after it has been picked to determine what the issues are and determine how they might best be solved.

Then the Federal Mediation Board takes that report from the Board after 30 days, and has the right at that point to decide whether the report is good. If it is no good, it just throws it out. But, hopefully, it would go a long way toward resolving whatever differences there may be between the hospitals and the employees.

This is nothing new, as I said before. It is used in the Railway Labor Act. It is a system which gives, I think, more protection to the patient. I am primarily concerned in this whole debate with protecting the patients in hospitals. I am not nearly as interested in protecting the doctors or protecting the people who are in the cafeteria or protecting the people who are running the telephone service. They are all fine people, I am sure, but when we get into an impasse of this kind, it would seem to me the 60-day cooling off period would be very, very useful.

I might also say that the Federal Mediation and Conciliation Service does not have to set up a Board. It does not have to get into that at all if it does not want to. It is only when it has been decided that a particular strike or lockout affects the health delivery service, if permitted to continue, which would substantially interrupt the delivery of health care in that locality, that it would then establish a board; but it would not have to do so if it did not make that finding.

So the finding is not necessarily a statement that the hospital is wrong or that the workers are wrong. It is just the fact if it comes to an impasse that is going to substantially hurt anybody.

For the life of me, I cannot understand why this is not a good amendment.

Mr. TAFT. Mr. President, I understand, of course, that this is a 60-day period that the Senator is discussing and that the Federal Mediation and Conciliation Service would not itself make the findings of fact that are involved, but it seems to me that there is really not too much difference. The point I am making is that the involvement in the fact-finding process by the appointment of the fact-finding board, and then the judgment of the Conciliation Service as to whether the findings are good or are not good, involves it as a judge rather than as a mediation and conciliation function in the entire labor-management process.

Insofar as protecting patients is concerned, I agree wholeheartedly that that is the primary objective of the legislation, but the only way—I hope I have already pointed out—that we are likely to protect the patients and improve the situation as it currently exists is to improve the method of settling labor-management arguments as they occur in the health care field. We have attempted to do that. That is the purpose of the legislation.

I pointed out earlier, and I ought to do it for the RECORD now, is that it is true, of course, that the national emergency provisions that are in the law, as well, presumably, as any amendment we enact with regard to emergency provisions, would apply to the health care field.

Such a provision would only apply to national emergencies. I do not think a cooling-off period is necessary or desirable. It is conceivable that in this industry there could be, at some point, an emergency that would justify a cooling-off period, but I do not think a cooling-off period is necessary or desirable. In fact, I think it would be disruptive in the field of labor relations at this time. That is the reason why I oppose the amendment.

Mr. DOMINICK. Mr. President, I ask unanimous consent that the Senator from Florida (Mr. GURNEY), the Senator from Tennessee (Mr. BAKER), and the Senator from Kansas (Mr. DOLE) be added as cosponsors of my amendment No. 1215.

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

Mr. DOMINICK. I ask unanimous consent that Mr. Gary Lieber, who is the staff aid of the Senator from Texas (Mr

TOWER), be granted the privilege of the floor during the debate and votes on the pending bill.

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

Mr. JAVITS. Mr. President, I am opposed to the amendment. That is the reason why I obtained from the major unions in the field a commitment on voluntary arbitration. All that this amendment would do would be to extend the 10-day cooling-off period to 60 days. That is what it really gets down to, and also to try to bring this branch within the purview of the Taft-Hartley Act injunction, which it does not reach now, in the main, because these are relatively local activities and do not qualify for a Taft-Hartley injunction.

The real issue is, How do we get the frequency of strikes and the length of strikes curtailed for hospitals? That is really keeping our eye on the ball. Superficially, it may appear well, if we give them a cooling-off period, that they will not go on strike. But if we adopt the pending amendment, that will be the end of the bill, because labor will be strongly opposed to it. I have grave doubts whether it will pass either here or in the other body.

At the very least, we place it in jeopardy, and the question is, For what benefit? The benefit is that they would get, allegedly, 50 more days. But even that benefit is not certain, because if the unions want to strike, they will strike after the 60-day period and they may well violate the law, whatever the cooling-off period is. We have seen that happen in New York. Therefore, from the point of view of stability, a commitment to voluntary arbitration, it seems to me it is a better tradeoff in the interests of the community than if a 60-day cooling-off period is guaranteed or cranked into the law in all of these cases.

It is interesting to note that we have a big organization of voluntary hospitals in New York. Indeed, it involves the same voluntary hospitals that were struck last year. I shall read into the RECORD from a statement by the League of Voluntary Hospitals. I will put the whole letter in the RECORD, so that everybody can read it. The particular statement I should like to read is as follows. The letter is dated March 13, 1974. It reads, in part:

> In recent conversations with your staff, we have discussed several proposals for including in the legislation provisions which would help insure the peaceful resolution of disputes in health care institutions to the end that continued patient care may be assured. Among the matters discussed was a proposal for the creation of discretionary authority at the federal level to appoint a body empowered to make public recommendations for the settlement of labor-management disputes where health care in a particular region may be jeopardized.
>
> The League would oppose such procedures at the federal level and would regard such measures as counterproductive to the appropriate resolution of disputes in this area.

Mr. President, I ask unanimous consent that the entire letter that I have received, be printed in the RECORD.

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

LEAGUE OF VOLUNTARY HOSPITALS AND HOMES OF NEW YORK,
New York, N.Y., March 13, 1974.

Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: We are writing to you once again regarding the proposed legislation which would remove the exemption of non-profit hospitals from the provisions of the National Labor Management Relations Act, as amended.

In recent conversations with your staff, we have discussed several proposals for including in the legislation provisions which would help insure the peaceful resolution of disputes in health care institutions to the end that continued patient care may be assured. Among the matters discussed was a proposal for the creation of discretionary authority at the federal level to appoint a body empowered to make public recommendations for the settlement of labor-management disputes where health care in a particular region may be jeopardized.

The League would oppose such procedures at the federal level and would regard such measures as counterproductive to the appropriate resolution of disputes in this area.

By far the major share of the operating income of League hospitals is made available by third party payors—principally Associated Hospital Service of New York (Blue Cross) and the Medicaid Program. Although federal economic stabilization controls have had an impact on these reimbursement programs, the major controls over such expenditures and the day to day administration of such programs resides at the state level. As you know, since 1969, hospitals and homes in New York State have been subject to a cost control program adopted by the New York State Legislature and administered by the New York State Department of Health.

Based upon our experience over a number of years in negotiating with various unions, labor-management disputes which might be appropriate for a form of government or public intervention involve the funding of various proposed settlements between the hospitals and the unions. In other words, the ability to pay is always of prime concern. Thus, such issues become uniquely "state oriented" due to the measure of control exercised by the state over available funds. In the past, disputes between the voluntary hospitals and various unions have, in fact, been resolved through the involvement and assistance of state officials who are best in a position to deal with the financial issues which are invariably entwined with the more traditional labor-management issues.

Thus, to create a formal procedure for *federal* public recommendations would be to separate issues which must frequently be determined together. Such a procedure would in our view, make resolution of labor-management disputes more difficult rather than less so.

Ample opportunity and authority exists at the state level for public recommendations or similar procedures and such methods have, in fact, been used in the past and may be expected to be used again in the future, notwithstanding the removal of the exemption under the Taft-Hartley Act. Moreover, the assistance and interest of the federal government in such disputes will be amply provided for by involving the Federal Mediation and Conciliation Service in the negotiation process as presently contemplated by the proposed legislation.

Your continued assistance and attention to our concerns regarding this legislation is very much appreciated.

Very truly yours,

WILLIAM J. ABELOW.

Mr. JAVITS. Mr. President, the point is that the people on the ground, who are having negotiations—labor-management negotiations—have themselves—and certainly one would think that a tool such as that suggested by the Senator from Colorado (Mr. DOMINICK) would be very appealing to them—nonetheless, they feel, from the point of view of pragmatic relationships with labor, they are better off without it. It is not enough, it does not compensate them for the disadvantages.

As I say, this provision has flushed out four declarations of principles from the highest union sources, which I think are more valuable to us. I believe it is fair to say that they would not consider themselves bound by their declarations if we adopted this amendment.

In addition to that, I do not think this legislation will go anywhere with this provision in it. But I should like to say this to the Senator from Colorado, because he was not here when I spoke before. I am not trying to persuade him. I greatly admire his consistency and convictions in this matter. I simply call attention to what I said before. It seems to me that these commitments we have from the unions, although I realize that the Senator from Colorado does not feel that it is an adequate trade-off—but it seems to me that with the commitments we have from the unions, it possibly puts us in a stronger position to act on an ad hoc basis if we run into particularly nasty situations. We have done that in some cases where a regional strike occurred, to wit, the longshoremen on the west coast.

It seems to me that we need this bill; that it will, in fact, stabilize labor relations in this field, and that the total trade-off—and that is what it is—the Senator from Colorado (Mr. DOMINICK) is entitled to his opinion, and I know that it is equally sincere and valid as my own—but I am firmly convinced that we are better off with the bill as it now stands together with the commitments to voluntary arbitration I have received.

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

Mr. JAVITS. I yield.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, if I may have the attention of the Senate, especially the attention of the Senator from Colorado, the Senator from New York, the Senator from Texas, the Senator from Ohio, the Senator from New Jersey, the Senator from Alabama, and the distinguished acting Republican leader, I should like to propound a unanimous-consent request relative to the pending business.

The yeas and nays have been asked for on the pending amendment, and a vote will occur shortly. There may be one or two other amendments offered this afternoon.

At the appropriate time, I should like to ask unanimous consent that the pending business be laid aside, to be returned to at 11 o'clock on Tuesday morning next; that there be a 3-hour limitation on the so-called OSHA amendment to be offered by the Senator from Colorado (Mr.

DOMINICK); and that the vote on the pending business occur at not later than 6 o'clock Tuesday evening.

If that request were granted, then it would be the intention of the joint leadership to turn immediately to H.R. 11385, an act to amend the Public Health Service Act, hopefully to try to finish that this afternoon, and if that is done, there would be no session tomorrow.

I make that unanimous consent request with, I think, the approval of all concerned, waiving rule XII.

Mr. JAVITS. Mr. President, if the Senator will yield, it is with the approval of all concerned, but I want to be very clear on a few things.

Mr. MANSFIELD. Yes.

Mr. JAVITS. We would not be inhibited from a motion to table any amendment?

Mr. MANSFIELD. Not at all.

Mr. JAVITS. Second, it would be understood that the leadership would take care that Members who have amendments may have an opportunity not only to present them, but to discuss them, in view of our own personal intercession and cooperation?

Mr. MANSFIELD. The joint leadership would do that to the best of its ability.

Mr. JAVITS. This is very important when you set a time to vote. And that on amendments to amendments, and so forth, the usual rule would obtain?

Mr. MANSFIELD. With the exception of the 3-hour OSHA amendment.

Mr. JAVITS. What about the germaneness rule?

Mr. MANSFIELD. I am concerned about that.

Mr. GRIFFIN. I am also, frankly, because it would be difficult to get an amendment germane to this very, very limited Taft-Hartley provision.

Mr. JAVITS. I would say that is very essential in this case.

Mr. MANSFIELD. If the Senator from Michigan will yield, I ask unanimous consent that the agreement be in the usual form.

Mr. GRIFFIN. Does that mean that the amendments must be germane? I could not agree to that.

Mr. MANSFIELD. If the Senator has in mind a particular amendment——

Mr. JAVITS. Mr. President, if we set a time to vote on other amendments, and we run into unfortunate things we can move to table, the Senate should be sympathetic, under those circumstances, to a tabling motion.

Mr. MANSFIELD. If that is the wish of the chairman of the committee and the assistant Republican leader, I would be glad to amend by unanimous-consent request that nongermane agreements may be offered.

Mr. GRIFFIN. Although I do not like to leave agreements open to nongermane amendments, in this instance none of the amendments that have been submitted, the Tower amendment, the Dominick amendment—none of them would be germane as I understand the rule of germaneness.

Mr. JAVITS. May I make a suggestion? Could we confine the amendments to labor-management relations? Otherwise, we could get busing and all kinds of things.

Mr. GRIFFIN. Could we include matters relating to nonprofit hospitals?

Mr. JAVITS. And to labor-management relations.

Mr. GRIFFIN. Nursing homes and homes for the elderly?

Mr. JAVITS. All right. That suits me.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Mr. President, reserving the right to object, and I shall not object, I appreciate the leadership, both the distinguished majority leader and the distinguished assistant minority leader, working out this request. This would mean, as I understand it, that the education bills would not come up on Tuesday.

Mr. MANSFIELD. Yes.

Mr. ALLEN. The Senator from Alabama must be in Alabama on Tuesday to cast his vote in favor of himself in the Democratic primary being held on that date.

So I appreciate the Senator's arranging this procedure.

Mr. MANSFIELD. The Senator from Alabama, who is always so considerate, can always be sure, as can the Senator from Ohio, who has the same problem, that their rights and interests will always be protected at all times.

Mr. JAVITS. Mr. President, if the Senator will yield further, to suit Senator DOMINICK's needs, I ask unanimous consent that the unanimous-consent agreement as to the 3-hour provision for his amendment may provide 2 hours for the Senator from Colorado (Mr. DOMINICK), and, if agreeable to the Senator from New Jersey (Mr. WILLIAMS), 1 hour for us, which Senator WILLIAMS will control.

Mr. DOMINICK. Mr. President, I ask that because I have 20 cosponsors, and I am sure every one of them will want to talk.

Mr. JAVITS. And then that the agreement be in the usual form, except as to the germaneness agreement?

Mr. MANSFIELD. That is right.

The PRESIDING OFFICER. Is there objection?

Mr. MANSFIELD. I add to the request, on the 3-hour OSHA amendment, 2 hours to be under the control of Senator DOMINICK and 1 hour to Senator JAVITS.

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

Mr. MANSFIELD. Mr. President, may I repeat, for the information of Senators present, if we can dispose of the amendments which are to be offered this afternoon, it would be the intention of the joint leadership then to go on the health service bill, and hopefully to finish that, so that we would not come in tomorrow.

One further request, Mr. President. I ask unanimous consent that the order agreed to and entered into by the Senate yesterday covering S. 2986, which contains the wage-price control provisions, monitored or otherwise, be modified to make it effective next Thursday rather than next Wednesday.

The PRESIDING OFFICER. Is there objection?

Mr. MANSFIELD. Under the same proviso.

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

COVERAGE AND PROTECTION FOR EMPLOYEES OF NONPROFIT HOSPITALS

The Senate continued with the consideration of the bill S. 3203, to amend the National Labor Relations Act to extend its coverage and protection to employees of nonprofit hospitals, and for other purposes.

Mr. DOMINICK. Mr. President, I shall not delay the Senate much longer, but I just want to ask the Members if they will please read the amendment.

With regard to some of the comments that were made by my very good friend from Ohio, the Federal Mediation Service is involved only to the extent of appointing a board, which is required to have no pecuniary or other interest in either side of the dispute.

Second, that board, which is totally independent, operates for 30 days to see whether or not it can work out the problem and make recommendations.

Third, the Director does not have to accept those recommendations if he does not want to. He can continue them as they debate, or can ignore them, whatever he wants to do.

What the amendment does do is provide 60 days additional time in order to protect patients who are in the hospital, to enable them to keep themselves from being tied up in a strike or lockout, or bargaining position.

I have listened to my friend from New York, and he has talked about what the unions say they will or will not do. I do not know, in Colorado, what unions will be involved. We are not unionized in our hospitals. Maybe the Senator's New York hospitals are, but ours are not, and I do not know how many jurisdictional fights we will have.

A jurisdictional fight can be the most bitter of all the labor fights that I know of. If we have jurisdictional fights, and people try to negotiate and bargain back and forth as to what kind of collective bargaining unit will be available, we could find all the hospitals tied up in the metropolitan area of Denver, which includes 50 percent of the whole population of our State. If all of those hospitals are tied up, there is not available within our whole State the possibility of taking care of the patients which are represented by the hospitals in that area.

All this proposal does is say, "Give us 60 days and let us try to work it out, if it looks like a strike or a lockout is going to be an imminent problem as far as the public health of that locality is concerned." I sincerely hope that Senators will read this amendment and think about it, because I think it is a very effective way of improving the bill.

Mr. JAVITS. Mr. President, we are ready to vote.

The PRESIDING OFFICER (Mr. BARTLETT). The question is on agreeing to the amendment of the Senator from Colorado (Mr. DOMINICK). 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 Idaho (Mr. CHURCH), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Hawaii (Mr. INOUYE), the Senator from Ohio (Mr. METZENBAUM), the Senator from Maine (Mr. MUSKIE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from California (Mr. TUNNEY) and the Senator from Ohio (Mr. METZENBAUM) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Utah (Mr. BENNETT), the Senator from Kentucky (Mr. COOK), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

I also announce that the Senator from North Dakota (Mr. YOUNG) is absent on official business.

I further announce that the Senator from Florida (Mr. GURNEY) is absent due to illness in the family.

I further announce that, if present and voting, the Senator from Florida (Mr. GURNEY) would vote "yea."

The result was announced—yeas 37, nays 49, as follows:

[No. 174 Leg.]

YEAS—37

Allen	Dominick	Johnston
Bartlett	Eastland	Long
Bentsen	Ervin	McClellan
Brock	Fannin	McClure
Buckley	Fong	Nunn
Byrd, Harry F., Jr.	Goldwater	Roth
Cannon	Griffin	Scott, William L.
Chiles	Hansen	Sparkman
Cotton	Haskell	Stennis
Curtis	Hathaway	Talmadge
Dole	Helms	Thurmond
Domenici	Hollings	Tower
	Hruska	

NAYS—49

Abourezk	Hughes	Pastore
Aiken	Humphrey	Pearson
Bayh	Jackson	Pell
Beall	Javits	Percy
Bible	Kennedy	Proxmire
Biden	Magnuson	Randolph
Brooke	Mansfield	Ribicoff
Burdick	Mathias	Schweiker
Byrd, Robert C.	McGee	Scott, Hugh
Case	McGovern	Stafford
Clark	McIntyre	Stevenson
Cranston	Metcalf	Symington
Eagleton	Mondale	Taft
Hart	Montoya	Weicker
Hartke	Moss	Williams
Hatfield	Nelson	
Huddleston	Packwood	

NOT VOTING—14

Baker	Fulbright	Muskie
Bellmon	Gravel	Stevens
Bennett	Gurney	Tunney
Church	Inouye	Young
Cook	Metzenbaum	

So Mr. DOMINICK's amendment (No. 1212) was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HUMPHREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TOWER. Mr. President, I ask unanimous consent that I may yield to the Senator from Ohio without losing my right to the floor.

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

Mr. TAFT. Mr. President, I ask unanimous consent to call up a technical amendment prepared by the committee staff. I send the amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read, as follows:

On page 3, line 10, strike out "picketing, striking," and insert in lieu thereof "strike, picketing".

On page 3, line 16, strike out "sentence" and insert in lieu thereof "subsection".

Mr. TAFT. Mr. President, the amendment is solely technical in nature. It does not change the substance of the bill in any way. I ask for its adoption.

The PRESIDING OFFICER. The question is on agreeing to the Senator from Ohio.

The amendment was agreed to.

Mr. TOWER. Mr. President, I ask unanimous consent that I may yield to the Senator from West Virginia, without losing my right to the floor.

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

ORDER FOR RECOGNITION OF SENATOR MATHIAS TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate today proceeds to the consideration of H.R. 11385, Public Health Service, the distinguished Senator from Maryland (Mr. MATHIAS) may be recognized for not to exceed 5 minutes, for the purpose of introducing a bill and making a statement thereon, without the time being charged to either side on the Public Health Service bill.

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

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

Mr. TOWER. Mr. President, I ask unanimous consent that I may yield to the Senator from Arizona, without losing my right to the floor.

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

LEAVE OF ABSENCE

Mr. GOLDWATER. Mr. President, I ask unanimous consent that I may be absent from the Senate on May 9 to visit Fort Rucker, Ala., on behalf of some Senate Armed Services duties.

Mr. TOWER. Mr. President, reserving the right to object, would the Senator clarify what he intends to do there?

Mr. GOLDWATER. It would take quite a while. It is highly technical in nature.

Mr. TOWER. I do not object.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, would it take 1 minute or 1 hour, may I ask, for the Senator to explain what he would be doing?

Mr. GOLDWATER. If I explained it to the Senator from West Virginia, it would take 1 minute. If I explained it to the Senator from Texas, it would take 1 hour.

[Laughter.]

COVERAGE AND PROTECTION FOR EMPLOYEES OF NONPROFIT HOSPITALS

The Senate continued with the consideration of the bill, S. 3203, to amend the National Labor Relations Act to extend its coverage and protection to employees of nonprofit hospitals, and for other purposes.

AMENDMENT NO. 1143

Mr. TOWER. Mr. President, I call up my amendment No. 1143.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. TOWER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 1, between lines 2 and 3, insert the following:

"TITLE I—EXTENDING COVERAGE TO EMPLOYEES OF NONPROFIT HOSPITALS"

On page 1, line 3, strike out "That" and insert in lieu thereof "SEC. 101."

At the end of the bill add the following new title:

"TITLE II—PROVIDING FOR TRIAL OF UNFAIR LABOR PRACTICE CASES IN THE UNITED STATES DISTRICT COURTS

"SEC. 201. Section 3(d) of the National Labor Relations Act is amended by striking out 'trial examiners and' in the second sentence, and by striking out 'Board' the second time it appears in the third sentence and inserting in lieu thereof 'courts'.

"SEC. 202. Section 4(a) of such Act is amended by striking out 'examiners' in the second sentence, and by striking out the fourth sentence.

"SEC. 203. Section 9(d) of such Act is amended to read as follows:

"'(d) Whenever the validity of a certification of a bargaining representative by the Board under this section is in issue in a proceeding before a court under section 10, the clerk of the court shall notify the Board of that fact. Within fifteen days after the date such notice is received the Board shall file such certification, together with the record on which it was based, with the court.'

"SEC. 204. Section 10 of such Act is amended to read as follows:

"'PREVENTION OF UNFAIR LABOR PRACTICES

"'SEC. 10. (a) The district courts of the United States, the District Court of the Virgin Islands, and the United States District Court for the District of the Canal Zone shall have jurisdiction, as provided in this section, to prevent any person from engaging in any unfair labor practice listed in section 8 affecting commerce.

"'(b) Any person aggrieved by any such unfair labor practice may, within six months after the date on which such unfair labor practice occurred, either (1) file and prosecute such a complaint in any court specified in subsection (a) having jurisdiction of the parties, or (2) file a charge of such unfair labor practice with the General Counsel of the National Labor Relations Board and request him to file and prosecute such a complaint. Whenever a person aggrieved by an unfair labor practice is prevented by reason of service in the Armed Forces from filing a charge or complaint he may do so within six months after the date of his discharge.

"'(c) Whenever a charge is filed with the General Counsel of the Board under this section, he shall promptly serve a copy of the

charge upon the person against whom such charge is made. Within a reasonable time thereafter, he shall file a complaint with the appropriate court and prosecute such complaint, in the name of and on behalf of the person who filed the charge, unless he determines that the charge is frivolous, or otherwise without basis in law or fact, in which case he shall promptly notify the parties of such determination. After receiving such notice, the charging party may file and prosecute a complaint under subsection (b) on his own initiative; and the period beginning with the date on which he filed the charge with the General Counsel of the Board, and ending with the date on which he received such notice, shall not be counted in determining whether the six-month period specified in subsection (b) has expired. The General Counsel of the Board shall give priority to charges of unfair labor practices within the meaning of subsection (a) (3) or (b) (2) of section 8 and paragraph (4) (B) or (C) of section 8(b) over all other unfair labor practice charges filed with him.

"'(d) Proceedings under this section shall be tried by the court without a jury. Except as otherwise provided in this section, the Federal Rules of Civil Procedure shall apply in each such proceeding. If a master is appointed pursuant to rule 53 of the Federal Rules of Civil Procedure, such master shall be compensated by the United States at a rate to be fixed by the court, and shall be reimbursed by the United States for necessary expenses incurred in performing his duties under this section. Any court before which a proceeding is brought under this section shall advance such proceeding on the docket and expedite its disposition.

"'(e) The court may grant such temporary relief or restraining order as it deems appropriate pending final disposition of any proceeding under this section, but only after publicly hearing testimony of witnesses with opportunity for cross-examination in support of the allegations of a complaint made under oath, and testimony in opposition thereto, if offered; and only after the court finds—

"'(1) that one or more acts constituting an unfair labor practice have been committed and will be continued unless restrained;

"'(2) that substantial and irreparable injury to the complainant will follow;

"'(3) that as to each item of relief granted, greater injury will be inflicted by the denial of relief than will be inflicted by the granting of relief; and

"'(4) that complainant has no adequate remedy at law.

The Act of March 23, 1932, entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes" shall not apply to any proceedings under this section, except that section 10 of such Act, providing for expeditious review of temporary injunctions, shall apply with respect to any temporary relief or restraining order issued under this section.

"'(f) If the court finds that any person named in the complaint has engaged in or is engaging in any unfair labor practice is charged in the complaint, the court shall enjoin such person from engaging in such unfair labor practice, and shall order such person to take such affirmative action, including reinstatement of employees with or without backpay (but not including the payment of damages in any other form), as may be necessary to enforce compliance with the provisions of this Act which such person is found to have violated. Where an order directs reinstatement of an employee, backpay shall be required of the employer, or the labor organization, or both, in such proportion as the court shall assess responsibility for the discrimination suffered by him. No order of the court shall require the reinstatement of any individual as an employee who has been suspended or discharged, or the payment to him of any backpay, if such individual was suspended or discharged for cause. In determining whether a violation of section 8(a)(1) or section 8(a)(2) has occurred, the determination shall not be affected by whether the labor organization concerned is affiliated with a national or international labor organization.

"'(g) For the purposes of this section courts shall be deemed to have jurisdiction of a labor organization (1) in the district in which such organization maintains its principal office, (2) in any district in which its officers or agents are engaged in promoting or protecting the interests of employee members, or (3) in any district in which the unfair labor practice is alleged to have occurred. The service of legal process upon such officer or agent shall constitute service upon the labor organization and make such organization a party to the suit.'

"SEC. 205. Section 11 of such Act is amended by striking out 'and section 10' in the matter preceding paragraph (1); by striking out 'or proceeded against' in the first sentence of paragraph (1); and by striking out 'complaints, orders.' in paragraph (4) and inserting in lieu thereof 'Orders'.

"SEC. 206. Section 14(c) of such Act is repealed.

"SEC. 207. (a) Any proceeding under section 10 of the National Labor Relations Act which is pending before the National Labor Relations Board on the date of enactment of this Act shall be continued by the Board if the hearing provided for in subsection (b) of such section, as in effect immediately prior to the enactment of this Act, has been completed, and if, within thirty days after the date of enactment of this Act, the person aggrieved by the unfair labor practice in question requests the Board to continue the proceeding. Upon request of any such person, the General Counsel of the National Labor Relations Board shall appear and represent such person in proceedings under this subsection before the Board and the courts. The Board shall act in such proceeding, and its action may be enforced or reviewed by the courts, in the same manner and with the same effect as if this Act had not been enacted, except that—

"(1) any enforcement proceeding under section 10(e) shall be instituted by the party seeking enforcement of the Board's order, or the General Counsel of the National Labor Relations Board, and thereupon the Board shall certify and file in the court a transcript of the entire record in the proceedings;

"(2) the Board shall not appear in any proceeding under section 10(e) or 10(f); and

"(3) if the court orders additional evidence to be taken in any proceeding under section 10(e) or 10(f), it shall be taken before a master designated by the court; the master shall be compensated by the United States at a rate to be fixed by the court, and shall be reimbursed by the United States for necessary expenses incurred in performing such duties.

"(b) Where the Board has issued an order under section 10 of the National Labor Relations Act before the date of enactment of this Act, a proceeding in court for the enforcement or review of such order may be instituted after such date in the same manner and with the same effect as though this Act had not been enacted, except that the provisions of paragraphs (1), (2), and (3) of subsection (a) of this section shall apply to such proceedings.

"(c) Any proceeding under section 10 of the National Labor Relations Act which is pending in any court on the date of enactment of this Act shall be continued as if this Act had not been enacted.

"(d) Where a charge of an unfair labor practice is pending before the National Labor Relations Board on the date of enactment of this Act, and the hearing provided for in section 10(b) of the National Labor Relations Act, as in effect immediately prior to the enactment of this Act, has not been completed, and time limt provided for in section 10(b) of such Act, as amended by this Act, for filing a charge or complaint based on the same Acts has expired, a charge or complaint may nevertheless be filed under such section at any time within thirty days after the date of enactment of this Act."

Mr. TOWER. Mr. President, I send to the desk a modification of the amendment, and I will explain the modification.

The PRESIDING OFFICER. Without objection, the amendment as amended will be printed in the RECORD.

The amendment as modified is as follows:

On page 1, between lines 2 and 3, insert the following:

"TITLE I—EXTENDING COVERAGE TO EMPLOYEES OF NONPROFIT HOSPITALS"

On page 1, line 3, strike out "That" and insert in lieu thereof "SEC. 101."

At the end of the bill add the following new title:

"TITLE II—PROVIDING FOR TRIAL OF UNFAIR LABOR PRACTICE CASES IN THE U.S. DISTRICT COURTS

"SEC. 201. Section 3(d) of the National Labor Relations Act is amended by striking out 'trial examiners and' in the second sentence, and by striking out 'Board' the second time it appears in the third sentence and inserting in lieu thereof 'courts'.

"SEC. 202. Section 4(a) of such Act is amended by striking out 'examiners' in the second sentence, and by striking out the fourth sentence.

"SEC. 203. Section 9(d) of such Act is amended to read as follows:

"'(d) Whenever the validity of a certification of a bargaining representative by the Board under this section is in issue in a proceeding before a court under section 10, the clerk of the court shall notify the Board of that fact. Within fifteen days after the date such notice is received the Board shall file such certification, together with the record on which it was based, with the court.'

"SEC. 204. Section 10 of such Act is amended to read as follows:

"'PREVENTION OF UNFAIR LABOR PRACTICES

"'SEC. 10. (a) The district courts of the United States, the District Court of the Virgin Islands, and the United States District Court for the District of the Canal Zone shall have jurisdiction, as provided in this section, to prevent any person from engaging in any unfair labor practice listed in section 8 affecting Commerce.

"'(b) Any person aggrieved by any such unfair labor practice may, within six months after the date on which such unfair labor practice occurred, file a charge of such unfair labor practice with the General Counsel of the National Labor Relations Board and request him to file and prosecute such a complaint in any court specified in subsection (a) having jurisdiction of the parties. Whenever a person aggrieved by an unfair labor practice is prevented by reason of service in the Armed Forces from filing a charge or complaint he may do so within six months after the date of his discharge.

"'(c) Whenever a charge is filed with the General Counsel of the Board under this section, he shall promptly serve a copy of the charge upon the person against whom such charge is made. Within a reasonable time thereafter, he shall file a complaint with the appropriate court and prosecute such com-

plaint, in the name of and on behalf of the person who filed the charge, unless he determines that the charge is without basis in law or fact, in which case he shall promptly notify the parties of such determination. Within ninety days after receiving such notice, the charging party may file a complaint and, if the court determines that there is reasonable cause to proceed, prosecute the complaint on his own initiative. The General Counsel of the Board shall give priority to charges of unfair labor practices within the meaning of subsection (a)(3) or (b)(2) of section 8 and paragraph (4)(A), (B) or (C) of section 8(b) or section 8(e) or section 8(b)(7) over all other unfair labor practice charges filed with him, except cases of like character in the office where it is filed or to which it is referred. Investigation of charges of unfair labor practices within the meaning of subsections 4(A)(B) or (C) or (7) of section 8(b) shall be expedited and, within not more than forty-eight (48) hours from the filing of said charges, the General Counsel of the Board or his agent shall determine if there is reasonable cause to believe the charge is true and, if such a finding is made, thereupon file a complaint with any court specified in subsection (a) having jurisdiction of the parties and petition that court for appropriate injunctive relief pending final disposition of the proceeding. Upon the filing of any such petition the district court shall have jurisdiction to grant such injunctive relief or temporary restraining order as it deems just and proper, notwithstanding any other provision of law: *Provided further*, that no temporary restraining order shall be issued without notice unless a petition alleges that substantial and irreparable injury to the charging party will be unavoidable and such temporary restraining order shall be effective for no longer than five days and will become void at the expiration of such period. *Provided further*, that the General Counsel or his agent shall not apply for any restraining order under section 8(b)(7) if a charge against the employer under section 8(a)(2) has been filed and after the preliminary investigation, he has reasonable cause to believe that such charge is true and that a complaint should be issued. Upon filing of any such petition the courts shall cause notice thereof to be served upon any person involved in the charge and such person, including the charging party, shall be entitled to participate as a party in the proceeding.

"'(d) Proceedings under this section shall be tried by the court without a jury. Except as otherwise provided in this section, the Federal Rules of Civil Procedure shall apply in each such proceeding. If a master is appointed pursuant to rule 53 of the Federal Rules of Civil Procedure, such master shall be compensated by the United States at a rate to be fixed by the court, and shall be reimbursed by the United States for necessary expenses incurred in performing his duties under this section. Any court before which a proceeding is brought under this section shall advance such proceeding on the docket and expedite its disposition.

"'(e) The court may, upon petition of either the General Counsel of the Board or the charging party at any time after the filing of a charge alleging an unfair labor practice, grant such temporary relief or restraining order as it deems appropriate pending final disposition of any proceeding under this section, but only after publicly hearing testimony of witnesses with opportunity for cross-examination in support of the allegations of a complaint made under oath, and testimony in opposition thereto, if offered; and only, except for those cases in which a petition for an injunctive relief is filed by the General Counsel of the Board pursuant to subsection (c), after the court finds—

"'(1) that one or more acts constituting an unfair labor practice have been committed and will be continued unless restrained;

"'(2) that substantial and irreparable injury to the complainant will follow;

"'(3) that as to each item of relief granted, greater injury will be inflicted by the denial of relief than will be inflicted by the granting of relief; and

"'(4) that complainant has no adequate remedy at law.

The Act of March 23, 1932, entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes" shall not apply to any proceedings under this section, except that section 10 of such Act, providing for expeditious review of temporary injunctions, shall apply with respect to any temporary relief or restraining order issued under this section,

"'(f) If the court finds that any person named in the complaint has engaged in or is engaging in any unfair labor practice is charged in the complaint, the court shall enjoin such person from engaging in such unfair labor practice, and shall order such person to take such affirmative action, including reinstatement of employees with or without backpay (but not including the payment of damages in any other form), as may be necessary to enforce compliance with the provisions of this Act which such person is found to have violated. Where an order directs reinstatement of an employee, backpay shall be required of the employer, or the labor organization, or both, in such proportion as the court shall assess responsibility for the discrimination suffered by him. No order of the court shall require the reinstatement of any individual as an employee who has been suspended or discharged, or the payment to him of any backpay, if such individual was suspended or discharged for cause. In determining whether a violation of section 8(a)(1) or section 8(a)(2) has occurred, the determination shall not be affected by whether the labor organization concerned is affiliated with a national or international labor organization.

"'(g) For the purposes of this section courts shall be deemed to have jurisdiction of a labor organization (1) in the district in which such organization maintains its principal office, (2) in any district in which its officers or agents are engaged in promoting or protecting the interests of employee members, or (3) in any district in which the unfair labor practice is alleged to have occurred. The service of legal process upon such officer or agent shall constitute service upon the 'abor organization and make such organization a party to the suit.'

"SEC. 205. Section 11 of such Act is amended by striking out 'and section 10' in the matter preceding paragraph (1); by striking out 'or proceeded against' in the first sentence of paragraph (1); and by striking out 'complaints, orders.' in paragraph (4) and inserting in lieu thereof 'Orders'.

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"SEC. 207. (a) Any proceeding under section 10 of the National Labor Relations Act which is pending before the National Labor Relations Board on the date of enactment of this Act shall be continued by the Board if the hearing provided for in subsection (b) of such section, as in effect immediately prior to the enactment of this Act, has been completed, and if, within thirty days after the date of enactment of this Act, the person aggrieved by the unfair labor practice in question requests the Board to continue the proceeding. Upon request of any such person, the General Counsel of the National Labor Relations Board shall appear and represent such person in proceedings under this subsection before the Board and the courts. The Board shall act in such proceeding, and its action may be enforced or reviewed by the courts, in the same manner and with the same effect as if this Act had not been enacted, except that—

"(1) any enforcement proceeding under section 10(e) shall be instituted by the party seeking enforcement of the Board's order, or the General Counsel of the National Labor Relations Board, and thereupon the Board shall certify and file in the court a transcript of the entire record in the proceedings;

"(2) the Board shall not appear in any proceeding under section 10(e) or 10(f); and

"(3) if the court orders additional evidence to be taken in any proceeding under section 10(e) or 10(f), it shall be taken before a master designated by the court; the master shall be compensated by the United States at a rate to be fixed by the court, and shall be reimbursed by the United States for necessary expenses incurred in performing such duties.

"(b) Where the Board has issued an order under section 10 of the National Labor Relations Act before the date of enactment of this Act, a proceeding in court for the enforcement or review of such order may be instituted after such date in the same manner and with the same effect as though this Act had not been enacted, except that he provisions of paragraphs (1), (2), and (3) of subsection (a) of this section shall apply to such proceedings.

"(c) Any proceeding under section 10 of the National Labor Relations Act which is pending in any court on the date of enactment of this Act shall be continued as if this Act had not been enacted.

"(d) Where a charge of an unfair labor practice is pending before the National Labor Relations Board on the date of enactment of this Act, and the hearing provided for in section 10(b) of the National Labor Relations Act, as in effect immediately prior to the enactment of this Act, has not been completed, and time limit provided for in section 10(b) of such Act, as amended by this Act, for filing a charge or complaint based on the same Acts has expired, a charge or complaint may nevertheless be filed under such section at any time within thirty days after the date of enactment of this Act."

Mr. TOWER. Mr. President, on behalf of Senators ERVIN, GRIFFIN, and myself, I have offered a number of minor modifications to amendment No. 1143, which was submitted on April 3.

The amendment would transfer jurisdiction of unfair labor practice cases from the National Labor Relations Board to the Federal district courts.

It is a proposal that is long overdue and one that I have championed over a number of years. The other sponsors of the amendment, Senator ERVIN and Senator GRIFFIN, have likewise been in the forefront of the movement for labor law reform. I am extremely pleased that these two distinguished Senators have joined me in offering this proposal.

The amendment contains a significant modification to the "district court" plan that I have introduced over the last few years. The amendment would retain the office of general counsel of the NLRB to serve as a Federal prosecutor on behalf of a charging party. My bill to remove unfair labor practice cases from the jurisdiction of the NLRB granted authority and responsibility for prosecuting complaints with U.S. attorneys. Constructive criticism was given against this aspect of the proposal when hearings were held on the

district court bill in the 91st Congress before the subcommittee on separation of powers chaired by Senator ERVIN.

It was felt that the burden might be an onerous one for the Justice Department and that the responsibility could remain with the general counsel of the labor board as long as jurisdiction was transferred to the district courts and the charging party was allowed his day in court whether or not the general counsel felt the complaint merited action.

Mr. President, my remarks on this amendment will be divided into a number of areas, analyzing the framework of the National Labor Relations Act and the NLRB. I shall first discuss the nature of unfair labor practice complaints in terms of why they should be heard by courts instead of the NLRB. Then I shall discuss the decisionmaking process of the NLRB and why it has not advanced the intent of Congress. Finally, I shall discuss the nature of the office of general counsel and why the authority granted to him is necessarily inequitable and contrary to our system of justice.

THE NATURE OF UNFAIR LABOR PRACTICE

Mr. President, the National Labor Relations Act as amended by Taft-Hartley and Landrum-Griffin proclaims a set of basic principles to guide Federal labor law. Admittedly, in many respects it contains vague language, subject to reasonable men differing as to their interpretation.

Naturally, therefore, the act recognizes conflicting interest of employers, employees, and unions. Nevertheless, in sections 7 and 8 Congress and only Congress set out the basic policy of the statute and what types of actions would be considered unfair labor practices.

The argument against the pending proposal is that only an agency like the NLRB can resolve these conflicting interests because its personnel has the so-called expertise that somehow judges of general jurisdiction lack. This argument, in my opinion and in the opinion of many who have followed Board decisionmaking through the years, is entirely without substance.

It is just because the NLRA contains policies oftentime in conflict that the broad experience of Federal judges is needed. The courts constantly entertain disputes in such areas as buyer-seller relations, husband-wife relations, so on and so on. It is to be admitted that employer-employee relations is distinct from the types I have just mentioned. Nevertheless, however, that is not to say that it is more complicated. Labor law can become complex at times but no more so than other societal relationships.

The simple fact of the matter is that unfair labor practice issues are essentially judicial in nature rather than administrative as we have been led to believe. Unfair labor practice dispute resolutions can be easily distinguished from administrative rulemaking and regulation exercised by other agencies. The honorable Gerald Reilly, of the District of Columbia Court of Appeals, made such a distinction when he testified as a private practitioner before Senator ERVIN's subcommittee:

> The distinction between this kind of act and the statutes administered by the Securities and Exchange Commission which vest in the administrative agency authority to make the actual substantive rules of the game is too obvious to require elaboration.
>
> Nor should the function of making findings of unfair labor practices ever be confused with the quasi-legislative function of licensing broadcasting stations, determining routes for air and motor carriers, fixing passenger and cargo rates—matters which by their very nature have to be delegated to administrative agencies.

In 1954 the House Education and Labor Committee recognized the inherent judicial nature of unfair labor practice cases and recommended that the Board be divested of its authority over these cases. The committee analyzed the nature of the Board's authority in the following manner:

> Other Federal agencies are not so restricted. For instance, the Civil Aeronautics Administration determines what safety regulations shall be observed on airplanes and at airports; the Securities and Exchange Commission regulates the conduct of stock exchanges; the Federal Communications Commission has wide latitude in the issuance of radio and television licenses; the Federal Power Commission sets standards for construction of power lines; the Interstate Commerce Commission has discretion to determine the rates a public carrier may charge.
>
> Each of these agencies necessarily has a broad grant of policymaking power from Congress. The NLRB has none. It has no right to tell the parties to unfair practice cases what they ought to do in their dealings with each other. It is firmly limited by statute to a judicial finding on whether specific acts violate the well-defined terms of the law.

That committee's recommendation, which was unfortunately never considered by the House of Representatives, was followed up by the Hoover Commission report which likewise characterized unfair labor practice adjudication as essentially a judicial function and consequently agreed that responsibility for hearing these cases should be vested in courts of general jurisdiction. Soon thereafter the ABA reviewed the findings of the Commission and endorsed the recommendation made with respect to unfair labor practices.

This so-called myth of "expertise" can be further deflated. Parenthetically, I might refer the Senate to the definition given by the distinguished Senator from North Carolina, Mr. ERVIN, for the word "expert" during the testimony I gave on the district court plan in 1971.

An expert, said Senator ERVIN ". . . is a person who learns more and more each day about less and less until he gets to the point where he knows everything about nothing." I would carry forth what Senator ERVIN is saying by noting that if only so-called experts are capable of interpreting Federal labor law then we are in more trouble than even I think we are. This is so because the courts have a great deal of exclusive jurisdiction already under our labor laws. The Federal courts are routinely called upon to decide sometimes complicated issues under the Fair Labor Standards Act, the Equal Employment Opportunity Act and under the NLRA itself—matters such as injunctive relief, national emergency proceedings, section 301 breach of contract cases without any apparent problem. The U.S. Court of Appeals and the Supreme Court exercise some form of judicial review over unfair labor practices; our Federal courts have jurisdiction over a whole host of labor law issues within and without the National Labor Relations Act. Certainly, Federal labor law is no more complex than tax law which the courts have concurrent jurisdiction over, patent infringement cases and multi-million dollar antitrust cases where the courts constantly must interpret the broad language of the Sherman Act.

Mr. President, some critics of the NLRB have said that my proposal does not go far enough because it maintains jurisdiction of representation cases within the NLRB. However, if expertise is at all needed, it would be over issues of representation. The makeup of an appropriate unit for collective bargaining is not essentially a question of labor law but rather more so one of labor relations—knowledge of the law of the shop is helpful in making these designations. It can be likened to ICC rate regulation or FCC license regulation where knowledge of a particular industry is advantageous.

Mr. President, whatever may or will be said about the record of the board throughout the years is secondary to the argument that unfair labor practice adjudication is basically judicial. Once this premise is accepted, and I believe it to be irrebuttable, the framework of this amendment must also be accepted.

THE DECISIONMAKING PROCESS OF THE BOARD

Mr. President, as I have stated, the NLRB, an administrative agency, has been engulfed in judicial policymaking since its inception. Besides the fact that this is improper from the standpoint of separation of powers, it has created instability in decisionmaking that cannot be rivaled by any institution in our Federal system.

The simple fact of the matter is that we have political appointees who do doubt in good faith have interpreted and adjudicated disputes not on the bases of congressional intent but rather by adapting the statute to their own political philosophy. Such is the nature of political appointments and we should expect nothing more or nothing less. The role of a political appointee is to inject into the statute or industry he is regulating, the philosophy of the administration in power. I support this system because it, after all, is nothing but an extension of our democratic system. However, it has no role to play in those areas which are by their nature judicial Senator ERVIN's subcommittee held extensive hearings on many administrative agencies in the late 1960's. The hearings on the labor board contained this statement by Professor Bernard Meltzer, Professor of Law of the University of Chicago, concerning the effects of shifting board membership.

> But there is one set of difficulties for which, in my view, the Board has special responsibility, and which deserves special congressional scrutiny. I refer to major changes in policy that cannot be explained by changes in underlying conditions or by new insights or by the need to conform to judicial rulings. Such changes often occur

after the election returns bring in a new administration with a different political complexion. The record of the Eisenhower Board and the Kennedy Board makes it clear that no single board has had a monopoly over such changes. Such changes obviously suggest that the board at one time or another has misread or has flouted the congressional mandate unless the board has acted in an area over which Congress has granted it broad and substantially plenary discretion. Furthermore, changes and counterchanges apparently in response to the changing winds of politics or the changing personal philosophy of board members, are scarcely calculated to enhance respect for a quasi-judicial process. And finally, the resultant uncertainties and the encouragements of the parties to gamble on additional changes add to the board's swollen docket and aggravate one of the most critical problems in the administration of the act, that is, delay in providing meaningful relief for statutory violations.

Nevertheless, changes that tend consistently to favor one partisan interest and that impinge on fundamental statutory purposes not only weaken the integrity of the administrative process, but also create special problems for Congress, sensitive to its responsibility for legislative oversight.

Mr. President, during congressional hearings on the NLRB, arguments were made, and I believe successfully so, that the NLRB has been pro-labor and on many occasions has disregarded the needs of employers and employees. When I say "pro-labor," I mean pro-big labor. I believe these arguments have great merit and there is a simple reason why such favoritism has taken place. It is because that since the Wagner Act was passed, a majority of the administrations in office have emphasized the goal of total unionization of our work force and have generally supported policies that have the endorsement and are to the benefit of organized labor. This is not said with any underlying meaning of disrespect but rather it is put forth as a political fact of life.

It is this kind of political atmosphere that led to the following statement by Chairman Frank McCulloch of the NLRB in 1965:

We need to join forces. Only one in four are organized. There are still too many who resist national policy.

This national policy which Mr. McCulloch referred to was the encouragement of collective bargaining and unionization which the Wagner Act established. By encouraging unionization, Mr. McCulloch, the Chairman of that Federal agency having primary authority over Federal labor law, was speaking in total disregard of congressional intent as envisioned in the Taft-Hartley Act and the Landrum-Griffin Act. The Senate will recall that the Congress in approving the Taft-Hartley Act amended section 7 of the act to give employees the right to engage in protected, concerted activity and the right to refrain from engaging in such activity. In effect, by recognizing that labor unions could potentially engage in monopolylike practices endangering our economic system and could and indeed had restricted the individual employees' freedom of choice, Congress amended the Wagner Act through Taft-Hartley by placing the Federal Government in a neutral position with respect to unionization.

It was not to be encouraged or discouraged, but, instead, Congress had affirmatively stated that employees and employers would be able to decide on their own the nature of their employment relationship. Taft-Hartley said the collective bargaining process was to work its own will free of Federal encouragement or discouragement. The Subcommittee on Separation of Powers concluded after its exhaustive study of the Board that:

The National Labor Relations Board has of late unreasonably emphasized the establishment and maintenance of collective bargaining and strong unions to the exclusion of other important statutory purposes which often involve the rights of individual employees.

Criticism of the Labor Board is not limited to those who agree with the just-stated conclusion. Criticism is indeed inherent when you have an independent agency immersed in judicial decision-making composed of political appointees with 5-year terms that are in effect creations of the administration that appointed them. Thus, just last year, tremendous criticism was lodged against the general counsel appointed by President Nixon. Leaders of organized labor and Members of this body were in effect accusing the Board as a whole of taking orders from the White House when it tentatively decided that Caesar Chavez' United Farm Workers were representing covered employees.

The charge was made and given wide public attention in the media that the White House, through the Board, was trying to break that union's secondary boycott. The facts later disclosed that in this instance the Board was acting properly as the union ceased and desisted from representing non-agricultural employees. Nevertheless, the charge was readily made that the Board was playing politics.

Shifting Board membership has created intolerable problems in the administration of Federal labor law. New law is made every time a new administration is elected, contributing, I might add, to a rush on unfair labor practice complaints being filed, either because the law is uncertain and in a state of flux with the result that the complaint is filed because the charging party does not know what the law is, or simply because the charging party hopes and with reasonable expectations, no doubt, that previous board decisions will be reversed. The result is that Federal policy is made not by the rule of law but by the rule of men and that the Board continually faces a backlog of cases causing enormous delay in the administration of justice.

THE AUTHORITY OF THE GENERAL COUNSEL

Mr. President, it is possible that there is no single individual with as much power in Federal labor law policy as the General Counsel of the National Labor Relations Board. His authority is autonomous and his actions unreviewable. The distinguished Senator from Michigan (Mr. GRIFFIN) analyzed the General Counsel's authority by stating that "even the Congress is inferior in the exercise of power compared with the General Counsel. Congress' decisions and acts can be reviewed by the Supreme Court. The General Counsel seems to have more power in this particular field than the rest of us."

I do not think that justice is served under such an institutional framework regardless of who is General Counsel. "Power corrupts and absolute power corrupts absolutely." The General Counsel of the NLRB has such absolute power, potentially capable of thwarting the aim of the entire statute regardless of the "good faith" in which he engages in his activities. He can ignore court rulings by failing to prosecute a complaint—or even board decisions by the same negative process. He can deny substantive relief by delaying his decision on a complaint.

During the hearings on this proposal in the 91st Congress, Senator ERVIN took issue with the framework in which the General Counsel operates, as follows:

I might state my objection to the power of the general counsel is not based upon any general counsel's activities. I am fundamentally opposed to a proposal for such monarchial powers in any human being. I do not think any human being who ever lived ought to have the right to give a man or deny a man access to the temple of justice. I would not even trust myself to exercise that autocratic power.

Mr. President, recently the Supreme Court ruled that the NLRB has exclusive jurisdiction over internal union disputes in which the employee claimed his union had unlawfully disciplined him and/or forced his eventual firing as long as the fact pattern "arguably" concerned a matter affecting his employment status. I do not agree with the Court in Motor Coach Employees against Lockridge because it disregards the purpose of and the remedies available under section 101 of the Landrum-Griffin Act, the Bill of Rights for employees. What is significant about this decision with respect to the issue I raise is the dissent by Justice Douglas who forcefully advances the proposition that to place complaints at the discretion of the General Counsel basically eliminates all employee remedies. The following excerpt from his dissent sets forth why the private right of action called for in my amendment should be made available.

When we hold that a grievance is "arguably" within the jurisdiction of the National Labor Relations Board and remit the individual employee to the board for remedial relief, we impose a great hardship on him, especially where he is a lone individual not financed out of a lush treasury. I would allow respondent recourse to litigation in his home town tribunal and not require him to resort to an elusive remedy in distant and remote Washington, D.C., which takes money to reach.

He has six months within which to file an unfair labor practice charges with the regional director and serve it upon the other party. If he does not file within six months, the claim is barred. 29 U.S.C. § 160(b). The charge must be in writing and contain either a declaration that the contents are true to the best of his knowledge, or else a notarization. 29 CFR § 101.2. When the charge is received, it is filed, docketed, and given a number (29 CFR § 101.4) and assigned to a member of the field staff for investigation. 29 CFR § 101.4.

Following the investigation, the regional director makes his decision. "If investigation

reveals that there has been no violation of the National Labor Relations Act or the evidence is insufficient to substantiate the charge, the regional director recommends withdrawal of the charge by the person who filed." 29 CFR § 101.5. If the complaining party does not withdraw the charge, the regional director dismisses it. 29 CFR § 101.6. Following dismissal, the complainant has 10 days to appeal the decision to the general counsel who reviews the decision. Ibid. If the general counsel holds against the complaining party and refuses to issue an unfair labor practice complaint, the decision is apparently unreviewable. A. Cox & D. Bok, Labor Law 138 (7th Ed. 1969); *General Drivers Local 886 V. NLRB*, 179 F. 2d 492.

From the viewpoint of an aggrieved employee, there is not a trace of equity in this long-drawn, expensive remedy. If he musters the resources to exhaust the administrative remedy, the chances are that he too will be exhausted. If the general counsel issues a complaint, then he stands in line for some time waiting for the board's decision. If the general counsel refuses to act, then the employee is absolutely without remedy. For as *Garmon* states:

"[T]he board may also fail to determine the status of the disputed conduct by declining to assert jurisdiction, or by refusal of the general counsel to file a charge, or by adopting some other disposition which does not define the nature of the activity with unclouded legal significance. This was the basic problem underlying our decision in *Guss v. Utah Labor Relations Board*, 353 U.S. 1. In that case we held that the failure of the National Labor Relations Board to assume jurisdiction did not leave the States free to regulate activities they would otherwise be precluded from regulating. It follows that the failure of the board to define the legal significance under the act of a particular activity does not give the States the power to act." 359 U.S., at 245–246.

From this it follows that if the general counsel refuses to act, no one may act and the employee is barred from relief in either State of Federal Court. See *Day v. Northwest Division 1055*, 238 Ore. 624, 389 P. 2d 42, cert. denied, 379 U.S. 878.

When we tell a sole individual that his case is "arguably" within the jurisdiction of the board, we in practical effect deny him any remedy. I repeat what I said before, "when the basic dispute is between a union and an employer, any hiatus that might exist in the jurisdictional balance that has been struck can be filled by resort to economic power. But when the union member has a dispute with his union, he has no power on which to rely." *Plumbers' Union v. Borden*, 373 U.S. 690, 700 (dissenting).

The Labor Board is unique in having its chief prosecutorial officer vested with the exclusive authority to decide whether or not a complaining party will get his day in court. A concurrent private right of action allowing access to our Federal judiciary is available under a whole host of statutes, including the Fair Labor Standards Act, the Age Discrimination Act, the Equal Employment Opportunity Act, the Sherman Antitrust Act and other statutes of similar importance.

It should likewise be available under the National Labor Relations Act. This amendment would retain the general counsel as a Federal prosector should the charging party desire to make use of his services and should he, the general counsel feel the complaint has merit. If he decides that it does have merit he would issue such a complaint and seek to prosecute it in the Federal district courts. The entire process would be governed by the Federal rules of civil procedure and the general counsel would be free to seek a pre-trial settlement of the issues. If he decides that the complaint lacks merit the charging party could at least seek his own remedy and his own day in court.

Mr. President, I urge adoption of the Tower-Ervin-Griffin amendment. Narrow partisanship has no role to play in the administration of justice. The record of the NLRB speaks for itself. Appointments to the board are inherently chosen on the basis of political allegiance requiring loyalty to the position of the administration that selected them. On the other hand, pressures surrounding appointments to the Federal judiciary are not nearly as narrow and intense simply because of the wide types of subject matter jurisdiction they would be confronting. Life tenure appointments will also serve to guarantee the necessary independence required to effectuate the intent of Congress and thereby serve to restore the separation of powers concept to Federal labor law.

APPROPRIATIONS CEILING FOR FISCAL 1975

Mr. McCLELLAN. Mr. President, on February 27, 1974, at the opening of hearings by the Committee on Appropriations on the administration's record high $304.4 billion budget for fiscal 1975, I announced that the committee would again undertake to establish tentative ceilings for expenditures on the bills coming before it.

Pursing an approach which worked with some measure of success last year, letters were sent to each of the 13 subcommittee chairmen requesting them to review those sectors of the budget under their jurisdiction and to propose ceilings which they would endeavor to observe and be guided by during the consideration of these measures.

Each subcommittee chairman was requested to recommend the minimum amount which his subcommittee believed would be reasonably required to economically carry out the essential programs and functions of Government over which his subcommittee has jurisdiction.

I am pleased to report, Mr. President, that each Appropriations Subcommittee chairman has responded to my request, and I take this opportunity to express my appreciation to them for their cooperation.

Seven subcommittees projected cuts which would reduce administration requests for a new budget authority by about $5.7 billion during fiscal 1975. They are:

Defense, $3.5 billion; foreign operations, $1.3 billion; Housing and Urban development and space, $613 million; legislative, $13.5 million; military construction, $120 million; Transportation, $69 million; and Treasury, U.S. Postal Service and general government, $130 million.

Three subcommittees reported they would make increases over and above budgetary requests for a total of some $2.7 billion. They are:

Agriculture, $93.8 million; Labor, Health, Education, and Welfare, $2.4 billion; and Public Works, Atomic Energy Commission, $180 million.

Three subcommittees reported that they would make every effort to hold their appropriations within the budget—that they would not exceed budget requests. They are:

District of Columbia; Interior; and State, Justice, Commerce, and the Judiciary.

Thus, Mr. President, the ceilings established by the respective subcommittees of the Committee on Appropriations would result in a reduction of approximately $3 billion in new obligational authority for fiscal 1975—from $192.4 billion sought by the administration to $189.4 billion. This represents a reduction of 1.6 percent.

In terms of actual outlays, Federal spending in fiscal 1975 would be cut by more than $2.2 billion—from $191.6 billion to $189.4 billion, or 1.2 percent.

Although these reductions appear minimal when compared with the huge size of the budget, they constitute a short step, at least, on the long road back to fiscal responsibility. They also evidence some measure of concern by Congress over the deteriorating fiscal condition of our Government in these turbulent times in our Nation's history.

And I would like to point out that they compare favorably with our accomplishments last year. At that time, we projected a reduction in new obligational authority of about $2.4 billion. But we managed to reduce the administration's spending proposal as amended even more during the deliberative process—making a total reduction of approximately $3.3 billion.

I am hopeful that after careful examination and judicious consideration of all pertinent factors, we will once again be able to make some worthwhile reduction in Federal spending. I hope we can exceed the estimates, or even come under the ceiling that has been suggested by each subcommittee chairman.

However, our estimates were made before the release of statistics on April 18, 1974, which clearly show that our economy is in disarray and has lost much of its buoyance and vitality. We are now brought face-to-face with the threat of recession while the price of almost everything we consume is soaring to unprecedented heights.

During the first quarter of 1974, our total output of goods and services dropped by an annual rate of 5.8 percent—the largest amount since the recession of 1958. At the same time, the rate of inflation accelerated despite the decline in output—rising at a rate of 10.8 percent.

If these alarming trends continue unabated, we may well have to review and adjust the estimates presented here in order to deal responsibly with the impending crisis.

It should also be kept in mind that our task is made more difficult by reason of the fact that of the $344 billion in gross outlays proposed by the administration for the coming fiscal year, $248 billion—or roughly 72 percent — is relatively un-

controllable by the appropriation processes.

This means that decisions and actions taken by Congress in past years have preempted appropriation discretion and control over nearly three-fourths of the proposed spending for fiscal 1975.

This uncontrollable sector of the budget has steadily increased with each succeeding year. In fiscal 1967, uncontrollable items accounted for 59 percent of the total budget. In 1970, they reached 64 percent. In 1974, they accounted for 72 percent.

Of the $344 billion estimated of gross Federal spending in fiscal 1975, only 66 percent around $227 billion will derive from new obligational authority provided in appropriations bills for 1975. The balance of the spending is from prior year appropriations. Over one-third of this $227 billion—more than $85 billion—is in the relatively uncontrollable category and appropriations for this amount will be a pro forma process since past authorizations required direct funding.

We have by past legislative actions so splintered spending authority off from the regular appropriations process that Congressional control of the budget has been significantly diminished. In recent years "backdoor" or mandatory spending has grown phenomenally.

For example, in the last 6 fiscal years, Congress, through its actions on appropriations bills, reduced Administration requests for new budget authority by approximately $33 billion. But, during that same 6-year period, Congress approved in legislative measures outside the regular appropriations process, budget authority which exceeded the budget estimates by slightly over $40 billion. For this "backdoor" spending practice and its adverse effect on budget control, Congress itself is solely to blame.

During the first session of the 93d Congress, alone, of the 145 legislative actions having direct or indirect relationship to budget authority and spending, only 17 were in the form of appropriations measures. All the rest—128—were legislative bills which did not go through the usual appropriations process.

Congress is now demonstrating its serious concern over the fiscal condition of our country and is beginning to take some corrective action. The adoption by the Appropriations Committee of its tentative appropriations and expenditures ceilings is clear evidence of our resolve to deal with the multitude of fiscal problems now confronting us.

But, in conclusion, Mr. President, I wish to emphasize that each individual Member of Congress has the responsibility for helping put our fiscal affairs in order. Unless we have the will—unless we exercise restraint in authorizing new programs—unless we weigh and accommodate priorities so that spending is kept within the bounds of revenues—we will never be able to establish a sustaining and durable fiscal policy that is most essential to national solvency and a stabilized economy.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point as part of my remarks a chart prepared by the staff of the Appropriations Committee showing new budget authority and outlays for fiscal 1974, new budget authority and outlays requested for fiscal 1975, new budget authority and outlays recommended by the subcommittees for fiscal 1975, and the difference between the budget requests and recommendations by the subcommittees for fiscal 1975.

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

COMMITTEE ON APPROPRIATIONS, U.S. SENATE

BUDGET REQUESTS AND COMMITTEE CEILINGS FOR FISCAL YEAR 1975 FOR NEW BUDGET AUTHORITY (NBA) AND OUTLAYS (O), APR. 29, 1974

[In millions of dollars]

Source	Current estimate for fiscal year 1974	Budget request, fiscal year 1975 [1]	Subcommittee recommendation, fiscal year 1975	Subcommittee change in 1975 budget request
(1)	(2)	(3)	(4)	(5)
A. New budget authority (NBA) and outlays from appropriations bills:				
1. Agriculture, Environmental and Consumer Protection:				
NBA	$9,911.4	$13,486.5	$13,580.3	+93.8
Outlays	9,973.4	13,260.3	13,298.9	+38.6
2. Defense—Military:				
NBA	73,786.5	85,582.3	82,082.3	−3,500.0
Outlays	71,730.6	79,172.4	77,528.8	−1,643.6
3. District of Columbia:				
NBA	418.0	408.0	408.0	0
Outlays	421.0	450.0	450.0	0
4. Foreign operations:				
NBA	7,983.4	4,324.8	3,044.7	−1,280.0
Outlays	4,029.0	4,291.3	3,011.3	−1,280.0
5. HUD, Space, Science, Veterans:				
NBA	21,030.1	22,769.4	22,155.9	−613.4
Outlays	21,814.8	22,394.8	22,264.8	−130.0
6. Interior:				
NBA	2,577.9	3,542.9	3,542.9	0
Outlays	2,792.6	3,561.0	3,557.5	0
7. Labor, HEW:				
NBA	35,753.0	37,889.0	40,301.0	+2,412.0
Outlays	35,413.0	38,674.0	39,954.0	+1,280.0
8. Legislative:				
NBA	663.6	727.6	714.1	−13.5
Outlays	652.3	736.5	722.0	−14.5
9. Military construction:				
NBA	2,658.8	3,383.0	3,263.0	−120.0
Outlays	2,257.0	2,574.2	2,454.2	−120.0
10. Public Works, AEC:				
NBA	4,899.9	5,868.7	6,048.7	+180.0
Outlays	5,215.8	6,099.5	6,190.7	+91.2
11. State, Justice, Commerce, Judiciary:				
NBA	4,546.7	5,512.7	5,512.4	0
Outlays	5,469.1	5,736.9	5,736.9	0
12. Transportation:				
NBA	3,136.5	3,470.9	3,401.5	−69.4
Outlays	8,636.4	9,235.1	9,050.4	−184.7
13. Treasury, U.S. Postal Service, General Government:				
NBA	6,280.7	5,512.6	5,382.4	−130.2
Outlays	6,046.7	5,497.3	5,171.0	326.3
14. Supplemental and contingency requests and actions (pay increases, energy and flood control programs):				
NBA	$680.6	$3,480.0	$3,480.0	0
Outlays	1,143.5	4,874.1	4,874.1	0
15. Under proposed legislation involving congressional action:				
NBA	3,376.9	−485.3	−485.3	0
Outlays	403.1	−293.3	−293.3	0
16. Subtotal, appropriations bills:				
NBA	177,703.9	195,473.1	192,432.3	−3,040.8
Outlays	175,988.3	196,264.1	193,974.8	−2,289.3
B. Availability of NBA and outlays from sources other than appropriations:				
1. New budget authority requests requiring current legislative action:				
NBA	15,582.9	2,519.2	2,519.2	0
Outlays	0	1,960.1	1,960.1	0
2. Trust funds:				
NBA	104,688.3	120,802.2	120,802.2	0
Outlays	92,621.5	107,114.4	107,114.4	0
3. Interest on the public debt:				
NBA	29,100.0	30,500.0	30,500.0	0
Outlays	29,100.0	30,500.0	30,500.0	0
4. Permanent appropriations and other authorizations:				
NBA	15,595.8	12,389.5	12,389.5	0
Outlays	9,784.6	8,189.6	8,189.6	0
5. Subtotal B: Availability of NBA or outlays from sources other than appropriations bills:				
NBA	164,967.0	166,210.9	166,210.9	0
Outlays	131,506.1	147,764.1	147,764.1	0
6. Gross total (A and B) of NBA or outlays:				
NBA	342,670.9	361,684.0	358,643.2	−3,040.8
Outlays	307,494.4	344,028.2	342,738.9	−2,289.3
7. Deduction adjustment for offsetting receipts:				
NBA	−37,258.0	−39,543.0	−39,543.0	0
Outlays	−37,258.0	−39,543.0	−39,543.0	0
C. Grand total of NBA or outlays:				
NBA	305,412.9	322,141.0	319,100.2	−3,040.8
Outlays	270,236.4	304,485.2	302,195.9	−2,289.3

Budget requests include administration requests received up to Apr. 15, 1974, which were not included in the Budget of the U.S. Government, fiscal year 1975, submitted Feb. 4, 1974.

COVERAGE AND PROTECTION FOR EMPLOYEES OF NONPROFIT HOSPITALS

The Senate continued with the consideration of the bill, S. 3203, to amend the National Labor Relations Act to extend its coverage and protection to employees of nonprofit hospitals, and for other purposes.

Mr. TAFT. Mr. President, I oppose this amendment (No. 1143), which would, among other things, transfer the jurisdiction for hearing unfair labor practices from the National Labor Relations Board to the U.S. district courts.

From its inception in 1935, the National Labor Relations Board—NLRB—has not been without its critics. I have even been one.

It has been the subject of much debate and much controversy. The Board has become a target for academic model making as well as for model breaking. One need merely pick an organizational concept, and an advocate will quickly appear. Closely followed, I might add, by a slew of detractors.

Throughout the years it has been suggested that the National Labor Relations Board, or at least some or all of its functions, be carved into no less than 12 separate agencies. Among these proposals have included the creation of a Labor Relations Commission, a Labor Appeals Board, a National Labor Administration, a Federal Labor Relations Board, an Unfair Labor Practices Tribunal, a Labor Court, a Labor-Management Relations Board, and even a Labor Division in the Justice Department.

And today, we have before us yet another proposal. This one would halve the responsibility of the National Labor Relations Board by transferring primary jurisdiction for unfair labor practices to the U.S. district courts.

The plan is not a new one. It has been proposed to the Congress in various forms since 1963. I might point out to my colleagues that this bill and its predecessors have never been reported out of the Judiciary Committee where they have been referred, although a version was reported by the Separation of Powers Subcommittee in the 92d Congress. However, the Judiciary Committee took no further action on the bill.

Its sponsors have suggested that transfer of unfair labor practice cases to the district court is needed because the Board has deviated from the congressional intent of the National Labor Relations Act, as amended, and therefore has abused its constitutional prerogatives as an administrative agency. The advocates of the district court plan also content that the political nature of the Board has created an uncertain and shifting national labor policy.

They feel that this jurisdictional change is needed to bring about a sound labor policy, as well as a more effective system of judicial administration in this area.

However, the underlying motive for this amendment if not made clear by its sponsors, was certainly made clear by the parade of witnesses brought before the Separation of Power's Subcommittee's hearings.

I do not intend to reargue the merits of Supreme Court labor decisions on the floor of the Senate today. It is obvious that the sponsors of this amendment have been greatly dissatisfied with the High Court's ruling on so many of these cases, particularly where the action of the National Labor Relations Board was upheld.

To me, these same Supreme Court decisions suggest that the NLRB has been indeed doing an effective job of interpreting Federal labor statutes.

The author of the pending amendment indicates that this year's version includes a major substantive difference from the version introduced last year (S. 853). The current version retains the General Counsel as the Federal prosecutor instead of having the U.S. attorney assume the role.

In discussing the earlier bill, Senator TOWER noted in the RECORD, of April 3, 1974, that:

> My bill would have vested the authority to bring an action with the U.S. Attorney. Constructive criticism was put forth against this suggested change since it was felt that too great a burden would be placed on the U.S. Attorney's offices.

I just suggest to my colleague from Texas that he extend his very good logic. In 1973, the U.S. district courts handled 80,598 cases. During that same year, the NLRB handled 26,487 unfair labor practice cases. A figure I might add which has been going up steadily since 1948—when it handled 3,085 cases. Just as the burden on the U.S. attorney's offices would be increased, so too would the load be increased on the already strained Federal court system.

When these figures are put into a time frame, the burden on the court system is further evidenced. The median time for all U.S. district court cases was 10 months, up a full month over last year's figure. Even for the almost one-half of the cases for which there was no court action, it took a median of 8 months until final disposition. And for those cases going the full trial route, the median time was 16 months; and for 10 percent of these, parties could be expected to wait almost 3½ years until trial. In addition, it must be remembered that appeals to higher courts would further increase the time.

On the other hand, the NLRB was able to take care of approximately 90 percent of their unfair labor practice cases in a median time of 45 calendar days from the filing of a charge to either withdrawal, settlement, adjustment, or dismissal. Even for the remaining contested cases, the median time last year was 267 days, under 9 months from the issuance of the complaint to the final board decision. Compare this to 16 months' time on the district court.

There is one more irony in this time comparison. The districts where the backlog of cases is the heaviest, are also the regions where the unfair labor practice cases are the most plentiful.

One of the reasons the NLRB has been able to deal as effectively and efficiently with the bulk of their cases is the fact that they are indeed experts in the specialized field of litigation. An expertise built up over many years which would be lost if the jurisdiction is transferred to the courts whose judges do not have the time to acquire the needed expertise. Even if the General Counsel is retained to prosecute, the expertise and experience of the NLRB trial examiners, or administrative law judges, as they are now called, would be lost. The accrued competence of these administrative law judges in the area of labor law will not easily be duplicated in the court system.

The transfer of jurisdiction to the district courts would forsake yet another aspect of this country's existing labor policy—that of geographic uniformity and consistency in the decisionmaking process.

All of the administrative law judges, who by the way are appointed by the board from a Civil Service roster based on competitive examinations, are located in either Washington, D.C., or San Francisco. They travel to the area of the dispute on a case-by-case basis. Thus, regional differences are minimized, unlike those which tend to occur in our district court system. The board's single location in Washington further adds to the decisional uniformity.

The sponsors of the amendment also state that one of its prime purposes is to enable an individual to pursue his or her own case in the courts when the General Counsel rules that there is no basis to issue a complaint. They seem to be particularly concerned about cases in which an aggrieved employee files charges alleging the union has committed an unfair labor practice against that individual.

First, let me say that the suggestion, or at least the implication that General Counsel does not, or will not, pursue these types of complaints with vigor and integrity is one which is completely unfounded.

Second, with regard to the individual being completely without remedy against a union thought to be guilty of some misconduct, this is just not true. An individual who alleges that the union has breached its duty of fair representation may sue for damages in State courts even if the NLRB has assumed jurisdiction over the matter. In addition, an individual charging union wrongdoing may on his or her own motion, seek a variety of remedies under the Labor-Management Reporting and Disclosure Act of 1959.

As for the charge that the General Counsel discretionary authority vis-a-vis pursuing unfair labor practices is contrary to the best interest of the equitable administration of justice, I would ask that my colleagues allow me to review some of the legislative history in order to trace the origins of the General Counsel's Office.

From 1935 to 1947 the National Labor Relations Board consisted of three members appointed by the President for 5-year terms. The Board, as originally constituted, was responsible for investigation, prosecution, and adjudication of all cases over which it claimed jurisdiction.

In 1947 Congress separated the Board's function so that it could no longer act as prosecutor, judge, and jury. The Board's membership was increased to five and it

was permitted to retain its judicial function. However, the agency's investigative and prosecutional responsibilities were given to the newly created office of General Counsel. Several measures were instituted to insure the integrity of this separation of power. The General Counsel was given statutory supervisory control of legal personnel under this authority. In addition, the General Counsel was established as a Presidential appointee, rather than be selected by the Board, and would hold office under an independent 4-year term.

To further maintain the separate identity of the agency's prosecuting arm, the amended act provided that the General Counsel—

Shall have final authority, on behalf of the Board, in respect of investigation of charges and issue of complaints . . . and in respect of the prosecution of such complaints before the Board.

The General Counsel has the additional responsibility for securing compliance with the Board's orders.

The legislative history of the Taft-Hartley amendments makes clear that the grant of nonreviewable power to the Office of General Counsel was done so as to further insulate the agency's prosecutorial function from the Board's judicial function. In rejecting a completely separate prosecutional agency, the 1947 statement of managers noted in item No. 9:

The conference agreement does not make provision for an independent agency to exercise the investigating and prosecuting functions under the act, but does provide that there shall be a General Counsel of the Board, who is to be appointed by the President, by and with the advice and consent of the Senate, for a term of 4 years.

The General Counsel is to have general supervision and direction of all attorney's employed by the Board (excluding the trial examiners and the legal assistant to the individual members of the Board), and of all the officers and employees in the Board's regional offices, and is to have the final authority to act in the name of, but independently of any direction, control, or review by, the Board in respect of the investigation of charge and the issuance of complaints of unfair labor practices, and in respect of the prosecution of such complaints before the Board.

For well over two decades, the courts have maintained that it would be inconsistent to breach the legislative fabric which established the discretionary process of the General Counsel. They have refused to second-guess the judgment of the General Counsel. However, the courts have retained a reserved, though unused, power to step in where there is evidence of gross abuse. In the two leading cases where the General Counsel's authority was upheld—Hourihan against NLRB in 1952 and United Electrical Contractors Association against Ordman in 1967—the court noted both the General Counsel's prerogatives and its own residual equity jurisdiction.

The Court should not be asked to take over the work of the General Counsel's Office, or to scrutinize his decisions in matters of the present kind [failure to pursue a charge of an alleged unfair labor practice], except perhaps in the most extreme situations.

I think this squares precisely with the interpretation of the coauthor of the amendments, Senator ROBERT A. TAFT, as stated in his supplementary analysis of the bill, CONGRESSIONAL RECORD, June 12, 1947, he remarked:

In order to make an effective separation between the judicial and prosecuting functions of the Board and yet avoid the cumbersome device of establishing a new independent agency in the executive branch of the Government the conferees created the Office of General Counsel of the Board . . . We invested in this office final authority to issue complaints, prosecute them before the Board, and supervise the field investigating and trial personnel. It is asserted that this is consistent with the Administrative Procedure Act and that it places a tremendous amount of unreviewable power in the hand of a single official.

What the conference amendment does is simply to transfer this "vast and unreviewable power" from this anonymous little group [the Board's legal assistants] to a statutory officer responsible to the President and the Congress. So far as having unfettered discretion is concerned he, of course, must respect the rules of decision of the Board and of the courts. In this respect his function is like that of the Attorney General of the United States or a State attorney general.

Although I oppose this amendment transferring jurisdiction of unfair labor practices to the district court, this should not necessarily be construed to mean that I favor the status quo as it concerns the NLRB.

I think there are many areas worth exploring which would improve both the effectiveness and efficiency of the Board. For example, consideration might be given to expanding the size of the Board as well as lengthening the terms of individual members. Also, thought should be given toward utilizing its rulemaking capacity with more frequency and improving internal procedural mechanisms. Another area worthy of review is the enforcement power of the Board—whether or not it should be permitted to enforce its own orders.

But this is not an appropriate time for the Senate to act upon, or even discuss, these issues. The main business at hand is to debate the fate of some 1.4 million employees of private nonprofit hospitals who have been excluded from the coverage and protection of the National Labor Relations Act.

In summary, I might say that some of the matters that the distinguished Senator from Texas has raised I agree with, some I disagree with, and others I would want to examine further before expressing an opinion on them. I do think it is helpful to have the issue raised at this time as it has been raised and brought before Congress. I think a continuing review of this area is desirable in our committees. I would point out that the only committee consideration of the matter, which was a fairly thorough one, by a subcommittee on the Committee on the Judiciary back a few years ago, resulted in no further committee action.

Mr. TOWER. Mr. President, will the Senator yield for a clarification?

Mr. TAFT. I yield for a clarification.

Mr. TOWER. Actually, the subcommittee was chaired by the distinguished Senator from North Carolina, and it is my recollection that the subcommittee did report the bill to the full committee.

Mr. TAFT. The Senator is correct in that regard. When I said no action resulted, I meant no committee action resulted. And the Senator from North Carolina who I think will speak in a few minutes, may want to comment on the matter further. The issue before us relates solely to the coverage of nonprofit hospitals and similar health care institutions.

The bill is tailored specifically to deal with labor-management relations in that area. There is the vital interest of the patients involved, which is a special public interest as compared to the overall scope of labor relations legislation, and I do not feel we properly ought to go into all the arguments at this time on this particular bill. I think it would jeopardize passage of the bill.

Therefore, at an appropriate time I expect to move to table the amendment. I have no desire at this time, however, to call off debate by other Members, so I am prepared to yield the floor, having indicated that at an appropriate time I expect to move to table the amendment.

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

Mr. TAFT. I yield.

Mr. JAVITS. As a matter of fact, is it not true that this was our big problem in committee, the problem of opening up the National Labor Relations Act? Many reforms are in the minds of many of our Members, and I deeply believe, myself, there should be an opportunity to explore the act in hearings and have various ideas submitted, and perhaps we are in need of some sessions to revise the act, which has to be done periodically with regard to any law, including labor law.

This bill is designed for a specific purpose at a specific time, to stabilize relations in a particular field. I think if we open up the act to the many arguments that occur on the various purposes of it, we are going to end the chance for getting done what needs to be done in the hospital field. We are dealing with 15,000 matters a year which are unfair labor practice complaints. If this amendment were to pass, they will inundate the Federal courts, which are busy enough. Second, it will jettison an enormous body of expertise and precedent which has been built up already by going into a new form. Third, and most important, it will do exactly what labor is really concerned about, which is to offer the opportunity enormously to extend adjudication by injunction, because that is the essential point of the amendment. We will have an injunction issue from a forum which can proceed not only on basic principle cases filed by the general counsel, but on private cases also. So that we are taking on an enormous load. It would just break the back of the bill and will, in addition, serve no useful purpose. It will mean we will have to revise the labor laws of the country, which we can hardly do at this time and season.

Mr. TAFT. I thank the Senator very much for his comments.

Mr. ERVIN. Mr. President, Congress and the Supreme Court did not adhere to the words of Article III in the Constitution, section 1 of which states:

SECTION 1. The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the

Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their offices during good Behaviour, and shall, at stated Times, receive for their Services a Compensation which shall not be diminished during their Continuance in Office.

SEC. 2. The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority.

Now those words in the Constitution show the plain intent of the wise men who drafted and ratified that instrument which was to have the judicial power of the United States exercised by judges who are appointed for life, and who are made free of all pressures not only by having tenure for life but also by the provision that their compensation cannot be diminished during their continuance in office.

Unfortunately, however, Congress began the practice of vesting the judicial power of the United States, notwithstanding the clear intent of the framers of the Constitution to the contrary, in various kinds of so-called legislative or territorial courts.

The Supreme Court, unfortunately, held that these courts were legislative courts and that Congress had the authority to establish them under various provisions of the Constitution notwithstanding the clear declaration of article III, which states that "The judicial power—" and that is all of the judicial power of the United States, is vested in the courts and there shall be life tenure for judges.

Mr. President, several years ago, the Judiciary Subcommittee on the Separation of Powers, of which I have the honor to be chairman, conducted an extensive investigation on the subject of whether the National Labor Relations Board had adhered to the intent of Congress, as expressed in the National Labor Relations Act, in making adjudications under its authority. Some of the greatest legal scholars in the United States appeared before the Subcommittee on Separation of Powers and testified to the effect that time after time the National Labor Relations Board had clearly disregarded the plain intent of Congress which was manifested in the very legislation which the Board was undertaking to interpret and to execute.

The truth is, Mr. President, that every time there is a vacancy on the National Labor Relations Board we have a contest between industry on the one hand and labor on the other to designate a man to fill the vacancy whose political philosophy will harmonize with one or the other of these two groups.

Where we have that kind of system, where men are selected to exercise judicial power because of their bias one way or another, justice suffers irreparable harm.

I have heard a lot of talk about the expertise of the members of the National Labor Relations Board. I would rather have any matter I am interested in, interpreted by a court and enforced by a court which is not devoted to only one subject of the law. I think that we get more fair judgments, more sound judgments, at the hands of judges who are not tied down to one restricted field of law, but who are accustomed to dealing with all the various areas of the law. It is especially important to sound and fair judgments that matters be considered by judges who by reason of their life tenure and by reason of their protection as to compensation have no reason to be biased in favor of one party to a dispute or in favor of another.

For that reason, I think this amendment should be adopted.

The statement was made by the distinguished Senator from New York (Mr. JAVITS) that this amendment should not be offered to this particular bill because the bill deals with a related matter which is restricted in nature. I think the matter which the bill deals with is totally insignificant as compared with the matter which is covered by this amendment.

This is a good time to return to what was evidently the dream of the Founding Fathers, that the judicial power of the United States should be executed by unbiased judges holding office for life. The judicial power should be exercised by judges who are not beholden to either one of the two great segments of our society which have their contests waged before the National Labor Relations Board.

There is another point I object to in the labor laws and that is the fact that they can rob the individual of his right to vindicate his own legal rights in this field or to protect himself against injury at the hands of others.

We have, as the distinguished Senator from Texas said in a quotation of something I said several years ago, the most autocratic power ever lodged by a free society in any public official vested in the General Counsel. The General Counsel can bar the door to the temple of justice to any wronged individual in the labor field according to his unbridled, uncontrolled, and uncontrollable discretion. There is no standard whatever except his own whim or caprice as to whom he will file a complaint of an unfair labor practice or an unfair management practice against. That ought not to be. The doors of the temple of justice should be open to the individual who has been wronged and to the individual who is threatened with wrong. He should have appropriate and legal and equitable remedies with which to either redress wrongs already committed or to prevent wrongs which are threatened.

Prior to the time that the Subcommittee on the Separation of Powers conducted its investigation into how the National Labor Relations Board was executing the National Labor Relations Act, the Supreme Court had handed down, by a split decision, a most unfortunate decision, that of the Alis-Chalmers case, in which the Court absolutely ignored the crucial intent of the amendments which were adopted to the Labor Relations Act and which bear the name of the Taft-Hartley Act.

Prior to that time, the law was rigged in favor of one side, and the people for whom the law was avowedly enacted, the men who labored, were ignored. So they amended the law in 1947 to provide that a man not only would have a right to join a union and to associate himself in union activities, but also would have an equal right to refrain from joining a union and from participating in labor activities.

On account of a little proviso which, in my judgment, did not have the slightest relation to that provision, the proviso that nothing in the act would deny a union the right to prescribe the conditions of its membership, the Supreme Court, by a divided decision, absolutely nullified the plain intention of Congress and said, in effect, that a union could fine a man who was a union member; that even though he was opposed to a strike, they could draft him and make him participate in the strike or they could subject him to a fine.

At that time, some men had been fined by unions as much as $20,000 or more for refusing to participate in a strike which they believed to be unjust; and the general counsel absolutely refused to prefer unfair labor charges against unions imposing such exorbitant fines on men exercising rights which I believe ought to belong to all free men, rights which Congress undertook to give them in 1947.

It seems to me that a man should have a right of redress against these fines. At the present time, he has no redress, unless the General Counsel will file an unfair labor charge against the union imposing the fine; and he has no remedy whatever, unless the union undertakes to enforce a fine in the courts of law, and the courts of law have not been very diligent in the attempts to protect people against this sort of tyranny.

Under the amendment proposed by the Senator from Texas, the Senator from Michigan, and myself, any individual who is aggrieved by an unfair labor practice would be given the right to request the General Counsel of the NLRB to bring a labor charge, and the amendment would require the General Counsel to bring the labor charge and to prosecute it, unless he found it was without merit, in which case the individual then could go into court and manage his own lawsuit, to protect himself against threatened injury or to redress injury already suffered.

It seems to me to be abhorrent to our system of justice to have the doors of the temples of justice nailed shut against a man who has a bona fide claim or who is about to suffer an irreparable injury. One of the great things about this amendment is that it will open the doors.

There is another thing to which I object, where I think that injustice often is done. In the National Labor Relations Act, the National Labor Relations Board is given the power to find facts. I do not object to that, but it provides that their fact-finding shall be conclusive upon the courts if they are supported by any testimony whatsoever. So, as a matter of fact, this is where people ask for bread and are given a stone. I do not care who writes the judgment of the courts or the judgment of the National Labor Relations

Board or the judgment of any other board having judicial power. If you let me write the verdict, that is all the power I would want, because it gives absolute power.

So we have case after case that have come to the courts in which the evidence indicated that the findings of the board were absolutely wrong. Yet, the courts were helpless to change those findings because of this provision in the law, which made the National Labor Relations Board omnipotent in this field.

The Senate at this time should not hesitate to put the administration of justice—and that is what is involved here—in the hands of those who are most competent, by reason of their legal training, by reason of their legal experience, by reason of their freedom from bias, and by reason of the security of their offices, which are not dependent upon political appointments, to make these adjudications.

I sincerely hope that the Senate will adopt this amendment.

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

Mr. ERVIN. I am delighted to yield to the distinguished Senator from Michigan.

Mr. GRIFFIN. I commend the distinguished Senator from North Carolina for his very persuasive argument.

I should like to ask him whether this is not essentially a question of civil rights. Are we not concerned here about very important civil rights of individual human beings who are workers, whether in or out of unions, who have claims of discrimination and other grievances to present and who, because of arbitrary action on the part of an appointed general counsel, can be, and sometimes have been, deprived of their day, not only in court but even before the NLRB?

I find it very ironic, indeed tragic, that many who espouse the cause of civil rights seem suddenly to become blind when it comes to the civil rights of workers in an area which involves the bread and butter of the people—the very right to earn a living. Does the Senator agree with that observation?

Mr. ERVIN. The Senator from Michigan is absolutely right on that point. I think the most precious right a man has is to protect himself against threatened injury and to secure an adequate recompense for injury which has actually been done him. Under this law, that cannot be done because of the autocratic power that is vested in the general counsel, who is elected by nobody, who is responsible, after his nomination and confirmation, to nobody, and who has no guidelines laid down to determine by what standards he shall exercise his discretion.

Yet, we have here American citizens denied the right to protect their own rights or to secure redress against injury. I think this is one of the worst affronts that has ever been inflicted upon the cause of justice by the Congress of the United States.

Mr. GRIFFIN. It seems interesting to me, as I look at the pattern of legislation that has developed in Congress in recent years, that an individual who has a complaint of racial discrimination can go to court if the Equal Employment Opportunities Commission will not take up and prosecute his case. The individual in such a situation can go into district court and make his own case, if the agency will not do it for him.

But a similar right is denied a worker if he had a complaint covered by Taft-Hartley against a union or his employer.

I fail to understand how anyone who calls himself a liberal and professes to support civil rights can bar the door of the courts to workers in this field where civil rights are involved. For the life of me, I cannot understand it, and I would like those who take such a position to tell us how they can justify it in the terms of civil rights.

Mr. ERVIN. I have to confess to the Senator that it is beyond my power of comprehension to understand how that can be. I think that is a wrong that should be corrected now, and I hope the Senate adopts the amendment.

Mr. BURDICK. Mr. President, during the 91st Congress, the Judiciary Subcommittee on Separation of Powers issued a report based on the oversight hearings which it had held on the National Labor Relations Board for the avowed purpose of seeing, with the help of a generation of experience, how the NLRB has carried out its functions and to determine how the principles of separation of powers operate in practice as opposed to theory. I filed separate and dissenting views.

My purpose is not to rehash the majority report or my separate views. I desire to point out that amendment No. 1143 to S. 3203 is not designed to accomplish what the majority of the Subcommittee on Separation of Powers then recommended. It should be noted, however, that that subcommittee, in its oversight report, "refrained from making specific recommendations because of the nature of its mandate and in deference to the jurisdiction of other Committees." Thus the Members of the Senate when asked to pass upon amendment No. 1143 offered by Senators TOWER, ERVIN, and GRIFFIN should be aware of two important points:

One. Amendment No. 1143 has never been considered by the Committee on Labor and Public Welfare.

Two. Even the Separation of Powers Subcommittee, in the report which is relied upon by the sponsors of this amendment, recognized that any amendments to the National Labor Relations Act which would affect the handling of unfair labor practices should first be considered by the Committee on Labor and Public Welfare.

The basic recommendation of the majority of the Separation of Powers Subcommittee was that neither a specialized labor court nor resort to the district court should be considered as an alternative to the National Labor Relations Board until an effort had been made to improve the functioning of the National Labor Relations Board. To my knowledge, the Committee on Labor and Public Welfare has made no recommendation to amend the National Labor Relations Act or to improve the operation of the Board with respect to the handling of unfair labor practices by the NLRB and its Office of General Counsel. In lieu of the present procedure of the act, the amendment would transfer to any person aggrieved by an alleged unfair labor practice the power to initiate complaints in the district courts. Let us see whether this is in fact an improvement over the present procedures and whether these changes correct the alleged abuses referred to in the report of the Separation of Powers Subcommittee.

First, with respect to the Office of General Counsel, the report of the Separation of Powers Subcommittee in the oversight hearings, complained that there appeared to be no standards, statutory or otherwise, to guide the General Counsel's determination of when to issue a complaint of unfair labor practice. While Congress gave the General Counsel broad discretionary power to issue, or decline to issue, complaints, Congress did not set any standards. However, the General Counsel testified that:

> The basic guideline followed by my office is to issue a complaint where it can fairly and reasonably be concluded that an unfair labor practice has occurred within the meaning of the statute. (Oversight hearings, p. 113)

He also explained that where a charge of unfair labor practice falls within familiar factual patterns and within well-settled areas of law that normally a complaint would not be issued.

The majority of the Separation of Powers Subcommittee also complained that the General Counsel's decision, under the provisions of the statute, was final and not reviewable. Further complaint was made that sometimes the General Counsel delayed his decision.

Amendment No. 1143, in section 204, would transfer this discretionary power as to issuance of a complaint from the General Counsel to "any person aggrieved by any such unfair labor practice." While amendment No. 1143 would also permit the "aggrieved party" to file a charge of unfair labor practice with the General Counsel, the amendment would direct that he shall issue the complaint "unless he determines that the charge is frivolous, or otherwise without basis in law or fact." Even if the General Counsel determines that the charge is frivolous or without basis in law or fact, the "aggrieved party" may nevertheless commence his action in the district court.

Thus, amendment No. 1143 would set up "frivolous and unmeritoriousness" as a standard to guide the General Counsel, and I believe this would be merely the same standard which in practice the General Counsel has followed as he has testified.

But while the right hand of amendment No. 1143 giveth a standard, the left hand taketh it away. Even if the General Counsel follows the proposed statutory standard, his observance of the standard can be completely undone by the aggrieved party by commencing an action in the district court notwithstanding the action of the General Counsel.

Thus, amendment No. 1143 does not "improve" the present situation. In fact, it worsens it since the discretionary power instead of being exercised by one General Counsel will now be exercised by any one of 26,000 alleged aggrieved parties throughout the United States. Thus, we will have sacrificed the desired element of uniformity of interpretation which was of such concern to the majority of the Separation of Powers Subcommittee.

Second, in its oversight report, the majority complained that the Board's decisions in unfair labor practices matters were sometimes inconsistent and that the Board sometimes seemed to be too sensitive to political pressure. Will amendment No. 1143 eliminate these complaints? The amendment would take the adjudicatory function from one Board and vest it in any one of 401 U.S. district judges, plus any one of the approximately 60 district court judges in senior status to whom the case might be assigned or to any one of 461 special masters which could be appointed by these judges. Again, there would be a great sacrifice of the uniformity of interpretation.

While a district judge, in theory, may be less sensitive to political pressure, amendment No. 1143 does not provide that the district judge will make the initial findings of fact. While amendment No. 1143 would eliminate the trial examiner of the Board from the adjudication process, it would authorize substitution of a special master appointed by the court as the hearing officer to take testimony and make findings of fact and a recommended order. Under rule 53 of the rules of civil procedure, the court may either refer the case to a standing master or may appoint a special master. Moreover, under section (e)(2) of rule 53, the district court is required to accept the master's findings of fact unless clearly erroneous. Thus, all amendment No. 1143 would do is substitute the potential predilection of masters and a district judge for the alleged predilection of trial examiners and the Board.

While amendment No. 1143 would fail to eliminate inconsistency and promote uniformity, it might even increase the political pressures complained or by the language contained in subsection (g) of the proposed section 10 which invites "judge shopping" in any one of three forums, to wit: first, the district of the union's principal office; second, any district in which the union is engaged in promoting or protecting the interests of employees; or third, in any district where the unfair labor practice is alleged to have occurred.

Therefore, I submit that amendment No. 1143 does not improve the present procedure—nor does it eliminate the complaints concerning either the functions of the General Counsel or the adjudications of the Board.

I have no objection to congressional consideration of substantive reform of the National Labor Relations Act. However, amendment No. 1143 is not a reform—it improves nothing. It seems clear to me that any improvement in the procedures under the National Labor Relations Act must come from the appropriate committee of the Congress, and should not come about as a result of an amendment which has never been considered by the appropriate committee of this body.

Finally, passage of the amendment would place a significant additional burden on the already overworked Federal courts. The current method of handling unfair labor practices cases allows the NLRB to use its expertise and procedural familiarity with labor laws to provide efficient, uniform settlement of a great many complex disputes. Both the General Counsel's decision to issue a formal complaint and the Board's opinion in the cases it hears minimizes the number of labor practices questions that ultimately reach the courts.

In 1973, for example, figures from the NLRB's annual report show that the General Counsel heard 26,487 allegations of unfair labor practices. He issued formal complaints in 3,709 instances, 10.2 percent, and action by the Board was required in 1,136 cases, 5.6 percent. Appeals to the circuit courts were made in 612 cases, 3.0 percent. These figures, as indicated by the table, are typical of the caseload in recent years. Out of thousands of potential disputes, only a small percentage of the most significant reach the courts for resolution.

The proposals in the amendment offer an unappealing alternative to the present mechanism. Even if it is assumed, since the standards for sufficiency are identical, the NLRB's General Counsel will issue formal complaints in about the same number of cases as at present. There will be additional cases filed under the amendment since parties are free to pursue their own remedy if the General Counsel declines to issue a complaint.

This could result in a tremendous increase in the district court caseload, since in the past nearly 90 percent of the requests for a formal complaint have been rejected. Potentially, the amendment could bring over 20,000 cases into the district courts—assuming all complainants chose to prosecute their own cases. This might—it could possibly—result in an increase of more than 20 percent in the total number of civil cases filed in the district courts. Although that figure is an outside limit, it is obvious that under the amendment the district courts will have to try the labor practices cases that are now handled by the NLRB, plus as many additional cases as the complainants choose to bring.

The Federal court system is not, nor should it be, prepared to handle such an avalanche of labor litigation. The impact becomes all the more disturbing when viewed in light of the amendment's caveat that—

> Any court before which a proceeding is brought under this section shall advance such proceeding on the docket and expedite its disposition.

This additional caseload—with priority scheduling—will further increase the backlog facing other litigants. The waiting time between issue and trial, now averages 11 months in Federal civil cases. This amendment will make it longer.

The small number of unfair labor practices cases that are now appealed from the NLRB to circuit courts accounts for a significant portion of their work. In 1972, the 740 such cases comprised 5 percent of all appeals filed in the circuits. A breakdown of this figure—by circuit—is provided in the following table which I ask to have printed in the RECORD. Already, according to the 1973 annual report of the Administrative Office of the U.S. Courts, the NLRB produces nearly half of the total appellate litigation that results from all administrative boards and commission. The current powers of the General Counsel and the exclusive jurisdiction of the board carefully limit the number of unfair labor practices disputes that the courts must resolve. This amendment should not be allowed to open the floodgates. The result would be not only less adequate resolution of labor disputes, but also increased delay throughout the Federal judicial system.

Mr. President, I ask unanimous consent to have printed in the RECORD two tables reflecting unfair labor practice cases tried before the NLRB and in the Federal circuit courts of appeal from 1968 through 1973.

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

UNFAIR LABOR PRACTICES CASES

	1968	1969	1970	1971	1972	1973
Charges filed with NLRB General Counsel	17,816	18,651	21,038	23,770	26,852	26,487
Complaints issued	2,004	2,061	2,147	3,245	3,740	3,709
Cases decided by Board	1,033	1,063	1,167	1,165	1,272	1,336
Board decisions appealed	724	629	649	619	740	612

NLRB CASES APPEALED, BY CIRCUIT

Circuit	1968	1969	1970	1971	1972	1973
District of Columbia	75	60	42	37	46	48
1st	29	19	24	12	20	19
2d	123	106	82	64	98	82
3d	28	38	16	37	43	42
4th	44	34	33	35	38	24
5th	121	133	113	106	108	86
6th	118	87	118	105	127	107
7th	50	38	55	43	62	61
8th	37	30	44	35	56	40
9th	77	68	92	126	112	79
10th	22	16	30	19	29	23
Total	724	629	649	619	740	612

Source: U.S. courts, B3.

Mr. BURDICK. Mr. President, there is a difference of opinion on what the evidence demonstrated in the oversight hearings but I am not going to re-argue the case now. The committee which undertook this job back in the 91st Congress was composed of the Senator from Arkansas (Mr. McCLELLAN), the Senator from Nebraska (Mr. HRUSKA), the Senator from North Carolina, who was the chairman, and me. The hearings, were very lengthy and we had many distinguished witnesses who gave both the pros and the cons. I wish to read the last paragraph of the conclusions and this paragraph squares with what the Senator from New York and the Senator from Ohio said. This is not the place and the committee said this is not the place at this time. I wish to read from page 30 of the committee report. It states:

Finally, Congress ought to look into the feasibility of substantive reform of the National Labor Relations Act. The subcommittee has refrained from making specific recommendations because of the nature of its mandate and in deference to the jurisdiction of other committees. It believes, nevertheless, that the hearings on which this report is based have demonstrated the erosion of congressional policy by the Board—in the area of authorization cards, employer speech, unit determination, duty to bargain, organizational picketing, hot cargo clauses, and so forth—and the need for substantive correction.

In other words, they themselves refrain from making a recommendation and state the matter should go to the appropriate committee, and that is where it should go. We should have full-scale hearings on this matter in the Committee on Labor and Public Welfare, and that has not been done since the hearings to which I have referred.

Mr. ERVIN. Mr. President, the committee excerpt read by my good friend indicates it was found there were a great many abuses beyond the power of the National Labor Relations Board and they waited for the appropriate committee to act. Well, the appropriate committee has not acted, and I do not think there is any prospect of the committee acting very soon. The only way to protect those who feel as we do is by agreeing to the amendment.

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

Mr. ERVIN. I yield.

Mr. TOWER. Mr. President, I would first like to say that I appreciate very much the Senator's strong constitutional argument which I think cannot be overcome. I wish to note further that I must reject the contention that this is not the place and that this bill is an inappropriate vehicle for this kind of legislation because we cannot seem to get any kind of committee action, and this is the only opportunity we are going to have, this vehicle, to add this amendment. I feel if we appeal to the greatest forum we can, the people of the United States, for support, and if we do it often enough the people will see the justice of what we suggest and Congress will act favorably on the amendment.

Mr. THURMOND. Mr. President, I rise in support of the amendment offered by Senators TOWER, ERVIN, and GRIFFIN.

This amendment is straightforward and simple. Its only purpose is to transfer the jurisdiction over cases involving unfair labor practices from the National Labor Relations Board to the Federal district courts. It calls for absolutely no change in the substance of the national labor policy or the Taft-Hartley Act. It would merely change the forum in which these unfair labor practice cases are argued and decided.

The need for this amendment is obvious. Over the years, the National Labor Relations Board has consistently disregarded the intent of the Congress in this area. For example, it has imposed a double standard in the area of free speech, castigating reasonable actions by management, while sanctioning the excesses of labor. When the Congress outlawed secondary boycotts, the Board emasculated the provision with exceptions and restrictions. The Board has extended the range of mandatory bargaining subjects so far that practices once considered to be within the discretion of management have now become labor prerogatives.

Mr. President, there is no way that the best interests of this country will be served if this promulgation of imbalance in our labor-management relations is allowed to continue. The purpose of all our Federal labor legislation is to reconcile and, when possible, to equalize the power of society's economic forces in order that fairness may prevail, prosperity flourish, and industrial strife be avoided. Its purpose is not to favor one side over the other.

Mr. President, in addition to being one-sided, the Board has been inconsistent. Since it does not follow the doctrine of stare decisis, it appears to be particularly susceptible to political pressure and the influence of labor bosses' opinion. Under such circumstances, labor law policy is allowed to fluctuate radically according to the membership of the Board and the mood of the times. The result is inequity and confusion. Labor lawyers often have no way of knowing exactly what the law is on a particular subject and the Board is inundated with requests for rulings.

Our labor-management policy is national in scope, its influence extending far beyond the interests of the parties themselves. Such a policy must be uniform and stable if our national interests are to be served.

Uniformity of interpretation and avoidance of parochialism are two of the basic premises of our Federal court system. This system has proved its ability in areas far more complex than that of our labor laws It has proved that it can properly interpret the policies enunciated by the Congress. No one can seriously contend that the Federal district courts are not the proper forum in which to adjudicate disputes between citizens who find themselves in controversy over alleged violations of Federal law.

Mr. President, transferral of jurisdiction to the Federal courts would insure increased fairness, predictability and long-term stability in our national labor policy. For all these reasons, I hope that my colleagues will support this amendment.

Mr. TAFT. Mr. President, I move to lay on the table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Texas. 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 Idaho (Mr. CHURCH), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Hawaii (Mr. INOUYE), the Senator from Ohio (Mr. METZENBAUM), the Senator from New Mexico (Mr. MONTOYA), the Senator from Maine (Mr. MUSKIE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Utah (Mr. BENNETT), the Senator from New York (Mr. BUCKLEY), the Senator from Kentucky (Mr. COOK), the Senator from Illinois (Mr. PERCY), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

I also announce that the Senator from North Dakota (Mr. YOUNG) is absent on official business.

I further announce that the Senator from Florida (Mr. GURNEY) is absent due to illness in the family.

The result was announced—yeas 60, nays 23, as follows:

[No. 175 Leg.]

YEAS—60

Abourezk	Hartke	Moss
Aiken	Haskell	Nelson
Bayh	Hatfield	Nunn
Beall	Hathaway	Packwood
Bentsen	Hollings	Pastore
Bible	Huddleston	Pearson
Biden	Hughes	Pell
Brooke	Humphrey	Proxmire
Burdick	Jackson	Randolph
Byrd, Robert C.	Javits	Ribicoff
Cannon	Johnston	Roth
Case	Kennedy	Schweiker
Chiles	Long	Scott, Hugh
Clark	Magnuson	Stafford
Cranston	Mansfield	Stevenson
Domenici	Mathias	Symington
Dominick	McGee	Taft
Eagleton	McGovern	Talmadge
Fong	McIntyre	Weicker
Hart	Mondale	Williams

NAYS—23

Allen	Ervin	Metcalf
Bartlett	Fannin	Scott, William L.
Brock	Goldwater	Sparkman
Byrd, Harry F., Jr.	Griffin	Stennis
Cotton	Hansen	Thurmond
Curtis	Helms	Tower
Dole	Hruska	
Eastland	McClellan	
	McClure	

NOT VOTING—17

Baker	Fulbright	Muskie
Bellmon	Gravel	Percy
Bennett	Gurney	Stevens
Buckley	Inouye	Tunney
Church	Metzenbaum	Young
Cook	Montoya	

So the motion to lay on the table the Tower amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. DOMINICK. Mr. President, I call up my amendment No. 1213 and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

At the end of the bill, add the following new section:

SEC. 2. Section 8(b) of the National Labor Relations Act is amended by striking out "and" at the end of paragraph (6), by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon and the word "and", and by adding a new paragraph as follows:

"(8) to deny, limit, or otherwise restrict membership in such labor organization, or any rights or privileges pertaining thereto, or participation in any apprenticeship or training program, on account of race, color, religion, sex, or national origin.".

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

Mr. DOMINICK. Yes; I am happy to yield.

LEGISLATIVE PROGRAM

Mr. GOLDWATER. Mr. President, I should like to ask the majority leader what the schedule will be for the remainder of the week.

Mr. MANSFIELD. Mr. President, for the information of the Senate, I think this will be the last amendment to be offered on the pending business today.

When that amendment has been disposed of, the pending business will be laid aside and taken up again at 11 o'clock on Tuesday morning next, with a vote to occur not later than 6 o'clock that evening.

When the pending business has been laid aside, following the disposition of the Dominick amendment, the Senate will then turn to the consideration of Calendar No. 736, H.R. 11385, a bill to amend the Public Health Service Act to revise the programs of health services research and to extend the program of assistance for medical libraries.

There is a time limitation on that bill. It is anticipated by the joint leadership that we should be able to finish that bill tonight. It might take a little longer than 6 o'clock or 7 o'clock, but we would like to finish it. If we do, then the Senate will go over until Monday. If we do not, we will have to come in tomorrow to dispose of it.

Mr. GOLDWATER. Does the majority leader guess that we shall be in later than 7 o'clock?

Mr. MANSFIELD. I hope not, but I would bow to the distinguished Senator from Maryland.

Mr. BEALL. So far as I know, there will be a maximum of three votes, albeit there is a possibility of less than three votes. I expect that we would have to strain to take more than 2 hours.

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

Mr. MANSFIELD. I yield.

Mr. GRIFFIN. I should like to ask the distinguished majority leader, since changes have been made in agreements for the program for next week, if we might go through that schedule while Senators are still in the Chamber.

Mr. MANSFIELD. Mr. President, following the conclusion of morning business on Monday, the Senate will take up S. 2999, to authorize appropriations during the fiscal year 1974 for the procurement of aircraft, missiles, and so forth. That will be followed by the supplemental appropriation bill.

On Tuesday, we shall return to what is now the pending business.

On Thursday morning, on the basis of the way things look now, we would finally get under way on the aid to education bill.

Mr. GRIFFIN. As I understand, that bill, with an amendment, was proposed to be taken up on Thursday.

Mr. MANSFIELD. That is correct. I thank the acting Republican leader for refreshing my recollection. He is correct. When that bill is disposed of, the debate will then be resumed on the aid to education bill.

Mr. GRIFFIN. I thought that should be mentioned because yesterday it was indicated that that bill would be taken up on Wednesday.

Mr. MANSFIELD. There is a possibility that on Wednesday, because of the change of time for the vote on the wages and hours bill, we might be able to get started on a two-track basis on both the energy and the aid to education bills.

Mr. PELL. When will the aid to education bill be laid before the Senate?

Mr. MANSFIELD. Very likely tonight; but the other bills will come in, and they will be laid aside temporarily in order to get through the schedule, so that we will be able to clear the decks.

Mr. PELL. Then, we will really start the debate on Wednesday?

Mr. MANSFIELD. Yes; just a start.

COVERAGE AND PROTECTION FOR EMPLOYEES OF NONPROFIT HOSPITALS

The Senate continued with the consideration of the bill, S. 3203, to amend the National Labor Relations Act to extend its coverage and protection to employees of nonprofit hospitals, and for other purposes.

Mr. DOMINICK. Mr. President, this is a very simple amendment, but I do not think it will need any extensive explanation. It applies antidiscrimination language, which is used in many other bills, to the NLRA.

The past decade has seen an awakening of the American conscience to the realization that discrimination still exists in America and that American minority groups have not had an equal opportunity in our society.

Following that realization came a flurry of activity in American courts and legislatures seeking to undo almost 200 years of discrimination. The result of all this activity has been significant and beneficial steps toward equal opportunity for all Americans in such areas as voting, housing, and education. But before the flurry subsides and before the American conscience can rest there is much to be done.

The area of equal employment opportunity is one area of civil rights which must be improved. It is particularly offensive to see the backbone of our free enterprise system wracked with employment discrimination. Employment discrimination becomes more offensive as it grows in scale and practice. For this reason, my bill is aimed at the largest and strongest factor in the labor field today, the labor unions. Labor unions, through their power as certified exclusive bargaining agents of the employees, are in a perfect position to control hirings, firings, advancements, seniority, and other employment practices which easily lend themselves to abuse.

Certainly my amendment is not the first effort to realize and attempt to attack the problem. Hopefully, mine will prevail where others failed. My amendment would treat union employment discrimination as an unfair labor practice under the National Labor Relations Act. This would place such acts under the jurisdiction of the National Labor Relations Board; the net result being faster and cheaper enforcement of a national policy by the organization which is most conversant with unions and their hiring practices.

Mr. President, that is a short, succinct statement of the problem. Let me go a little further into the subject, if I may.

There are at the present time labor unions in Texas which are in the construction field, I believe, which do not allow anyone except blacks in the unions. There are just the reverse situations in other areas of the country, where unions will not let anybody but whites in. Very few unions will allow women in at all, no matter what kind of union or what kind of trade it may be.

I believe that this is a situation which can be dealt with in that type of practice through the standard method of the National Labor Relations Board. Granted, as the Senator from Texas (Mr. TOWER) has just said, although I voted to table his amendment, there are defects in the Board and its jurisdiction and the appellate power from that Board. I should say the vast majority of the Senate, having voted to table the amendment, are saying, in general, they would like to keep the National Labor Relations Board going. This is what the Senate wants and what the House wants, I believe. I would say that what we ought to do is to make certain that unions, by discriminating in this manner, which they obviously have—and it does not take real knowledge to see that—they are permitting an unfair labor practice. We do that with industries.

We do it with all industries. We do it in hiring practices. In fact, we once passed, and probably properly, an age discrimination law. During the process

of the debate on that, I remember talking with the distinguished chairman and saying, "What is an employer going to do? Let us say he is approached by a 35-year-old black woman and a 46-year-old white male who have equal qualifications for the job. There is not any way for that one job that he can avoid a claim of discrimination. If he hires the white male, he is discriminating against the black woman. If he hires the black woman, then he is discriminating, on an age basis, against the white male."

So, since we have done this in all kinds of fields, I see no reason in the world why we should not do it insofar as the unions are concerned. I am not trying to penalize them. I am trying to apply the same rules to them that apply to every other organization in the country. This is not a massive amendment and it does not gut anything. All it does is say that it makes it an unlawful and unreasonable practice to discriminate, which we all think it is anyway.

Mr. JAVITS. Mr. President, the amendment which the distinguished Senator from Colorado has presented to us with such an appealing argument has two defects, both fatal.

First, the substantive defect is that this is not only the law already, but it is the law three times locked in.

Second, it is a generic amendment to the National Labor Relations Act, and for precisely the same reasons, without in any way trying to deal, at this stage, with the substantive nature of the amendment, that we tabled the previous amendment respecting resort to the courts, we should table this one also, and I shall, in due course, after Senators have been permitted to speak, move to table accordingly.

The important point, of course, Mr. President, aside from where we stand on this bill and our general attitude toward trying to revise the National Labor Relations Act under the cover of this bill, is the point I made to begin with, that such discrimination is now unlawful under the NLRA as well as other laws.

I refer first to the appropriate section of the Civil Rights Act of 1964, which contains within it, under title VII, the following subsection:

(c) Labor organization practices.

It shall be an unlawful employment practice for a labor organization—

(1) to exclude or to expel from its membership, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin;

It then goes on to lock that into further definitions.

The difference between what Senator DOMINICK wishes to do and the Civil Rights Act of 1964 is simply that there it becomes actionable by the Equal Employment Opportunity Commission in all such cases of discrimination, and the procedure simply runs under the antisegregation laws instead of under the labor laws or the laws regarding labor union organization; and all this would do, if we adopt Senator DOMINICK'S amendment, would be to pile more work on the National Labor Relations Board.

Furthermore, there has been a very passionate espousal of the idea that there should be one track to deal with segregation in respect of labor cases, and that track should be the Civil Rights Act. Indeed, there was a strong attempt to make title 7 of the Civil Rights Act the exclusive remedy for unlawful racial discrimination when it was recently amended to be given more teeth. This was one of the issues raised, and the argument was a very sound one, even though it was not accepted at that time.

If we took this amendment, we would run counter to the idea of providing one track, one channel, one method of enforcement for this particular right. That is item 1.

Second, there is the action of the National Labor Relations Board itself, which actually already does deal with racial discrimination in several contexts—so that this amendment would be completely surplusage. For example, under the so-called Miranda doctrine, a union which is proven to have discriminated on the basis of race, sex, et cetera, can be held guilty of an unfair labor practice on the ground that if a trade union is segregated or otherwise acts in opposition to Senator DOMINICK'S amendment as he has proposed it here, it is not representing all the workers, which is required by the Miranda doctrine in respect of its activity; and in representation cases it is not fit to represent or seek to represent the workers where it engages in this kind of discrimination. So there is the second lock-in.

Third, Mr. President, the Supreme Court itself, in a long line of cases, has decided that a union may be sued for breach of the duty of fair representation in racial discrimination cases.

So. Mr. President, I do not know the reason why this amendment is presented with respect to the National Labor Relations Act, but it is, first, unnecessary; there are a number of other ways in which this is already being done.

Second, it is a generic amendment, which goes, again, to changing the National Labor Relations Act in a broad way and at a time when we respectfully submit it is undesirable to do so, and therefore would only bedevil this bill with a weight which it cannot and should not be asked to carry.

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

Mr. JAVITS. I yield.

Mr. WILLIAMS. Mr. President, not to prolong the debate here, I note that this subject matter has been very thoughtfully discussed by Mr. Edward B. Miller, Chairman of the National Labor Relations Board, before a Kansas City Bar Association seminar on April 11 of this year. This thoughtful presentation of the issues here involved, I think, should be included in the RECORD, and I ask unanimous consent that it be printed in the RECORD at this point.

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

A VIEW FROM THE NATIONAL LABOR RELATIONS BOARD

(By Edward B. Miller)

You are concerned here today, as I understand it, with civil rights issues as they relate to employment and to union representation. I have therefore assumed that the title assigned to me—"A View from the National Labor Relations Board"—indicates that you would like to have me discuss the extent to which the National Labor Relations Board has been, is now, and may or ought in the future to be involved in these issues.

I would suggest at the outset that the Board's involvement to date stems primarily, although not necessarily exclusively, from constitutional considerations. In fact, a more nearly accurate title for my remarks might have been "A View from the Supreme Court of the NLRB's Constitutional Duties." Any view I express, however, should be recognized as being only my own view, for my colleagues may not see either the constitutional or Board decisional issues in the same light as I do.

The Board's awareness of its constitutional duties in this regard is neither so new as some now purport to believe, nor so tardy as the Supreme Court on at least one occasion seems to have thought. For as early as 1938, in a case involving the *American Tobacco Company*[1] the Board refused to conduct an election in a unit limited to the white employees in certain plants of the company. While one seeks in vain through the text of that early decision for any glimmerings of a purely constitutional base for the Board's decision, a similar search is more rewarding when we look at the 1943 Board decision in *Bethlehem-Alameda Shipyard, Inc.*[2] There the Board deferred issuing a Direction of Election because of a showing that two affiliates of the union council had refused to admit Negro and Oriental employees to membership. By the time of the reported Board decision in that case however, remedial action had been taken by the union and the Board lifted its stay and proceeded to direct the election. But in that written decision of over a quarter century ago, the Board expressed, and I quote, "grave doubt whether a union which discriminatorily denies membership to employees on the basis of race may nevertheless bargain as the exclusive representative in an appropriate unit composed in part of members of the excluded race." The Board, significantly, noted that if a union shop contract were executed by such a union, the validity of such a contract under the proviso to Section 8(a)(3) would be open to serious question. By "validity", the Board meant, I am sure, *constitutional* validity.

It was a year later—in 1944—that the Supreme Court spoke definitively of that self-same issue. For in *Steele* v. *Louisville and Nashville Railroad Company*,[3] the Supreme Court construed the Railway Labor Act as imposing upon collective representatives chosen pursuant to that Act a duty to represent all members of the craft "without hostile discrimination, fairly, impartially, and in good faith," pointing out that if the Railway Labor Act were not so construed, serious question concerning its constitutionality would arise. The constitutional issue is, of course, that both the Railway Labor Act and our Act purport to confer upon unions the exclusive authority to bargain for all employees in the unit and authorize contracts covering such units making union membership compulsory. It is thus a clear invasion of both due process and individual rights if the federal government were to confer such extraordinary power and authority on an organization which was to fail in its duty to perform the function which is the raison d' etre of its authority.

The National Labor Relations Board noted its awareness of this decision and its meaning for our Act shortly thereafter. In 1945, in the *Larus* case,[4] this Board affirmed its policy and duty to refuse to recognize a petition for representation either if the petition proposed to exclude Negroes from the bargaining unit

Footnotes at end of article.

on the basis of race, or if the petition was from a bargaining representative which did not admit Negro employees to membership. In so holding the Board made specific reference to the *Steele* case as supporting prior holdings of the Board recognizing the constitutionally founded obligation of the statutorily exclusive bargaining agent to represent all members of the bargaining unit equally and without discrimination.

There is therefore nothing new, I submit, about the Board's concern with the duty of fair representation and the necessary correlative prohibition against the clearly invidious and unfair practice of racial or other arbitrary discrimination by labor organizations. Nor can there be any real doubt that the underlying premise for this concern is that if the Board did not construe the Act to impose such a duty its provisions with respect to exclusive representation and with respect to the authority granted to exclusive representatives to enter into union shop agreements would clearly run afoul of constitutional guarantees.

The issues which have plagued the Board since those early days, and continue to plague it today, are essentially procedural and remedial ones rather than ones arising out of any doubts about the Board's fundamental duty to recognize and give effect to the principle that it must, if it is to administer the act constitutionally, safeguard employees' rights to fair, and thus non-discriminatory, representation.

In 1953—over 20 years ago—in the first Hughes Tool case,[5] the Board, in a Section 9 representation proceeding, conditionally revoked the certification of certain unions which had been shown not to have met their statutory duty of fair representation. The decision there was a split one, but the issue which divided the dissenters from the majority was solely the procedural issue as to whether the Board should enforce this duty of fair representation through its representational procedures, or whether the 1947 amendments to the Act which created union unfair labor practices for the first time, had intended to eliminate the authority for certificate revocation actions by providing that unfair practices by Unions were to be remedied only as such under Section 8, and not under Section 9. The majority pointed out that nothing in the legislative history of the 1947 amendments contained any indication that the addition of the unfair labor practice provisions under Section 8(b) was intended to limit the Board's authority to rescind certifications under Section 9. The majority opinion then concluded:

"We therefore adhere to the view that the authority of this Agency to police and rescind certifications issued under Section 9, where the facts show abuse of the certification by the bargaining representative, has not been circumscribed or eliminated by the amendments to the Act."

In 1962 still another representation issue arose, this time in the Pioneer Bus Company case.[6] There the question was whether the Board would recognize, for contract bar purposes, collective-bargaining agreements covering two separate units—one composed exclusively of white bus operators and shopmen and the other consisting entirely of Negro employees in the same classifications. The Board, again citing as precedent such clearly constitutionally based decisions as Brown v. Board of Education,[7] held that it would not permit its contract bar rules to be utilized to shield contracts which ran afoul of the condemnation of what the Board called "governmental sanctioning of racially separating groupings". It is also interesting to observe that dictum in that case noted that the execution of such racially separate contracts was "in patent derogation of the certification and would warrant revocation of the certification."

Just nine days after the Board decided *Pioneer Bus* it also decided *Miranda Fuel.*[8] You will remember that in the first *Hughes Tool* case the real issue was whether the addition of the 8(b) prohibitions in 1947 made it inappropriate for the Board to seek to remedy violations of the duty of fair representation through Section 9 proceedings. Both the majority and the dissent seemed to assume, but did not decide, that the issue of fair representation could be reached under 8(b). In *Miranda* that issue was squarely posed and squarely decided. The complaint in *Miranda* did indeed allege that the union had violated its duty of fair representation but that the Employer by acting in concert with the union had also violated Section 8(a)(3) and 8(a)(1) by acceding to the union's demand to reduce the seniority status of an employee for what were alleged to be irrelevant, invidious and unfair reasons. It has almost been forgotten that the reasons in that case were not at all racially related but nevertheless did raise the issue of fair representation. A majority of the Board there found both the 8(b) and the 8(a) violations, again relying in substantial part on the *Steele* case which it recognized to have clearly delineated the duty of the statutory bargaining agent to represent all members of the unit equally, fairly, and certainly without discrimination on the arbitrary and indefensibe basis of race, color, or creed. The majority pointed out that while *Steele* had spoken particularly to the issue of color and creed discrimination, the principle established by the Supreme Court was that labor organizations could not take action against any employee under any consideration or classification which was "irrelevant, invidious or unfair."

It may be worth noting that the Board in that case recognized the difference in duties between a labor organization and an employer. It specifically stated that "Labor organizations, because they do represent employees, have statutory obligations to employees which employers do not." Only after having said that did the Board go on to say "To the extent, however, that an employer participates in such union's arbitrary actions against an employee, the employer himself violates Section 8(a)(1) of the Act."

The majority took one further step. It held that where such arbitrary action could be said to encourage membership in the union, apparently because of the exhibited power of the union to effectuate such arbitrary action to the extent of jeopardizing the employment status of the individual, the impact would be improperly to encourage membership in such a powerful organization—i.e. the union. Thus the union was also found guilty of 8(b)(2) and the employer guilty of 8(a)(3) when the two combined to take the prohibited action adversely affecting the employee's employment.

The majority opinion drew a strong dissent from Chairman McCullough and Board Member Fanning. They attacked the 8(b)(2) and 3(a)(3) findings on the ground that the Supreme Court cases required, in their view, something more than disparate treatment upon arbitrary, irrelevant or unfair grounds—the something more being that the discrimination must be shown to have had the specific intent or effect of encouraging or discouraging membership in a labor organization. In the absence of objective evidence that the action of either the union or the company was motivated by the desire to encourage or discourage union membership, the dissenters were unwilling to infer that such a result was "foreseeable" from the "exhibited power" aspect of the Union's arbitrary, irrelevant, or unfair interference with the employment relationship.

To me the more interesting portion of the dissent, however, was the portion dealing with the 8(b)(1) and 8(a)(1) finding. For there Chairman McCullough and Member Fanning took a view precisely opposite to the one advanced by two predecessor dissenters in the first *Hughes Tool* case. For these new dissenters appear to have accepted the decisions in *Larus* and *Hughes Tool* which, as you will recall, held that the matter of unfair representation was an approprite subject for consideration in representation cases. They reaffirmed the Board's right and duty to revoke certifications for this reason, but they declined to hold that such conduct was within the reach of 8(b)(1),—the precise opposite of the view of the dissenters in *Hughes,* who would have preferred the 8(b)(1) route to the exclusion of the representation case route for this purpose.

The *Miranda* decision was denied enforcement by the court on grounds unrelated to any of those that I have been discussing, and so for some time we had no court view on the essentially procedural issue of how or in what context this Board ought to reach the issue of unfair or discriminatory representation by exclusive bargaining agents. A couple of years were to go by until this matter reached the courts.

But in the *Rubber Workers case,*[9] the constitutional issue and the statutory procedural issue were squarely put, decided by the Board in 1964 and affirmed by the Court of Appeals for the Fifth Circuit in 1966. In addition, a new jurisdictional issue—the effect of Title 7 of the Civil Rights Act upon the Board's jurisdiction—was also squarely put and squarely decided by both the Board and the Court. That case involved racial discrimination effectuated through the application of racial seniority rosters, as well as the refusal by the Union to process grievances seeking to obtain the elimination of racially discriminatory practices. Once again, a majority of the Board, still relying upon the underlying constitutional teaching of the *Steele* case, found the breach of Sections 8(b)(1) and 8(b)(2), and, further, found a violation of 8(b)(3) in Respondent's refusal to process the grievances.

The majority further held that although Congress had legislated specifically concerning racial discrimination, when it enacted Title 7 of the Civil Rights Act in 1964, it had not acted to limit the Board's duty or authority in this area, pointing out that an amendment which would have made Title 7 actions the exclusive procedure in cases of this kind had been rejected by the Congress.

Once again, Chairman McCullough and Member Fanning reiterated their dissenting view that the only route which the Board ought to use to reach matters of this kind was its representation case procedures.

The Court of Appeals enforced the Board's order, agreeing with the Board in all material respects. The Court began with a reaffirmation of the constitutional basis for the duty of fair representation. It states:

"Indeed, the Supreme Court had indicated that any statute purporting to bestow upon a union the exclusive right to represent all employees would be unconstitutional if it failed to impose upon the union this reciprocal duty of fair representation." [10]

The Court went on specifically to reject the dissenters' views, and found that the right of fair representation was an NLRB Section 7 right and that the Union's acts in this case clearly constituted a violation of Section 8(b)(1)(A) by restraining employees in the exercise of their Section 7 rights.

Then, interestingly, the Court went even further than the Board with respect to Title 7. For the Court not only held that the violation of the duty of fair representation was within the proper reach of Section 8(b), but indeed went on, in dicta, to state that except for Section 301 actions and Title 7 actions, the Board should have exclusive ju-

Footnotes at end of article.

risdiction, preempting the state and federal courts from entertaining suits by employees against their unions where such suits were grounded on the duty of fair representation.

The Court, however, did not reach the question of whether the union's conduct violated Section 8(b)(2) and 8(b)(3) of the Act, since it found that the remedy would be the same as the remedy for 8(b)(1) in any event, and that the remedial order entered by the Board was clearly justified once the Board had properly found a violation of Section 8(b)(1)(A).

Certiorari was sought and denied. The customary debate as to what the denial of certiorari in this case meant or did not mean is somewhat less speculative than usual when we observe that the denial of certiorari occurred in 1967, roughly eight months after the Court had decided *Vaca* v. *Sipes*, 380 U.S. 171.

So let us take a look at what the Supreme Court said in *Vaca* v. *Sipes*. *Vaca* v. *Sipes* involved a state court action brought by a discharged employee who alleged that he had been discharged in violation of the collective-bargaining contract and that his union had arbitrarily and without just cause refused to take his grievance to arbitration. The union defended on the ground that the action was arguably and basically an unfair labor practice within the exclusive jurisdiction of the National Labor Relations Board under 8(b), citing *Miranda Fuel*. The Court recognized the Board's *Miranda Fuel* decision and also made specific reference to the *United Rubber Workers* case wherein it had not yet denied certiorari. It also noted specifically the dictum in the Fifth Circuit's decision in the *Rubber Workers* case to the effect that these matters were preempted by the Labor Board's jurisdiction over Section 8(b).

You may grow tired of my repeating it, but I would first note that once again the Supreme Court in the *Vaca* v. *Sipes* case recognized the *constitutional* foundation of a Union's duty of fair representation. Describing its own *Steele* decision the Court said: "This Court recognized in *Steele* that the Congressional grant of power to a union to act as exclusive collective-bargaining representative, with its corresponding reduction in individual rights of the employees so represented, would raise grave constitutional problems if unions were free to exercise this power to further racial discrimination."

The basic holding of the case was that state court actions of this type were not preempted by remedies available through the Board. But it is difficult to argue that the Court did not intend to approve the correctness of the Board's 8(b)(1) findings in both *Miranda* and *Rubber Workers*. The Court said:

"We may assume for present purposes that such a breach of duty by the Union is an unfair labor practice, as the NLRB and the Fifth Circuit have held."

Not only did it have no difficulty in making that assumption, but it further made reference to "the NLRB's tardy assumption of jurisdiction in these cases." And two dissenting justices specifically stated that the breach of duty of fair representation is not only an unfair labor practice under 8(b) but would have agreed with the Fifth Circuit that such practices are subject to the exclusive jurisdiction of the NLRB.

Let me stop and recapitulate just a bit at this point. It seems plain as a pikestaff to me, after reviewing these cases, that the duty of, and correlative right to, fair representation, and the Board's obligation to enforce that duty and that right are all not merely statutory, but are constitutional in origin. There is some loose talk around these days to the effect that employee rights in this connection are solely statutorily based, and to the effect that the sole base of those rights is the rather recently enacted legislation we refer to as Title VII. It is quite understandable that with all of the recent publicity given to Title VII and particularly to the host of Court actions which have been brought thereunder, we are all tempted to focus only on that very significant Congressional enactment. But so far as the Labor Board is concerned, we must stretch our memories well back of 1964 and remember that from the very earliest days of the Act the Board assumed, at first vaguely and later explicitly, that it had no *constitutional* power to confer, condone, or enforce exclusivity of representation in the face of proof that that representation was being exercised in a discriminatory manner—not only on the basis of race but whenever the exclusive representative was drawing arbitrary, invidious or discriminatory lines between those whom it would fully represent and those whom it would not.

Procedurally we have seen that the Board has been variously divided as to whether it should utilize the representational case forum, the unfair labor practice forum, or both, as a route for dealing with the constitutional issue of fair representation. The outstanding precedent, however, is clearly that both routes are available. It is abundantly clear that the Supreme Court is of the view that the Board may reach the issue by invoking its unfair labor practice jurisdiction under Section 8(b) and, indeed, that the Board has done so rather tardily.

The Supreme Court has not yet, so far as my research indicates, had the occasion to pass directly on the Board's authority to use its representational case processes to deal with this issue. The Board, however, both prior to and subsequent to the 1947 Taft-Hartley amendments has taken the position that it may—and must—revoke the certifications when presented with evidence of certain flagrant violations of the duty of fair representation. It has not in recent years decided any case in which it has withheld—or even withheld conditionally—the issuance of a certificate, although it did just that as long ago as 1943. Since, as you know, the question of whether the Board should withhold a certificate in certain cases on this ground—and if so, at precisely what point in the representation proceeding the matter should be raised—is now before the Board for decision, it would be improper for me to comment further on this subject matter at this time. I had hoped that we would have some guidance out to the parties by this time, but we have not been able to meet my optimistic predictions of a month or two ago when I said that I thought we would have our first key decision out within a couple of weeks. All I can properly tell you at this time is that the matter is under active consideration at the Board.

In the 8(b) area there has not been a great rash of recent Board decisions. There are a few, however, which I might call to your attention.

In *Pacific Maritime Association* [11] issued on March 14 of this year, the Board affirmed the decision of an Administrative Law Judge in finding an 8(b) violation where the Union had breached its duty of fair representation by preventing the hire of female employees on grounds of sex. The Administrative Law Judge found that the Longshoremen's Union had denied six women access to its dispatching facilities because of their sex, which he found to be an irrelevant, invidious, and unfair distinction. Relying upon *Miranda*, he found that this breach of the duty of fair representation violated Sections 8(b)(1)(A) and (2) and that the Employer who by its conduct had participated in such action violated Section 8(a)(1) and 8(a)(3) by so doing. Member Fanning concurred, not relying on the *Miranda* decision, but rather relying on two other cases—*William F. Murphy* [12] and *W. J. Siebenoller Paint Co.*[13] Once again, following the *Rubber Workers* case, the contention was rejected that such a proceeding should be processed only under Title 7.

Since in this "Longshorepersons" case, as it has been called, Member Fanning rested his decision on the *Siebenoller* decision, we might take a look at that case for a moment. In that case the Board found a violation of Sections 8(b)(1)(A) and (2) of the Act because the Union had harassed the employer in an effort to force it to discharge a black apprentice and to cause the employer not to hire more black apprentices. The Board also found 8(b)(1)(A) violations in the Union's discipline of other members because of their failure to assist the Union in its efforts to force the employer to abandon its announced intention to hire the black apprentice and for taking certain other action against them because of their refusal to cooperate in the union-directed harassment of the employer.

Member Fanning joined in this decision, although he did not rest his findings on *Miranda*. Nevertheless, there would appear to be some departure from Member Fanning's view in *Miranda* that the Board should use only its representation case route in this type of case. I am not sure, however, that Member Fanning would agree with my characterization of his views. Since *Siebenoller* was a full Board decision it does appear that all of the members of the present Board will find 8(b) violations at least in certain cases wherein the facts show a breach by the union of its duty of fair representation, particularly where that breach is in the nature of racial discrimination.

In the *Pacific Maritime* case the Board again found the employer-respondent guilty of a violation of Sections 8(a)(1) and 8(a)(3) of the Act because it acted in concert with the union in adversely affecting the employment status of certain individuals by participating in the breach of the union's duty fairly to represent those persons. Since it seems clear by now that the right to fair representation is a Section 7 right, there would seem little basis to challenge the *8(b)(1)* findings in this connection or the *8(a)(1)* findings, since the employer has acted in concert with the union in such manner as to unlawfully interfere with those Section rights.

Where the employer does *not* act in concert with the union, however, the Board has not heretofore found that racial discrimination by an employer, standing alone, is a violation of either 8(a)(1) or 8(a)(3). You may recall that I quoted to you the Board's language in *Miranda* wherein it stated that a labor organization as bargaining representative is not the same entity as an employer, for labor organizations do represent employees and have statutory obligations to employees which employers do not. Hence the Board reasoned that since an employer does not—and indeed may not—represent employees, the employer cannot have a duty of fair representation. The Court of Appeals for the District of Columbia, however, in the *Farmers Coop* case [14] held that an employer's discrimination against its employees on account of race or national origin is a violation of Section 8(a)(1) of the Act because (1) such discrimination sets up an unjustified clash of interests between groups of workers, thus frustrating possible concerted action, and (2) creates in its victims an apathy or docility which inhibits them from asserting their rights against the Employer-perpetrator of the discrimination. The Board in *Jubilee* [15] respectfully disagreed with this Court's expressed view. It refused to accept the Court's theory that employer discrimination has the necessary effect of creating divisiveness within the work force or of discouraging union membership. Indeed, the Board pointed out, such actions by an employer may even lead

Footnotes at end of article.

to collective action by employees and to the seeking of union representation in protest against such employer action.

The Board noted that it does hold that concerted activity intended to remedy employer discrimination is protected under the Act. It further noted that the Board, in an 8(a)(3) context, has found that an employer's discharge of female workers is unlawful when the real reason for their discharge is their union's attempt to negotiate better working standards for them. But in those contexts there is a nexus with union or concerted activity which it did not find in the *Jubilee* record.

The Board's decision in *Jubilee* is now before the Court of Appeals, and we must await further developments before we know whether the Board's view will ultimately be upheld. If it is not, and the Board becomes a proper forum for all complaints of employer discrimination, I doubt whether the Board can long survive as a viable institution, since there would be a real risk that it would be so inundated with cases that its procedures would bog down in a hopeless morass.

The Board does, however, as we said in *Jubilee*, protect an employee's right to engage in concerted activity in order to eliminate racial discrimination. In *Advance Carbon* [16] the Board again recently found that the discharge of an employee who, concertedly with others had filed and supported FEPC charges, was a violation of the Act.

Only recently have we begun to encounter cases in which racial discrimination or a breach of the duty of fair representation is asserted as a shield to protect activities otherwise proscribed or unprotected under our Act. In the *Emporium* case [17] now before the Supreme Court on certiorari, it was asserted that concerted activity by a small group of minority employees, seeking changes in working conditions normally deemed the sole prerogative of the exclusive bargaining agent should nevertheless be held to be protected activity where that activity was in protest against racially discriminatory conduct by the employer. You are all so familiar with that case that I shall not dwell upon it today. The Board rejected the contention, the Court of Appeals for the District of Columbia disagreed with the Board, within certain limitations, and the matter is now before the Supreme Court which has agreed to take certiorari and decide this important issue.

In *Mansion House* [18] an alleged discriminatory practice on the part of the union with respect to admitting minorities to membership was asserted as a defense against this Board's order to an employer to bargain with the said union. The Court remanded the case with directions to the Board to take evidence concerning the alleged discriminatory practice on the part of the union, but there was no ultimate disposition of the case, since it was withdrawn before any further hearing could be held. Thus the Board had no opportunity to pass on whatever evidence might have been offered nor to express its own views as to the circumstances if any under which a bargaining order should appropriately be denied on this ground. We have before us at the moment a case in which a similar issue was raised, and I am therefore once again restrained by proprietary from making any further comments, although I well know that this area is one of interest to you.

One case which you may have not noticed was one involving the Laborers' Union [19] wherein the Board found that union guilty of an 8(b)(1)(B) violation because it had engaged in a work stoppage in an effort to dictate to the employer the selection of a particular supervisor. Member Jenkins dissented from this decision on the ground that the work stoppage was argued to have been in protest of or to remedy alleged racial discrimination practiced by one of the employer's foremen. In Member Jenkins' view an exploration of that question had to be made by the Board and he strongly disagreed with the majority's view that whatever the motivation, the Act specifically prohibits a union from interfering with the employer's choice of his bargaining representatives. I mention the case only because here again the existence of a racially discriminatory issue was asserted as a shield to protect conduct which was otherwise clearly violative of the statute.

I have not tried nor shall I try to make this address a complete compendium of all Board cases which might be relevant to the issue you are discussing in this seminar. I would rather take my remaining moments to suggest to you that, from the Board's view, at least as I see it, the real problems here are not so much legal as practical in nature.

I have already stated and reiterated that the Board's duty to deal effectively with the constitutional issue of applying our law so as to give full consideration to employees' rights to fair representation is a duty which we must not, cannot, and will not avoid or evade. Each of us has taken an oath to support and defend the Constitution of the United States and we must and will honor that oath. The constitutional requirement that we administer our law in this way is by now so clear that it cannot seriously be questioned.

But the practical problems have been with us ever since we became aware, rather early on, of this basic constitutional principle. I have reviewed with you briefly the shifting debates within the Board, over the years, as to the proper procedural points at which the Board should or must permit this essentially constitutional issue to be litigated. Underlying those debates, although never very frankly expressed in Board decisions, has been a recognition that to be effective in our overall mission, we must ever be careful not to structure our procedures in such a way that we invite frivolous litigation or that we compound the inevitable but lamentable delays which are built into our decision-making structure.

We continue to face today many such questions. At what point may or must these issues be raised? How must they be pleaded? Where should the burden of proof lie; and, correlatively, how much investigative time of the Board must, constitutionally, be devoted to these questions? How far can or should the Board reach in this area, consistent with both its constitutional duty and its duty to give timely effect to both its representational and its remedial functions?

It would have been much easier for this Board if the Congress, when it enacted and when it amended Title 7, had vested in one public prosecutor and in one single judiciary the exclusive jurisdiction to remedy discriminatory actions by both unions and employers. We could then have proceeded with our usual functions, and have administered our Act without permitting such issues to be raised before us, safe in the knowledge they could and would be raised by an expert public prosecutor and settled in an expert forum. Not only did that not occur, but there is not even available to us, as a practical matter, the option of temporarily deferring such issues to an agency with greater expertise than we. For we know that the governmental agencies having direct responsibilities in this connection are so inundated with claims that any temporary withholding of our processes would create intolerable delays and would be worse, from a practical standpoint, than investing at least a reasonable amount of time of this Agency in disposing of the issue so that we can get on with giving effect to the central statutory purposes of our Act.

These, then, as I see it, are the real problems that confront this Board. I do not seek to cry on your shoulders nor do I seek your tears of sympathy. But I would hope that I have put in some reasonable perspective the nature of the challenge that faces this Board. It is not an easy one. Any constructive suggestions by the responsible bar which can assist us as we attempt constitutionally and fairly to meet that challenge will, I assure you, be welcomed and given the most serious consideration by all of what some days may look like the Floundering Five.

FOOTNOTES

[1] American Tobacco Co., Inc., 9 NLRB 579.
[2] 53 NLRB 999.
[3] 323 U.S. 192.
[4] Larus & Brothers Co., Inc., 62 NLRB 1075.
[5] 104 NLRB 318.
[6] 140 NLRB 54.
[7] 349 U.S. 294.
[8] 140 NLRB 181.
[9] Local 12, United Rubber, Cork, Linoleum, etc. 150 NLRB 312.
[10] *Local 12, Rubber Workers* v. *N.L.R.B.*, 368 F.2d 12 at 17.
[11] 209 NLRB No. 88.
[12] 204 NLRB No. 112.
[13] 205 NLRB No. 110.
[14] *United Packinghouse Food and Allied Workers International Union, AFL–CIO* v. *N.L.R.B.*, 416 F.2d 1126, cert. denied 396 U.S. 903 (1969).
[15] Jubilee Manufacturing Company, 202 NLRB No. 2.
[16] Advance Carbon Products, Inc., 198 NLRB No. 106.
[17] 192 NLRB 173, 485 F.2d 917 (CA-DC 1973).
[18] *N.L.R.B.* v. *Mansion House Center Management Corp.*, 473 F.2d 471 (C.A. 8, 1973).
[19] Laborers International Union of North America, AFL–CIO Locals 478 (International Builders of Florida, Inc.) 204 NLRB No. 32.

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

Ir. WILLIAMS. I yield to the Senator from Ohio.

Mr. JAVITS. Mr. President, I have not yielded the floor. I yield to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. TAFT. Mr. President, I certainly want to express my complete concurrence with the remarks of the distinguished Senator from New York, the ranking Republican member of the committee, and his views on this matter. I believe rather than extending the jurisdiction of the National Labor Relations Board in this regard, we ought to consider perhaps reducing the Board's jurisdiction in this area.

I attended a seminar recently with the General Counsel of the National Labor Relations Board, the Solicitor of the Labor Department, and the new head of the EEOC, and this was the general subject which we discussed for an entire day.

My conclusion, on coming away from that meeting, was that there is too much overlapping jurisdiction in this field. We are really jeopardizing, almost, the effective carrying out of the fair practices and antidiscriminatory practices laws by the duplicative enforcement procedures.

I think it is a matter the committee ought to be examining further, but it ought to be examining it with regard to limiting jurisdiction, rather than extending it.

Another thing I would point out is that the amendment apparently applies only to labor organizations, rather than to both labor and management. If we are going to have such an amendment, I think it ought to apply to both sides of the table, although I am not certain it ought to apply to either.

Mr. President, as I understand the amendment offered by the Senator from Colorado it would establish an unfair labor practice for a labor organization to discriminate against a member due to race, religion, color, sex or national origin. While I certainly agree with the intent behind the amendment, the National Labor Relations Board already has authority to correct such abuses and such authority has perhaps increased under the leading case of *N.L.R.B. v. Mansion House Management Center,* 473 F. 2d 471 (8th Cir., 1973). In this case an employer had engaged in extensive unfair labor practices during an organizing drive. The board's remedial order included a requirement that the employer bargain with a local of the painters' union. As a part of its defense, the employer attempted to introduce evidence that the union was not a labor organization within the meaning of the act because it discriminated against blacks by refusing them membership. While the trial examiner and board rejected this evidence, the court of appeals held that the evidence was relevant and that questions of discrimination are a proper area of inquiry for the board. Further, the court held that the remedial machinery of the act is not available to a union that engages in racial discrimination.

During the 1972 debate with respect to amendment to the Equal Employment Opportunity Act, this general question was faced by the Congress. As the Senator may recall, one of the issues that was considered pertained to a duplicative approach in enforcement of discrimination charges.

To avoid an overlapping approach in this area the prosecutorial functions of the Justice Department were transferred to the EEOC. Even though the jurisdiction of the Office of Federal Contract Compliance—OFCC—remained in the Department of Labor and separate Federal monitoring programs remained in departments, the clear trend has been to centralize enforcement of discrimination cases. This, I believe, is the proper direction to proceed in that there are already too many levels of prosecution and enforcement in this area without any res judicata. If I interpret the Senator's amendment correctly he would add the National Labor Relations Board as another level to this enforcement and perhaps further complicate an already difficult area.

Mr. President, I would hope that this amendment would be withdrawn and if not I would urge the Senators to vote against it.

Mr. JAVITS. Mr. President, I ask unanimous consent that I may yield to the Senator from Colorado without losing my right to the floor.

The PRESIDING OFFICER (Mr. BARTLETT). Without objection it is so ordered. The Senator from Colorado is recognized.

Mr. DOMINICK. Mr. President, I am not going to take much longer but I think I should say a few things in answer to my distinguished friend from New York and then in answer to my distinguished friend from Ohio.

First of all, in answer to my distinguished friend from New York, the EEOC is now 18 months behind and it is getting further behind every day and every week. I do not know how far behind the National Labor Relations Board is, but certainly an unfair labor practice is much easier to deal with at the National Labor Relations Board. We have too many problems in bringing a discrimination case, in trying to get the Commission to bring one, knowing they are 18 months behind before we can ever start.

Second, the Board itself has the power in representation cases, according to the Senator from New York, under the Miranda decision. The Miranda decision I know about is criminal law, although in this case, I presume, the Senator is talking about another case. But that is only in representation cases.

What I am getting at is for an unfair labor practice all the way through, whether union shop, open shop, or apprentice. None of those things that have been mentioned by the Senator from New York deal with apprenticeship, which may be one of the worst areas of discrimination than any other area.

But the third thing especially is that the Supreme Court said we can always sue for damages. All right. Who will sue for damages? In most cases, who has got the money to hire a lawyer and really bring it? It has to be done by an organization or a group, and the organization or the group is not large enough to do it because by and large there will be discrimination all over the lot.

Let me answer my distinguished friend from Ohio in about the same fashion. The EEOC may be, logically, the method by which all discrimination cases should be handled. It probably is, but it has neither the manpower, the expertise, nor the degree of ability as yet performed to be able to do this. Frankly, it has said so. I do not know how many persons the Senator from Ohio has talked to recently in EEOC other than at the seminar which he went to, but I have talked to quite a few of them and they do not want any more work. They are trying to get rid of it now. The whole effort has been to try to settle as much stuff out of court as they possibly can before it ever gets to the commission for review. That will not help the labor unions.

As I said initially in my opening statement, there is a union in Texas I know of which is totally black so that if one is a woman, or an oriental, or Spanish-American, or white, he is, ipso facto, knocked out of the ability to go into an apprentice court or to try to get a job.

We have similar situations in exactly the reverse in other areas of the country that I happen to know of.

All I can say is that, if discrimination is going on in this area—and I do not believe there is anyone in this Chamber who would deny it—there is nothing the matter with putting in a National Labor Relations Act violation as an unfair labor practice to prohibit this kind of discrimination.

Mr. JAVITS. Mr. President, what the Senator from Colorado has said illustrates accurately the reasons for the action we propose to take. There are cases which he wishes to cite and questions about the speed of the remedy which he wishes to deal with, which we would wish to deal with. This goes to the generic principles of the National Labor Relations Act.

At best, even if we accepted all his arguments on their face, it simply would break up our effort to deal with this matter on a unit basis. He may quarrel about whether the available remedies are quick or as direct or in the proper channels. But there are remedies. Therefore, we do not face the kind of emergency situation which would justify for practical purposes weighting the bill down with broad amendments.

Mr. DOMINICK. Well, I have served on the committee for 10 years and to the best of my knowledge there has never been a hearing on the National Labor Relations Act as to what should be done on discriminating in connection with a labor union. If I know my chairman and ranking member well—and I believe that I do—there will never be such a hearing.

Mr. JAVITS. Mr. President, I think the Senator underestimates us completely. The fact is, the act was revised considerably in the Landrum-Griffin Act. If there is a real need for it, I feel, and I think the chairman would feel certainly that we have to give every consideration to a revision of the act. But I do not think the case he makes now is any more valid than the case which was made the last time.

Mr. President, if there is no further desire on the part of Senators to debate, I move to table the amendment of the Senator from Colorado, No. 1213, and ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. NUNN). The question is on agreeing to the motion of the Senator from New York to table the amendment of the Senator from Colorado (Mr. DOMINICK), No. 1213.

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 Idaho (Mr. CHURCH), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. HART), the Senator from Hawaii (Mr. INOUYE), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Ohio (Mr. METZENBAUM), the Senator from New Mexico (Mr. MONTOYA), the Senator from Maine (Mr. MUSKIE), the Senator from Alabama (Mr. SPARKMAN), and the Senator from California (Mr. TUNNEY) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Utah (Mr. BENNETT), the Senator from New York (Mr. BUCKLEY), the Senator from Kentucky (Mr. COOK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Illinois (Mr. PERCY), and the Senator from

Alaska (Mr. STEVENS) are necessarily absent.

I also announce that the Senator from North Dakota (Mr. YOUNG) is absent on official business.

I further announce that the Senator from Florida (Mr. GURNEY) is absent due to illness in the family.

The result was announced—yeas 54, nays 26, as follows:

[No. 176 Leg.]

YEAS—54

Abourezk	Haskell	Nelson
Aiken	Hathaway	Nunn
Bayh	Huddleston	Pastore
Beall	Hughes	Pearson
Bentsen	Humphrey	Pell
Bible	Jackson	Proxmire
Biden	Javits	Randolph
Brooke	Johnston	Ribicoff
Burdick	Kennedy	Roth
Byrd, Robert C.	Long	Schweiker
Cannon	Magnuson	Scott, Hugh
Case	Mansfield	Stafford
Chiles	Mathias	Stevenson
Clark	McGee	Symington
Cranston	McGovern	Taft
Domenici	McIntyre	Talmadge
Eagleton	Mondale	Weicker
Hartke	Moss	Williams

NAYS—26

Allen	Eastland	McClure
Baker	Ervin	Metcalf
Bartlett	Fannin	Packwood
Brock	Fong	Scott, William L.
Byrd, Harry F., Jr.	Griffin	Stennis
Cotton	Hansen	Thurmond
Curtis	Hatfield	Tower
Dole	Helms	
Dominick	Hollings	
	Hruska	

NOT VOTING—20

Bellmon	Gravel	Muskie
Bennett	Gurney	Percy
Buckley	Hart	Sparkman
Church	Inouye	Stevens
Cook	McClellan	Tunney
Fulbright	Metzenbaum	Young
Goldwater	Montoya	

So the motion to table Mr. DOMINICK'S amendment (No. 1213) was agreed to.

Mr. FANNIN. Mr. President, I rise in opposition to passage of this amendment to the Taft-Hartley Act.

When the Taft-Hartley Act was passed in 1947, the late Senator Tydings offered the existing amendment which was accepted by the late Senator Taft. No objection was offered on the floor of the Senate.

Now, 27 years later we are asked to reverse that decision.

The report states that 56 percent of all hospital employees work for nonprofit hospitals, which employ 1,427,017 full-time workers.

As a former businessman, I do not see how collective bargaining in its usual sense can be applied to hospitals. The nonprofit community hospital is not a factory or store; in fact, it has no true analogy in private industry. It does not manufacture or sell products. It deals in human beings.

The essential relationship of hospital workers to the successful care and treatment of patients also clearly differentiates hospitals from business and industry generally. This relationship must not be interfered with by any outside influence if hospitals are to provide the assurances which the public must have for uninterrupted and constantly available high quality health services. The effectiveness of labor unions is based on strikes. No community could tolerate widespread strike activity in its hospitals. A strike at a hospital is no more tolerable than a strike by policemen, firemen, or governmental employees.

Health care institutions are wholly dependent on their employees. The American Hospital Association testifying before the Senate Labor Committee in opposition to the 1972 bill stated that hospitals employ three employees for each inpatient. Further, "any interruption, interference, or delay in patient care services would result in increased morbidity or loss of life." If we are to bring these hospitals under the act, we are encouraging the organization of hospital employees. It is our duty to amend this bill to greatly limit, if not forbid, the right to strike.

If this amendment is adopted we are bringing hospitals under all the provisions of the National Labor Relations Act. The average hospital employss 100 separate occupations with an overwhelming percentage of these classifications being critical to the efficient operation of hospitals. As patients we see nurses, orderlies, helpers, and an occasional food service employee. We do not see pharmacists, laboratory technologists, or the many crafts such as engineers, carpenters, plumbers, electricians, and maintenance workers.

I have never been satisfied with the National Labor Relations Board's designation of appropriate units. I have no idea of how that Board would act in cases involving hospitals. From its decisions in other businesses and industries I would expect it to find many bargaining units. Any one of these many bargaining units, even a very small one, could close down the entire facility because of the general practice of unions to respect the picketing efforts of others. For example, a unit of four stationary engineers could effectively disrupt the total operations of a hospital by establishing a picket line which would be honored by other employees. Numerous bargaining units could lead to jurisdictional disputes. Therefore, before I could support S. 3203, I would have to see the adoption of amendments to the Taft-Hartley Act, correcting the NLRB's rules and decisions respecting the determination of appropriate units. The same is true with respect to jurisdictional strikes. The handling of these completely indefensible strikes is cumbersome and time consuming.

Mr. President, numerous other Senators and I have offered dozens of bills in every session of Congress directed at changes in the Taft-Hartley Act. These bills have been referred to the Senate Committee on Labor and died there without hearing. Last year that committee reported out and Congress passed a union backed bill amending section 302 (c)(5) to permit bargaining upon employer paid legal services for employees. This year we are asked to pass another union-sponsored amendment—adding nonprofit hospitals to coverage. It seems that only bills sponsored by the AFL–CIO can obtain action by the committee.

To add another million plus employees to NLRB's jurisdiction is only to compound the errors. Why, with only 3 days of hearings in August 1973 should this one amendment be added to the law? What do we really know about its effects? I keep hearing that NLRB's caseload is staggering with some 6 months of delay in case handling. Is NLRB prepared to take on this new load of cases?

In an August 7, 1973 speech NLRB chairman Edward B. Miller made the following remarks:

> I honestly do not see how it will be physically possible for five Board members to handle many more cases than are projected for the current fiscal year. We already have too little time adequately to consider our present cases, and any substantial further caseload will either make us rubber stamps for whatever decisions our Administrative Law Judges make, or we will gradually develop a hopelessly insurmountable backlog.

Mr. President, hospital costs are soaring. How much cost would this bill add to hospital costs? Dealing with many bargaining units in a hospital would result in excessive and unnecessary costs in terms of administrative and legal time and expense.

If this bill is passed, the rapid expansion of union organization of hospitals will follow as surely as night follows day. The National Labor Relations Act, although amended by both Taft-Hartley and Landrum-Griffin laws, still remains the magna carta of organized labor. Its skillful use of NLRB procedures has been the major element in promoting the growth in union membership.

One thing is sure. If unions win bargaining rights at hospitals, wages are going to rise. The costs are going to be passed on to the patients. This comes at a time when vigorous efforts are being directed by hospitals and by the Government at controlling rising health care costs.

I have checked my mail from my constituents. I find telegrams and letters from almost every hospital in the State of Arizona urging my support in opposition to this bill. I have received a half dozen letters from groups of technical employees urging my support to the bill.

Mr. President, the committee report in many respects is a curious document. In several paragraphs throughout the report there is an obvious intent to substitute intent of the Senate for the words of the law. To cite a few examples: On page 6, the first paragraph starts: "It is the sense of the committee" that it would be an illegal secondary boycott if the union struck or picketed the hospital which accepted the patients of the struck hospital. Why not put it in the law itself? If the words of the law are clear, courts do not look to congressional intent.

Also on page 9, the third paragraph dealing with recognition picketing, the report states:

> It is the sense of the committee that picketing of a health care institution would in itself constitute an unusual circumstance justifying the application of a period of time less than thirty days.

Again, I ask, why not put it in the law?

On page 4 dealing with the 10 day strike notice, the report states:

> If a labor organization does not strike at the time specified in the notice, at least 12

hours notice should be given of the actual time for commencement of the action.

The bill does not so provide.

The ensuing paragraph states:

Repeatedly serving such 10 day notices upon the employer is to be construed as constituting evidence of a refusal to bargain in good faith by the labor organization.

I cannot find such a provision in the bill.

In the following paragraph the report states:

A labor organization will not be required to serve a 10 day notice—when the employer has committed unfair labor practices.

A 1956 case construing prior law is cited in support of such statement. Aside from questioning why the law itself does not so provide, is this also to say that the 10 day notice is lost if the union charges the hospital with, for example, a violation of free speech, or a questionable discharge?

In the last paragraph on page 4 we again find the words "it is the sense of the committee." Here the "sense of the committee" is that during the 10 day period the employing hospital could not "bring in large numbers of supervisory help, nurses, staff and other personnel from other facilities for replacement purposes."

At the beginning of the report, the committee cites five additional special provisions which are supposed to deter strikes. Numbers (1), (2) and (3) provide a little longer time for the Federal Mediation Service to act. In my opinion, they are meaningless. They ignore the present practices of FMCS. The Mediation Service now keeps close tab upon NLRB elections. Some 30 days after a union wins an NLRB election, the employer receives a telephone call from FMCS inquiring as to the status of bargaining.

No. (4) states that the union and the employer will be required to participate in mediation. Section 204(a)(3) already requires them to do so.

That leaves us with only No. (5), the 10 day notice. This, then, is the only reason why some may argue that this is a better bill than the one we were presented with in 1972. Some private hospitals may say it is the lesser of two evils.

For myself, it boils down to whether we are going to bring private hospitals under the act.

In my State of Arizona, we have numerous small cities with but one hospital and removal of patients in the event of a strike could involve moving them from 50 to 75 miles. I believe the one hospital situation exists in every State of the Union, although the distances between cities may not be as great in a number of eastern States. How many deaths would occur when the hospital uses its congressional given 10 days to move seriously ill patients? What happens to the accident victims who go to, or are carried to the emergency door or out-patient department only to see a "closed by strike" sign on that door?

One final comment upon the report—the committee states that passage of this bill should completely eliminate recognition strikes and picketing in the hospital industry—page 3. Section 8(b)(7) of the Taft-Hartley Act was added by the Landrum Griffin Act and was expected to eliminate recognition picketing. However, NLRB and court decisions have rendered this section a nullity, and unions have continued to picket for recognition. Thus, the committee's pious language has no basis in proven fact.

Our large cities are not immune. In Phoenix and Tucson we have a substantial number of hospitals. There are times when there may be many empty beds. The next week, a virus strikes and beds are at a premium. There would just be no place to transfer the patients. So, what do they do? I have read the really horrifying experiences related by Senator DOMINICK of last year's New York City hospital strike. The answer there was to send all the patients to their homes.

I fully realize that it would be futile for me to offer a no-strike amendment to this bill. However, I was intrigued by the recommendation of the Minnesota witness at the hearings that the bill should contain a section 14(b) type provision—"that nothing in this act shall affect the validity of any State law." I did not know that Minnesota law prohibited strikes by hospital employees. I am curious as to whether other States have similar laws. If either of the Senators from Minnesota should offer such an amendment, I promise to give them my enthusiastic support.

In conclusion, the exemption for nonprofit hospitals has been in the law for 27 years. The only reason for changing the law now is that the AFL–CIO want to make it easier for them to obtain many new members. I shall vote against it.

Mr. MONDALE. Mr. President, the State of Minnesota has a fair, progressive, and farsighted labor relations provision dealing with nonprofit hospitals. The Minnesota Charitable Hospitals Act was passed in 1947. It was an addition to the basic Minnesota Labor Relations Act. It prohibits strikes by hospital employees and lockouts by hospitals. In the event of a labor dispute, both hospitals and labor organizations are required to use mediation in an effort to reach agreement. If mediation fails, unresolved disputes are submitted to binding arbitration.

The Minnesota Charitable Hospitals Act has proven a successful device for maintaining stable labor relations in nonprofit hospitals. It, of course, leaves all union organization rights, bargaining powers, and other options intact. It does, however, contain a method for resolving disputes that, in the Minnesota experience, has proven acceptable to both employer and employee.

It is evident that both the hospitals and the unions in Minnesota are extremely satisfied with the operation of the Minnesota Charitable Hospitals Act. Last fall, the 16th constitutional convention of the Minnesota AFL–CIO passed a resolution supporting the Minnesota Charitable Hospitals Act and urging Congress not to interfere with its operation.

I have received numerous correspondences from all elements of the labor movement supporting the operation of the Minnesota Charitable Hospitals Act. In addition, the Minnesota Hospital Association, which serves nonprofit hospitals and nursing homes, appeared before the Senate Labor Subcommittee in support of the Minnesota Charitable Hospitals Act, urging that committee not to allow the Minnesota act to be preempted. I have received numerous correspondences from Minnesota nonprofit hospitals and from numerous doctors urging retention of the Minnesota legislative scheme.

Unfortunately, S. 3023 will preempt the Minnesota Charitable Hospitals Act. While I fully support S. 3023, I do so reluctantly. While I believe that it is imperative that we extend National Labor Relations Act coverage to health care institutions, it is unfortunate that we do so at the expense of preempting an effective and progressive labor relations measure in the State of Minnesota. This is an instance where the necessity for a national piece of legislation, embodying national standards, is not able to take account of those States that have, on their own, moved ahead in an area—ahead of national legislation.

In an effort to save the Minnesota Charitable Hospitals Act, I offered an amendment to S. 3023 when it was under consideration by the full Senate Labor and Public Welfare Committee, of which I am proud to be a member. My amendment would have avoided preemption of labor relations acts dealing with nonprofit hospitals which were passed prior to the enactment of the National Labor Relations Act. Minnesota's act is such a provision. Unfortunately, my amendment was defeated in the Labor and Public Welfare Committee.

Although I firmly believe that preemption of the Minnesota Charitable Hospitals Act is an unfortunate consequence of S. 3023, I will support the bill as reported by the Labor and Public Welfare Committee.

BILL LAID ASIDE

Mr. MANSFIELD. Mr. President, I ask unanimous consent, in line with the previous agreement, that the pending business be laid aside temporarily.

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

HEALTH SERVICES RESEARCH, HEALTH STATISTICS, AND MEDICAL LIBRARIES ACT OF 1974

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 736, H.R. 11385.

The PRESIDING OFFICER (Mr. BIDEN). The bill will be stated by title.

The bill was read by title as follows:

"A bill (H.R. 11385) to amend the Public Health Service Act to revise the programs of health services research and to extend the program of assistance for medical libraries."

The PRESIDING OFFICER. Is there objection to the request to consider the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on

Labor and Public Welfare with an amendment to strike out all after the enacting clause and insert:

That (a) this Act may be cited as the "Health Services Research, Health Statistics, and Medical Libraries Act of 1974".

(b) Unless the context otherwise requires, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

TITLE I—HEALTH SERVICES RESEARCH, DEVELOPMENT, AND EVALUATION; HEALTH STATISTICS

SEC. 101. This title may be cited as the "Health Services Research, Evaluation and Health Statistics Act of 1974".

SEC. 102. (a) Section 304 is amended to read as follows:

"GENERAL AUTHORITY

"SEC. 304. (a) (1) The Secretary shall—

"(A) undertake through the National Center for Health Services Research, the National Center for Health Statistics, and such other units of the Department of Health, Education, and Welfare as he may select, and

"(B) support,

health statistical activities and health services research, evaluation, and demonstrations.

"(2) In carrying out the provisions of paragraph (1) the Secretary shall give appropriate emphasis to research and statistical activities respecting—

"(A) the determinants of an individual's health,

"(B) the impact of the environment on individual health and on health care,

"(C) the accessibility, acceptability, planning, organization, technology, distribution, utilization, quality, and financing of systems for the delivery of health care, including systems for the delivery of preventive, personal, and mental health care; and

"(D) individual and community knowledge of individual health and the systems for the delivery of health care.

"(b) To implement subsection (a), the Secretary may, in addition to any other authority which under other provisions of this Act or any other law may be used by him to implement such subsection, do the following:

"(1) Utilize personnel and equipment, facilities, and other physical resources of the Department of Health, Education, and Welfare, permit appropriate (as determined by the Secretary) entities and individuals to utilize the physical resources of such Department, provide technical assistance and advice, make grants to public and nonprofit private entities and individuals, and enter into contracts with public and private entities and individuals, for (A) health services research, evaluation, and demonstrations, and (B) health services research and health statistics training, and (C) health statistical activities.

"(2) Admit and treat at hospitals and other facilities of the Service persons not otherwise eligible for admission and treatment at such faciliites.

"(3) Secure, from time to time and for such periods as the Secretary deems advisable, the assistance and advice of experts and consultants from the United States or abroad.

"(4) Acquire, construct, improve, repair, operate, and maintain laboratory, research, and other necessary faciliites and equipment, and such other real or personal property (including patents) as the Secretary deems necessary; and acquire, without regard to the Act of March 3, 1877 (40 U.S.C. 34), by lease or otherwise, through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia.

"(c) The Secretary shall coordinate all health services research, education, demonstrations, and health statistical activities undertaken and supported through units of the Department of Health, Education, and Welfare. To the maximum extent feasible, such coordination shall be carried out through the National Center for Health Services Research and the National Center for Health Statistics.".

(b) Section 305 is amended to read as follows:

"NATIONAL CENTER FOR HEALTH SERVICES RESEARCH AND NATIONAL CENTER FOR HEALTH STATISTICS

"SEC. 305. (a) There is established in the Department of Health, Education, and Welfare, the National Center for Health Services Research and the National Center for Health Statistics (hereinafter in this section referred to as the 'Centers').

"(b) In carrying out the provisions of section 304(a) and this section, the Secretary, acting through the Centers, may—

"(1) undertake and support research, evaluation, and demonstration projects which may include and shall be appropriately coordinated with experiments and demonstration activities authorized by the Social Security Act with respect to—

"(A) the accessibility, acceptability, planning, organization, technology, distribution, utilization, quality, and financing of health services and systems;

"(B) the supply and distribution, education and training, quality, utilization, organization, and costs of health manpower; and

"(C) the design, construction, utilization, organization, and cost of facilities and equipment; and

"(2) (A) collect statistics on—

"(i) the extent and nature of illness and disability of the population of the United States (or of any groupings of the people included in the population), including life expectancy, the incidence of various acute and chronic illnesses, and infant and maternal morbidity and mortality,

"(ii) the impact of such illness and disability on the economy of the United States and on other aspects of the well-being of its population (or of such groupings),

"(iii) environmental, social, and other health hazards,

"(iv) determinants of health,

"(v) health resources, including physicians, dentists, nurses, and other health professionals by specialty and type of practice and the supply of services by hospitals, extended care facilities, home health agencies, and other health institutions,

"(vi) utilization of health care, including utilization of (I) ambulatory health services by specialties and types of practice of the health professionals providing such services, and (II) services of hospitals, extended care facilities, home health agencies, and other institutions,

"(vii) health care costs and financing, including the trends in health care prices and cost, the sources of payments for health care services, and Federal, State, and local governmental expenditures for health care services, and

"(viii) family formation, growth, and dissolution; and

"(B) undertake and support (by grant or contract) research, demonstrations, and evaluations respecting new or improved methods for obtaining current data on the matters referred to in subparagraph (A).

"(c) The authority of the Secretary under section 304(b) shall be available to him with respect to the undertaking and support of projects under subsections (b) (1), (d), and (e) of this section.

"(d) The Secretary shall afford appropriate consideration to requests of—

"(1) State, regional, and local health planning and health agencies,

"(2) public and private entities and individuals engaged in the delivery of health care, and

"(3) other persons concerned with health services,

to have the Centers or other units of the Department of Health, Education, and Welfare undertake research, evaluations, and demonstrations respecting specific aspects of the matters referred to in subsection (b) (1).

"(e) (1) The Secretary shall, by grants or contracts, or both, assist public or private nonprofit entities in meeting the costs of planning and establishing new centers, and operating existing and new centers, for multidisciplinary health services research, evaluations, and demonstrations respecting the matters referred to in subsection (b) (1). To the extent practicable, the Secretary shall approve, in accordance with the requirements of this subsection and section 310C, a number of applications for grants and contracts under this subsection which will result in at least six of such centers being operational in each fiscal year.

"(2) (A) No grant or contract may be made under this subsection for planning and establishing a center unless the Secretary determines that when it is operational it will meet the requirements listed in subparagraph (B) and no payment shall be made under a grant or contract for operation of a center unless the center meets such requirements.

"(B) The requirements referred to in subparagraph (A) are as follows:

"(i) There shall be a full-time director of the center who possesses a demonstrated capacity for sustained productivity and leadership in health services research, demonstrations, and evaluations, and there shall be such additional full-time professional staff as may be appropriate.

"(ii) The staff of the center shall represent all relevant disciplines.

"(iii) The center shall (I) be located within an established academic or research institution with departments and resources appropriate to the programs of the center, and (II) have working relationships with health service delivery systems where experiments in health services may be initiated and evaluated.

"(iv) The center shall select problems in health services for research, demonstration, and evaluation on the basis of (I) their regional or national importance, (II) the unique potential for definitive research on the problem, and (III) opportunities for local application of the research findings.

"(v) Such additional requirements as the Secretary may by regulation prescribe.

"(f) (1) The Secretary shall (A) assist State and local health agencies, and Federal agencies involved in matters relating to health, in the design and implementation of a cooperative system for producing comparable and uniform health information and statistics at the Federal, State, and local levels; (B) coordinate the activities of such Federal agencies respecting the design and implementation of such cooperative system; (C) undertake and support (by grant or contract) research, development, demonstrations, evaluations and the Federal share of the data collection costs respecting such cooperative system; and (D) review statistical activities of the Department of Health, Education, and Welfare to assure that they are consistent with such cooperative system.

"(2) There shall be collection of data from the records of births, deaths, marriages, and divorces in registration areas. The data shall be obtained only from and restricted to such registration records of such States and municipalities as the Secretary, in his discretion, determines possess records affording

satisfactory data is necessary detail and form. Each State or registration area shall be paid by the Secretary the Federal share of its reasonable costs (as determined by the Secretary) for collecting and transcribing (at the request of the Secretary and by whatever method authorized by him) its records for such data.

"(3) To secure uniformity in the resignation and collection of mortality, morbidity, and other health data, the Secretary shall prepare and distribute suitable and necessary forms for the collection and compilation of such data which shall be published as a part of the health reports published by the Secretary.

"(4) To insurer comparability and reliability of health statistics, the Secretary shall through the Centers, provide adequate technical assistance to assist State and local jurisdictions in the development of model laws dealing with issues of confidentiality and comparability of data.

"(5) In carrying out health statistical activities under this part, the Secretary shall consult with, and seek the advice of, the United States National Committee on Vital and Health Statistics and other appropriate professional advisory groups.

"(6) The National Center for Health Statistics shall furnish such special statistical compilations and surveys as the Committee on Labor and Public Welfare and on Appropriations of the Senate and the Committee on Interstate and Foreign Commerce and on Appropriations of the House of Representatives may request. Such statistical compilations and surveys shall not be made subject to the payment of the actual or estimated cost of the preparation of such compilations and surveys.

"(g) To assist in carrying out subsections (b)(2) and (f) of this section, the Secretary shall cooperate and consult with the Departments of Commerce and Labor and any other interested Federal departments or agencies and with State and local health departments and agencies. For such purpose he shall utilize insofar as possible the services or facilities of any agency of the Federal Government and, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), of any appropriate State or other public agency, and may, without regard to such section, utilize the services or facilities of any private agency, organization, group, or individual, in accordance with written agreements between the head of such agency, organization, or group and the Secretary or between such individual and the Secretary. Payment, if any, for such services or facilities shall be made in such amounts as may be provided in such agreement.".

(c) Section 308 is amended to read as follows:

"INTERNATIONAL COOPERATION

"SEC. 308. (a) For the purpose of advancing the status of the health sciences in the United States (and thereby the health of the American people), the Secretary may participate with other countries in cooperative endeavors in biomedical research and the health services research and statistical activities authorized by this part.

"(b) In connection with the cooperative endeavors authorized by subsection (a), the Secretary may—

"(1) make such use of resources offered by participating countries as he may find necessary and appropriate;

"(2) establish and maintain fellowships in participating foreign countries and establish and maintain fellowships in the United States for citizens of such countries;

"(3) make grants to public institutions or agencies and to nonprofit private institutions or agencies in the United States and in participating foreign countries for the purpose of establishing and maintaining the fellowships authorized by paragraph (2);

"(4) make grants or loans of equipment and materials, for use by public or nonprofit private institutions or agencies, or by individuals, in participating foreign countries;

"(5) participate and otherwise cooperate in any international meetings, conferences, or other activities concerned with biomedical research, health services research, or health statistics;

"(6) facilitate the interchange between the United States and participating foreign countries, and among participating foreign countries, of research scientists and experts who are engaged in experiments and programs of biomedical research, health services research, and health statistical activities, and in carrying out such purpose may pay per diem compensation, subsistence, and travel for such scientists and experts when away from their places of residence at rates not to exceed those provided in section 5703 (b) of title 5, United States Code, for persons in the Government service employed intermittently; and

"(7) procure, in accordance with section 3019 of title 5, United States Code, the temporary or intermittent services of experts or consultants.

The Secretary may not, in the exercise of his authority under this section, provide financial assistance for the construction of any facility in any foreign country.".

(d) Section 312 is amended to read as follows:

"HEALTH CONFERENCES

"SEC. 312. A conference of the health authorities in and among the several States shall be called annually by the Secretary. Whenever in his opinion the interests of the public health would be promoted by a conference, the Secretary may invite as many of such health authorities and officials of other State or local public or private agencies, institutions, or organizations to confer as he deems necessary or proper. Upon the application of health authorities of five or more States it shall be the duty of the Secretary to call a conference of all State health authorities joining in the request. Each State represented at any conference shall be entitled to a single vote. Whenever at any such conference matters relating to mental health are to be discussed, the mental health authorities of the respective States shall be invited to attend.".

(e) Section 315 is amended to read as follows:

"HEALTH EDUCATION AND INFORMATION

"SEC. 315. From time to time the Secretary shall issue information related to public health, in the form of publications or otherwise, for the use of the public, and shall publish monthly reports of health conditions in the United States and other countries and other pertinent health information for the use of persons and institutions concerned with health services.".

(f)(1) Part A of title III is amended by adding at the end thereof the following new section:

"GENERAL PROVISIONS

"SEC. 310C. (a)(1) Not later than September 1 of each year, the Secretary shall make a report to Congress respecting (A) the administration of this part during the preceding fiscal year, and (B) the current state and progress of health services research and health statistics.

"(2) The Secretary, acting through the National Center for Health Services Research and the National Center for Health Statistics, shall assemble and submit to the President and the Congress not later than September 1 of each year the following reports:

"(A) A report on health care costs and financing. Such report shall include a description and analysis of the statistics collected under section 305(b)(2)(A)(vii).

"(B) A report on health resources. Such report shall include a description and analysis, by geographic area, of the statistics collected under section 305(b)(2)(A)(v).

"(C) A report on the utilization of health resources. Such report shall include a description and analysis, by age, sex, income, and geographic area, of the statistics collected under section 305(b)(2)(A)(vi).

"(D) A report on the health of the Nation's people. Such report shall include a description and analysis, by age, sex, income, and geographic area, of the statistics collected under section 305(b)(2)(A)(i).

"(3) The Office of Management and Budget may review any report required by paragraph (1) or (2) of this subsection before its submission to Congress, but the Office may not revise any such report or delay its submission beyond the date described for its submission, and may submit to Congress its comments respecting any such report.

"(b)(1) No grant or contract may be made under this part unless an application therefor has been submitted to the Secretary in such form and manner, and containing such information, as the Secretary may by regulation prescribe.

"(2) Each application submitted for a grant or contract under section 304 or 305, in an amount exceeding $35,000 for direct costs and for a health services research, evaluation, or demonstration project, shall be submitted by the Secretary for review for scientific merit to a panel of experts appointed by him from persons who are not full-time officers or employees of the United States and who possess qualifications relevant to the project for which the application was made. A panel to which an application is submitted under this paragraph shall report its findings and recommendations respecting the application to the Secretary in such form and manner as the Secretary shall by regulation prescribe.

"(3) If an application is submitted under this part for a grant or contract for a project for which a grant or contract may be made or entered into under another provision of this Act, such application may not be approved under this part and funds appropriated under this part may not be obligated for such grant or contract. The applicant who submitted such application shall be notified of the other provision (or provisions) of this Act under which such application may be submitted.

"(c) No information obtained in the course of activities undertaken or supported by the National Center for Health Statistics may be used for any purpose other than the purpose for which it was supplied unless authorized under regulations to the Secretary; and no such information may be published or otherwise released if the particular establishment or person supplying it is identifiable unless such establishment or person has consented (as determined under regulations of the Secretary) to its publication.

"(d)(1) Payments of any grants or under any contracts under this part may be made in advance or by way of reimbursement, and in such installments and on such conditions, as the Secretary deems necessary to carry out the purposes of this part.

"(2) The amounts otherwise payable to any person under a grant or contract made under this part shall be reduced by—

"(A) amounts equal to the fair market value of any equipment or supplies furnished to such person by the Secretary for the purpose of carrying out the project with respect to which such grant or contract is made, and

"(B) amounts equal to the pay, allowances, traveling expenses, and related personnel expenses attributable to the performance of services by an officer or employee of the Government in connection with such project, if such officer or employee was as-

signed or detailed by the Secretary to perform such services,
but only if such person requested the Secretary to furnish such equipment or supplies, or such services, as the case may be.

"(e) Contracts may be entered into under this part without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

"(f)(1) The Secretary shall (A) publish, make available, and disseminate, promptly in understandable form and on as broad a basis as practicable, the results of health services research, demonstrations, and evaluations undertaken and supported under this part; and (B) make available to the public data developed in such research, demonstrations, and evaluations. The Secretary may not restrict the publication and dissemination of data from, and results of, projects undertaken by Centers supported under section 305(e).

"(2) The Secretary shall (A) take such action as may be necessary to assure that statistics developed under this part are of high quality, timely, comprehensive as well as specific, standardized, and adequately analyzed and indexed, and (B) publish, make available, and disseminate such statistics on as wide a basis as is practicable.

"(g)(1) Except where the Secretary determines that unusual circumstances make a larger percentage necessary in order to effectuate the purposes of this part, a grant or contract under this part with respect to any project for construction of a facility or for acquisition of equipment may not provide for payment of more than 50 per centum of so much of the cost of the facility or equipment as the Secretary determines is reasonably attributable to research, evaluation, or demonstration purposes.

"(2) Laborers and mechanics employed by contractors and subcontractors in the construction of such a facility shall be paid wages at rates not less than those prevailing on similar work in the locality, as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a—276a-5, known as the Davis-Bacon Act); and the Secretary of Labor shall have with respect to any labor standards specified in this paragraph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

"(3) Such grants and contracts shall be subject to such additional requirements as the Secretary may by regulation prescribe."

(2) Effective July 1, 1974, section 310C (as added by paragraph (1)) is amended by adding at the end thereof the following new subsection:

"(h)(1) For health services research, evaluation, and demonstration activities undertaken or supported under this part, there are authorized to be appropriated $65,200,000 for the fiscal year ending June 30, 1975, and for each of the next three succeeding fiscal years. Of the funds appropriated under this paragraph for any fiscal year, not less than 25 per centum of such funds shall be made available only for health services research, evaluation, and demonstration activities directly undertaken by the Department under this part.

"(2) For health statistical activities undertaken or supported under this part, there are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1975, and for each of the next three succeeding fiscal years."

TITLE II—REVISION AND EXTENSION OF MEDICAL LIBRARY ASSISTANCE PROGRAMS

SEC. 201. (a) Effective July 1, 1974, section 390 is amended by adding after subsection (b) the following new subsection:

"(c) For the purpose of grants and contracts under sections 393, 394, 395, 396, and 397, there are authorized to be appropriated, $17,500,000 for the fiscal year ending June 30, 1975, $20,000,000 for the fiscal year ending June 30, 1976, and for each of the next two succeeding fiscal years."

(b) The section heading for such section is amended to read as follows:

"DECLARATION OF POLICY, STATEMENT OF PURPOSE, AND AUTHORIZATION OF APPROPRIATIONS".

SEC. 202. (a) Subsection (b) of section 390 is amended by striking out clause (1) and by redesignating clauses (2) through (7) as clauses (1) through (6), respectively.

(b) Section 391 is amended—

(1) by inserting "and" at the end of clause (2),

(2) by striking out clause (3), and

(3) by redesignating clause (4) as clause (3).

(c) Section 392(b) is amended to read as follows:

"(b) The Board shall advise and assist the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this part."

(d) Section 393 is repealed.

(e) Section 397(b) is amended—

(1) by inserting "and" at the end of clause (4),

(2) by striking out "; and" at the end of clause (5) and inserting in lieu thereof a period, and

(3) by striking out clause (6).

(f) The first sentence of section 397(d) is repealed.

SEC. 203. (a) The first sentence of section 394(a) is repealed; and the second sentence of such section is amended by striking out "Sums made available under this section shall be utilized by the Secretary in making" and inserting in lieu thereof "To carry out the purposes of section 390(b)(1), the Secretary shall make".

(b)(1) The first and second sentences of section 395 (a) are repealed; and the third sentence of such section is amended by striking out "Sums made available under this subsection shall be utilized by the Secretary to" and inserting in lieu thereof "To carry out the purposes of section 390 (b)(2), the Secretary shall".

(2) The first and second sentences of section 395(b) are repealed; and the third sentence of such section is amended (A) by striking out "Sums made available under this subsection shall be utilized by the Secretary in making" and inserting in lieu thereof "To carry out the purposes of section 390 (b)(3), the Secretary shall make", and (B) by striking out "entering into contracts" and inserting in lieu thereof "enter into contracts".

(c)(1) The first sentence of section 396(b) is amended by striking out "Sums made available under this section shall be utilized by the Secretary for making" and inserting in lieu thereof "To carry out the purposes of section 390(b)(4), the Secretary shall make".

(2) Clauses (A), (B), (C), and (D) of section 396(b) are redesignated as clauses (1), (2), (3), and (4), respectively.

(3) Subsection (a) of section 396 is repealed and subsections (b) and (c) of such section are redesignated as subsections (a) and (b), respectively.

(d)(1) The first sentence of section 397(a) is repealed; and the second sentence of such section is amended by striking out "Sums made available under this section shall be utilized by the Secretary, with the advice of the Board, to make" and inserting in lieu thereof "To carry out the purposes of section 390(b)(5), the Secretary, with the advice of the Board, shall make".

(2) The section heading for section 397 is amended by inserting "AND CONTRACTS" after "GRANTS".

(e) The first and second sentences of section 398(a) are repealed; and the third sentence of such section is amended by striking out "Sums made available under this section shall be utilized by the Secretary, with the advice of the Board, in making grants to, and entering into appropriate contracts" and inserting in lieu thereof "To carry out the purposes of section 390(b)(6), the Secretary, with the advice of the Board, shall make grants to, and enter into appropriate contracts".

SEC. 204. Section 399b is repealed; and sections 394 through 399a are redesignated as sections 393 through 399, respectively.

SEC. 205. The amendments made by this title shall apply with respect to appropriations under part J of the Public Health Service Act for fiscal years beginning after June 30, 1973.

SEC. 206. Section 208(g) is amended by striking out "The Secretary is authorized to establish and fix the compensation for, within the Public Health Service, not more than one hundred and fifty positions, of which not less than one hundred and fifteen shall be for the National Institutes of Health," and inserting in lieu thereof, "The Secretary is authorized to establish and fix the compensation for, within the Public Health Service, not more than two hundred and five positions, of which not less than one hundred and fifteen shall be for National Institutes of Health, not less than sixteen shall be for the National Center for Health Statistics, not less than twenty-nine shall be for the National Center for Health Services Research and not less than ten shall be for the National Library of Medicine.".

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order the Senator from Maryland (Mr. MATHIAS) is to be recognized for 5 minutes.

Mr. MANSFIELD. Mr. President, if I may be recognized without any time being taken out of the time of the Senator from Maryland, I wish again to reiterate to the Senate that it is the intention of the joint leadership to finish this bill tonight. So I hope that those who are interested in the conduct of the debate will be brief, to the point, and that if there are votes they will come quickly. If we do not finish the bill, and this is just a fact of life, we will be in tomorrow, but I expect we will finish the bill tonight. That is it.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

(The remarks Senator MATHIAS made at this point on the introduction of S. 3440, requiring court orders for interception of electronic communications, et cetera, are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

HEALTH SERVICES RESEARCH, HEALTH STATISTICS, AND MEDICAL LIBRARIES ACT OF 1974

The Senate continued with the consideration of the bill (H.R. 11385) to amend the Public Health Service Act to revise the programs of health services research and to extend the program of assistance for medical libraries.

Mr. KENNEDY. Mr. President, what is the pending business?

The PRESIDING OFFICER. H.R. 11385 is the pending business.

Mr. KENNEDY. There is a time limitation; is there not?

The PRESIDING OFFICER. There is a limitation of 1 hour's time to each side.

Mr. KENNEDY. And 1 hour on amendments; is that correct?

The PRESIDING OFFICER. 30 minutes on amendments in the first degree, and 1 hour on an amendment to be offered by the Senator from Maryland (Mr. BEALL).

Mr. KENNEDY. I thank the Chair.

Mr. President, I yield myself such time as I may need.

This bill is extremely important. The bill includes three important aspects dealing with the Public Health Service Act, first, in health services research, second, in health statistics, and, third, medical libraries.

This legislation, which we have introduced in behalf of the Committee on Labor and Public Welfare, asks for $458 million, broken down as follows: For health services research, $260 million; health statistics, $120 million; medical libraries, $77 million.

The bill was unanimously reported from the full committee. There was some debate and discussion in the consideration of the Senator from Maryland's amendment, which we will get to in just a few moments.

This legislation is important, Mr. President. It deals, first of all, with the collection of various statistics of a wide variety of health care delivery. Also, under the research parts of this legislation, we challenge the HEW to constantly find new ways of providing new and more effective delivery mechanisms of health care in this country. Third, the medical libraries are supported, and their support is continued, and their authority somewhat expanded. We know how important the National Library of Medicine is just on the question and the issue of quality health care. In recent times, smaller satellite libraries have been developed. We hope that will continue.

I have a more complete statement which explains the differences between this bill and the legislation that was introduced in the House dealing with the assignment of different responsibilities between research and the collection of statistics, and which also recognizes the difficulty the research programs are having in acquiring top quality personnel.

We have received strong support from those who have been affected by it at the committee's hearing on the legislation. I am extremely hopeful that we can act on it expeditiously this afternoon.

On February 8, 1974, I introduced S. 2996 which extends and improves the expiring provisions of the act in these areas. I am delighted that this measure is cosponsored by the ranking Republican on the full committee, the distinguished senior Senator from New York, Senator JAVITS; the ranking Republican on my health subcommittee, the distinguished junior Senator from Pennsylvania, Senator SCHWEIKER; and the distinguished chairman of the Senate Labor Committee, my friend PETE WILLIAMS.

My bill differs in four major respects from the House passed measure. First of all my bill does not combine the National Center for Health Services Research with the National Center for Health Statistics. Based upon my review of the legislative record in the House and my own analysis of the functions of these two centers, I have come to the conclusion that their functions are sufficiently different in order to justify preserving their identity. I do believe though that the programs of these centers need to be more effectively coordinated than has been the case thus far.

Second, my bill removes the limitation contained in the House passed measure which prohibits no more than 20 grants or contracts or more than an aggregate obligation of the funds of $5 million regarding health services research I believe the limitation would stifle the continuation and expansion of health services research programs.

Third, my bill extends each of these programs through June 30, 1978. I believe a 4-year extension is necessary to assure program continuity.

Finally, my bill provides for additional top-level personnel to administer these programs which heretofore have suffered from an insufficient number of such highly qualified persons. The bills provide for 29 super-grade personnel for the National Center for Health Services Research, 16 super-grade personnel for the National Center for Health Statistics and 10 for the National Library of Medicine.

I yield whatever time the Senator from Pennsylvania desires.

Mr. SCHWEIKER. Mr. President, I urge my colleagues to support H.R. 11385, the Health Services Research and Development, Health Statistics, and Medical Libraries Act of 1974 as amended and reported to the Senate by the Committee on Labor and Public Welfare.

This bill addresses itself to three important facets of the Nation's health care problems.

They are:

First. The need for an increased commitment to health services research aimed at improving the use of our health care dollars.

With a strong commitment backing it, health care research will assist in answering fundamental questions about national health insurance, quality of care, effective use of personnel and technological resources.

Second. The need for accurate and comprehensive statistics about the Nation's health. Without such information we can never know what benefits we have obtained from the billions of dollars we spend on health nor what directions we must take in the future to improve the health of the Nation. Responsibility for gathering, analyzing, and distribution of this vital information rests with the National Center for Health Statistics. The center has achieved a worldwide reputation as an objective and competent reporter of the health status of the American people.

To achieve this purpose the bill authorizes $120 million over 4 years.

Third. The need for funding authority for medical libraries assistance programs. The effectiveness of these programs in the important function of disseminating medical knowledge justifies continuing support for this worthwhile investment.

To achieve this purpose the bill authorizes $77.5 million over 4 years. The grand total of the authorization for appropriations is $458.3 million over 4 years.

The major difference between this bill and the House passed bill is this measure does not mandate a merger of the National Center for Health Statistics with the National Center for Health Services Research. The testimony consistantly indicated that a merger of the two important health resources would be detrimental because the National Center for Health Statistics must serve more than just the research needs of Health Services Delivery. According to Assistant Secretary for Health, Dr. Charles C. Edwards, a structural separation of these two functions is necessary "so that the NCHS is able to make the most rational use of its resources and assign priorities among a variety of competing needs."

Title II of this bill, which extends the Medical Libraries Act for 4 years, will insure the continued dissemination of the ever-increasing volume of health-science knowledge.

I ask unanimous consent to have printed in the RECORD a letter from Secretary Weinberger to Senator HUGH SCOTT stating the administration's position on this legislation.

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

SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., May 1, 1974.

Hon. HUGH SCOTT,
Minority Floor Leader,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SCOTT: This letter summarizes our views on H.R. 11385, the Health Services Research and Development, Health Statistics, and Medical Libraries Act of 1974, as reported by the Labor and Public Welfare Committee. The bill would extend and modify Public Health Service Act authorities for the three named programs which will expire on June 30, 1974 under current law. Although we are in substantial agreement on the need for continued efforts in these areas, and although the Senate version of this bill has eliminated several of the unfavorable aspects of the House version, there still remain in H.R. 11385 as reported to the Senate a number of provisions which cause the Department concern.

First, the Senate version of H.R. 11385 maintains the separation between health service research and health statistics, which we believe is desirable and clearly preferable to the combined arrangements proposed in the House version of the bill. However, we believe that fixing in the statutes the organizational entities which will administer health service research activities and health statistic activities not only is unnecessary, but is an undesirable hindrance to the Secretary's overall statutory responsibilities to assure effective administration of the Department. Accordingly, we urge the deletion of those provisions in Section 305 that would establish these entities in permanent law.

Second, the Senate Committee's bill requires that grants in excess of $35,000 for health services research, evaluation or demonstration projects be submitted for re-

view by an outside panel of scientific experts. Excellent formal and informal review procedures currently exist for all grants and contracts within the Department's Bureau of Health Services Research. We see no reason, therefore, to write into law a formalized review procedure for grants.

Third, H.R. 11385 requires to the extent practicable the support of at least six multidisciplinary health service research centers each year. Our experience in the past with these centers has indicated wide variation in performance on the part of these activities. We believe that such activities will continue, but it is essential that we be able to continually evaluate, monitor, and modify our scope and scale of effort in this area. Therefore, we recommend that no specific numerical requirements be contained in the legislation.

H.R. 11385 would also prohibit the Office of Management and Budget from reviewing annual reports required by the bill. We believe that provisions of this kind are inappropriate restrictions on the President's ability to ensure that agency reports to Congress are coordinated with the legislative interests of other Executive Branch agencies and that they reflect Administration policies.

In addition, the bill would expand the number of Section 208(g) positions authorized by the Public Health Service Act and assign the increase to the National Center for Health Statistics, the Bureau of Health Services Research, and the National Library of Medicine. We oppose this provision as unnecessary at this time.

We note the Senate Committee's addition of language in Section 305(f)(6), mandating that the National Center for Health Statistics furnish to the concerned congressional committees, without regard to cost, such special statistical compilations and surveys as they may request. The Department has always cooperated in the past with the committee's requests for information, and certainly anticipates continuation of that practice. Thus, the Committee's additional language is unnecessary. Further, such broad language, that does not specify in advance the nature of "such special statistical compilations and surveys" could potentially require significant budgetary resources, which might make it impossible for the agency to comply with the Committee's requests and—at the same time—carry out its existing responsibilities.

Finally, we oppose the provisions of H.R. 11385 mandating the convening of annual health conferences as undesirable and unnecessary restrictions on the authority of the Secretary to call such meetings.

As noted above, the Department believes that the approach taken in H.R. 11385, with the exceptions noted, is in general a prudent one which recognizes the need for continued authority for health services research, health statistics, and medical libraries. We support this renewed authority, but believe that the reported bill contains several serious flaws which would reduce, rather than enhance, the effectiveness of the programs it would extend.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

CASPAR W. WEINBERGER,
Secretary.

The PRESIDING OFFICER. The bill is open to amendment.

Mr. BEALL. Mr. President, I call up my amendment No. 1244.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read amendment No. 1244.

Amendment No. 1244 is as follows:

Strike all after the enacting clause through line 20, page 51, and insert in lieu thereof the following:

SHORT TITLE

SECTION 1. This Act shall be known as the National Institute of Health Care Delivery Act of 1974.

FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) The Congress of the United States finds—

(1) that the United States faces a crisis in health care;

(2) that health care costs have increased in the last five years twice as fast as the general cost of living;

(3) that there exists an acute shortage and maldistribution of physician and other medical manpower in inner-city and rural areas;

(4) that millions of Americans do not have access to quality health care;

(5) that since World War II the United States has invested approximately $20,000,000,000 in biomedical research, and that this investment has resulted not only in wide recognition of the preeminence of biomedical research in the United States, but also produced many, often spectacular, advances in medical science;

(6) that during the same period comparatively few resources were invested to deliver the discoveries of medical research and technology to our citizens;

(7) that the American public is concerned with the gap between the knowledge and capabilities of medical science and what is delivered to the patient, and that this is a source of public discontentment and dissatisfaction;

(8) that significant changes regarding the health care system have been proposed and may be implemented in the near future;

(9) that the potential costs and benefits associated with the various proposals are largely unknown; and

(10) that, inadequate attention emphasis, and resources have been devoted to health policy analysis and health care delivery.

(b) It is the purpose of this Act to establish a National Institute of Health Care Delivery and regional and special emphasis centers to improve health care delivery and to help speed the delivery of the benefits of medical science and the scientific discovery system to the people of the United States.

SEC. 3. The Public Health Service Act is amended by inserting after title XIV the following new title:

"TITLE XIV—NATIONAL INSTITUTE OF HEALTH CARE DELIVERY

"DEFINITIONS

"SEC. 1401. For the purpose of this title—

"(1) the term 'health care delivery' includes all aspects and interrelationships of the organization, financing, and provision of direct health services to individuals, families, and groups for the purposes of prevention, cure, rehabilitation, restoration, and maintenance of function, and related health services essential to good health.

"ESTABLISHMENT OF INSTITUTE

"SEC. 1402. (a) There is hereby established in the Department of Health, Education, and Welfare a National Institute of Health Care Delivery. The Institute shall carry out a multidisciplinary research and development program to improve delivery of health care services and shall be the principal Government agency for improvement of health care in the United States.

"(b) The Institute shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate. There shall be in the Institute a Deputy Director, who shall be appointed by the Director. The Deputy Director shall perform such functions as the Director may prescribe and shall be the Acting Director during the absence or disability of the Director or in the event of a vacancy in the position of Director. Upon the expiration of his term, the Director and Deputy Director shall continue to serve until his successor has been appointed and has qualified.

"(c) The Director is authorized to appoint within the Institute not to exceed four Assistant Directors.

"FUNCTIONS OF THE INSTITUTE

"SEC. 1403. (a) It shall be the function of the Institute to pursue methods and opportunities to improve and advance the effectiveness, efficiency, and quality of health care delivery in the States, regions, and communities of the United States, through initiation and support of studies, research, experimentation, development, demonstration, and evaluation of, but not limited to, the following areas and subjects—

"(1) the existing health care system, emphasizing means and methods to improve such system and the devising and testing of alternative delivery systems;

"(2) health care systems and subsystems in States, regions, and communities which give special attention to the effective combination and coordination of public and private methods or systems for health care delivery;

"(3) preventive medicine and the techniques and technology, including multiphasic screening and testing, to improve the early diagnosis and treatment of diseases, particularly for preschool children;

"(4) systems and technical components of emergency health care and services (including at least one experimental statewide helicopter transportation emergency care system), which utilize, where possible, the skills of returning military corpsmen;

"(5) systems and components of rural health services;

"(6) the development of policy with respect to long-term care, particularly for mentally and physically handicapped individuals and senior citizens, with special emphasis on alternatives to institutionalization, including the use of home health aides;

"(7) methods to meet the Nation's medical manpower requirements, including new types of manpower and their utilization and the extent to which tasks performed by physicians and other health professionals may be safely delegated to other appropriately trained individuals in both new and existent health occupations;

"(8) continuing education and the exploration of programs and methods to help health professionals to stay abreast of current developments and to maintain professional excellence;

"(9) health manpower credentialing, licensing, and certification;

"(10) the medical malpractice problem particularly as it relates to quality care, the practice of 'defensive medicine' and added costs to the public;

"(11) programs for educating health manpower and the accreditation of such education programs;

"(12) application of all forms of technology, including computers and other electronic devices, in health care delivery;

"(13) the efficiency, management, design, construction, and utilization of new and existing equipment and health care facilities and equipment including studies of admission practices and examination of cost-finding techniques;

"(14) the development of tools and methods to improve planning, management, and decisionmaking in the health care system;

"(15) the development of information by which quality, efficiency, and cost of health care may be measured;

"(16) the development of uniform accounting practices, financial reporting, and uniform health records;

"(17) the development and testing of incentive payment mechanisms that reward efficiency in health care delivery without compromising the quality of care;

"(18) the needs of individuals, families, and groups for health care and related services, emphasizing the various lifestyles, including environmental, recreational, and nutritional factors that bear on an individual's health; identification of those factors affecting acceptance and utilization of health care and related services; and the development of educational materials and methods communicating to the public the importance of personal decisions and actions on health;

"(19) the economics of health care and related services, and the impact of the total system of health care delivery and related services upon the standards of living and the general stability of the national economy;

"(20) proposals for the financing of health care, including their potential cost and benefits, and their impact on the health care system;

"(21) concepts and data essential to formation of a factual basis for national health policies; and

"(22) the effects on health care delivery of the organization, functions, and interrelationships of Federal, State, and local governmental agencies and programs concerned with planning, organization, and financing of health care delivery.

"(b) The Institute shall (1) develop methods for, and support of, training of individuals to plan and conduct research, development, demonstrations, and evaluation of health care delivery and related services; (2) provide technical assistance and development of methods for the transfer of new knowledge, components, and systems to public and private agencies, programs, institutions, and individuals engaged in the improvement of health care delivery; (3) collaborate with governments and private care institutions and programs in foreign countries for the exchange of information and support of research, experiments, demonstrations, and training in order to advance health care delivery in the United States and cooperating nations.

"(c) The Institute shall evaluate the quality, effectiveness, and efficiency of Federal health programs, including titles V, XVIII, and XIX of the Social Security Act, in improving the delivery of health care to the Nation's citizens. For the purposes of this subsection the Secretary is authorized to transfer to the Institute such funds as may be necessary pursuant to section 513 of this Act.

"ADMINISTRATIVE PROVISIONS

"SEC. 1404. (a) In order to carry out the provisions of this title the Director is authorized to—

"(1) make grants to States, political subdivisions, universities, hospitals, and other public or nonprofit private agencies, institutions, or organizations for projects for the conduct of research and development, experiments, studies, demonstrations, and training of individuals to plan and conduct such projects;

"(2) make contracts with public or private agencies, institutions, or organizations for the conduct of research and development, experiments, studies, demonstrations, and the training of individuals to plan and execute such contracts;

"(3) appoint and fix the compensation of the personnel of the Institute in accordance with chapter 51 of title 5, United States Code, except that (A) to the extent that the Director deems such action necessary to recruit men and women of exceptional talent, he may establish the entrance grades for personnel at a level of two grades higher than the grade level provided for such personnel under the General Schedule established by such title and fix their compensation accordingly, and (B) to the extent that the Director deems such action necessary to the discharge of his responsibilities, he may appoint personnel of the Institute without regard to civil service or classification laws, except that personnel appointed under such laws do not exceed at any one time one-third of the number of full-time regular technical or professional employees of the Institute;

"(4) make, promulgate, issue, rescind, and amend rules and regulations as may be necessary to carry out the functions vested in him or in the Institute and delegate authority to any officer or employee under his direction or his supervision;

"(5) acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain research and other necessary facilities and equipment and related accommodations as may be necessary, and such other real or personal property (including patents) as the Director deems necessary;

"(6) to acquire by lease or otherwise from the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the Institute for a period not to exceed ten years without regard to the Act of March 3, 1877 (40 U.S.C. 34);

"(7) employ experts and consultants in accordance with section 3109 of title 5, United States Code;

"(8) appoint one or more advisory committees composed of such private citizens and officials of Federal, State, and local governments as he deems desirable to advise him with respect to his functions under this title;

"(9) utilize with their consent the services, equipment, personnel, information, and facilities of other Federal, State, and local public agencies with or without reimbursement therefor;

"(10) accept voluntary and uncompensated services notwithstanding the provisions of section 665(b) of title 31, United States Code;

"(11) accept unconditional gifts or donations of services, money, or property, real or personal, mixed, tangible or intangible;

"(12) allocate and expend or transfer to other Federal agencies for expenditure funds made available under this title as he deems necessary;

"(13) establish within the Institute such offices and procedures as may be appropriate to provide for the greatest possible coordination of activities under this title with related research and development activities being carried on by other public and private agences and organizations;

"(14) admit and treat at hospitals and other facilities of the service persons not otherwise eligible for admission and treatment at such facilities; and

"(15) take such other actions as may be required for the accomplishment of the objectives of this title.

"(b) Upon requests made by the Director, each Federal agency is authorized and directed to make its services, equipment, personnel, facilities, information, and statistics available, to the greatest practicable extent, consistent with other laws, to the Institute in the performance of its functions with or without reimbursement.

"(c) Each member of a committee appointed pursuant to paragraph (8) of subsection (a) of this section who is not an officer or employee of the Federal Government shall receive an amount equal to the maximum daily rate prescribed for GS-18 under section 5332 of title 5, United States Code, for each day he is engaged in the actual performance of his duties including traveltime. All members shall be reimbursed for travel, subsistence, and necessary expenses incurred in the performance of their duties.

"COMPENSATION

"SEC. 1405. (a) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"'(98) Director, National Institute of Health Care Delivery.'

"(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"'(132) Deputy Director, National Institute of Health Care Delivery.'

"JOINT WAIVER FUNDING AUTHORITY

"SEC. 1406. Where funds are advanced for a single project by more than one Federal agency for the purposes of this title, the Director of the Institute may act for all in administering the funds advanced and a single non-Federal share requirement may be established according to the proportion of the funds advanced by each Federal agency. The Director may order any such agency to waive any technical grant or contract requirement which is inconsistent with the similar requirements of the Institute or which the Institute does not impose.

"TRANFER OF RESEARCH FUNDS OF OTHER GOVERNMENT DEPARTMENTS AND AGENCIES

"SEC. 1407. Funds available to any department or agency of the Government for health care delivery research and development, or for the provision of facilities therefor shall be available for transfer with the approval of the head of the department or agency involved, in whole or in part, to the Institute for such use as is consistent for the purposes for which such funds were provided, and funds so transferred shall be expendable by the Institute for the purposes for which the transfer was made.

"NATIONAL ADVISORY COUNCIL ON HEALTH CARE DELIVERY

"SEC. 1408. (a) There is hereby established a National Advisory Council on Health Care Delivery (hereafter referred to as the Council on Health Care Delivery (hereafter referred to as the 'Council') to be composed of twenty-one members. The Council shall consist of the Secretary of Health, Education, and Welfare, the Chief Medical Officer of the Veterans' Administration, a medical officer designated by the Secretary of Defense, the Administrator of the Health Resources Administration, the Director of the National Institutes of Heatlh, and the Director of the National Institute of Health Care Delivery shall be ex officio members and an additional fifteen members not otherwise of the regular full-time employee of the United States to be appointed by the President without regard to civil service laws. The appointed members shall be (1) persons who are leaders in the field of medical sciences or in the organization, delivery, or financing of health care, (2) leaders in the management sciences, or (3) representatives of the consumers of health care. At least seven of the appointed members shall be representatives of the consumers of health care.

"(b) The President shall designate a Chairman of the Council. The Council shall meet at the call of the Chairman but not less than four times a year.

"(c) Each appointed member of the Council shall hold a term of four years except that any member appointed to fill a vacancy prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, except that the terms of the office of the members first taking office shall expire as designated by the President at the time of appointment, three at the end of the first year, four at the end of the second year, four at the end of the third year, and four at the end of the fourth year after the date of appointment. An appointed member shall not be eligible to serve continuously for more than two terms.

"(d) Appointed members of the Council

shall receive compensation at rates not to exceed the daily rate prescribed for GS–18 under section 5332, title 5, United States Code, for each day they are engaged in the actual performance of their duties, including traveltime, and while so serving away from their homes or regular place of business, they may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 503, title 5, United States Code, for persons in the Government service employed intermittently.

"(e) The Chairman of the Council, with the concurrence of a majority of the Council members, shall appoint an Executive Secretary of the Council. The Executive Secretary may be appointed without regard to civil service laws and may be compensated at a rate not exceeding the appropriate rate provided for individuals in grade GS–18 under section 5332, title 5, United States Code. The Director of the Institute shall make available to the Council such additional staff information, and other persons as it may require to carry out its activities.

"(f) The Council shall—

"(1) review programs, policies, and priorities of the Institute, and centers established under section 1412, and advise the Director on the development and conduct of programs of the Institute and centers;

"(2) examine and coordinate health care delivery efforts within the Department of Health, Education, and Welfare and other Federal departments and agencies so as to avoid duplication; and

"(3) assure that significant research and development findings of the Institute and centers are being disseminated to the health care system, and evaluate the extent such findings are making an impact on the health care delivery system.

"(g) The Council shall submit as an appendix to the report required by section 1409 of this Act, its report on the progress of the Institute and centers toward the accomplishment of the objectives of this title, and the status of health delivery research development in the United States including any minority views of the Council members.

"REPORTS

"SEC. 1409. The Director shall, within one year after the date of his appointment and prior to February 1 of each year thereafter, prepare and submit to the Secretary for his transmittal to the President and the Congress a written report that shall include:

"(1) an appraisal of the activities and accomplishments of the Institute and the centers;

"(2) bibliographies with annotations of research performed or supported and a summary of the significant research and developments findings which show promise (given due consideration to the cost, benefits, and the quality of health care program) of improving health care delivery or increasing the productivity of health care systems; and

"(3) identification and recommendations concerning those factors or barriers which inhibit implementation of the significant research and development findings of the Institute and centers or that prevent innovation in health care.

"HEALTH CARE DELIVERY INFORMATION SERVICES

"SEC. 1410. There is created within the National Institute of Health Care Delivery an Office of Health Care Delivery Information Services. Such office shall provide—

"(1) for the provision of indexing, abstracting, translating, and other services leading to a more effective dissemination of information on research and development in health care delivery, to public and private agencies, institutions, and individuals engaged in the improvement of health care delivery and the general public; and

"(2) undertake programs to develop new or improved methods for making such information available.

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 1411. For the purposes of carrying out the provisions of this title there are authorized to be appropriated $65,200,000 for the fiscal year ending June 30, 1975; $80,000,000 for the fiscal year ending June 30, 1976; $100,000,000 for the fiscal year ending June 30, 1977; and $125,000,000 for the fiscal year ending June 30, 1978; of the funds appropriated under this section for any fiscal year not less than 25 per centum of such funds shall be available only for health services research, development, and evaluation activities undertaken by the institution under this section. Any unexpended sums appropriated pursuant to this section may be carried over without fiscal year limitations.

"REGIONAL AND SPECIAL EMPHASIS CENTERS

"SEC. 1412. (a)(1) In order to strengthen the Nation's research and development base in health care delivery, to enable the examination and study of health care delivery problems of the various regions of the United States, and to link better research and development findings with actual practice, the Director is authorized to enter into cooperative arrangements with public or private nonprofit agencies or institutions to pay all or part of the cost planning, establishing, and providing basic operating support for (A) not to exceed eight regional centers to carry out multidisciplinary research and development in health care delivery, and (B) two national special emphasis centers, one of which shall be designated as the Health Care Technology Center, to focus on all forms of technology, including computers and electronic devices and its application in health care delivery; and one which shall be designated as the Health Care Management Center, to focus on the improvement of management and organization in the health field, the training and retraining of administrators of health care enterprises, and the development of leaders, planners, and policy analysis in the health field.

"(2) A regional center described in paragraph (1)(A) of this subsection shall meet the following requirements:

"(A) There shall be a full-time director of the center who possesses a demonstrated capacity for sustained productivity and leadership in health services research, demonstrations, and evaluations, and there shall be such additional full-time professional staff as may be appropriate.

"(B) The center shall (i) be located within an established academic or research institution with departments and resources appropriate to the programs of the center, and (ii) have working relationships with health service delivery systems where experiments in health services may be initiated and evaluated.

"(C) The center shall select problems in health services for research, demonstration, and evaluation on the basis of (i) their regional or national importance, (ii) the unique potential for definitive research on the problems, and (iii) opportunities for local application of the research findings.

"(D) Such additional requirements as the Secretary may by regulation prescribe.

"(b) Federal payments under this section in support of such cooperative agreements may be used for—

"(1) construction to the extent that the National Advisory Council determines such construction is necessary;

"(2) staffing and other basic operating costs;

"(3) research and development;

"(4) training; and

"(5) demonstration purposes.

Support under this section other than support for construction shall not exceed $2,000,000 per year per center, except for the Health Care Technology Center, and may be funded for an initial period of not to exceed three years. The Director, following a review of each center's operation and upon the recommendation of the National Advisory Council, may extend the centers for an additional period of not more than three years each.

"(c) The location of the regional centers authorized by subsection (a) shall be determined by the National Advisory Council with a view, to the extent possible, of broad geographical distribution of such centers.

"(d) The administrative officer of each regional and national special emphasis center shall transmit annually to the Director a report which shall set forth (1) an audit of expenditures in accordance with generally accepted accounting procedures, (2) bibliographies, with annotations, of research performed, and (3) a description of ongoing research programs including a summary of significant research and development findings.

"SUPPLEMENTAL INCENTIVE GRANTS TO ENCOURAGE EXPERIMENTATION

"SEC. 1413. (a) In order to encourage individuals, institutions, and health facilities to participate in research and demonstration projects, which without the incentive assistance provided under this section would not otherwise be carried out, and which have been designated by the National Advisory Council as essential, the Director is authorized to provide funds to be used to increase the Federal contribution to such projects under Federal grant-in-aid programs above the fixed maximum portion of the cost of such projects otherwise authorized by an applicable law. Funds shall be so provided for Federal grant-in-aid programs for which funds are available under the Acts authorizing such programs and shall be available without regard to any appropriation authorization ceiling in such Acts.

"(b) The Federal portion of such cost shall not be increased in excess of the percentage established by the Director, and shall in no event exceed 80 per centum thereof.

"(c) The term 'Federal grant-in-aid program' as used in this section means those Federal grant-in-aid programs in the health area authorized on or before December 31, 1973.

"(d) Not to exceed 10 per centum of the funds authorized by this title shall be available to carry out this section."

SEC. 3. Section 305 of the Public Health Service Act is amended to read as follows:

"NATIONAL CENTER FOR HEALTH STATISTICS

"SEC. 345. (a) There is established in the department of Health, Education, and Welfare the National Center for Health Statistics (hereinafter referred to as the 'Center').

"(b) The Secretary, acting through the Center may collect statistics on—

"(1) the extent and nature of illness and disability of the population of the United States (or of any groupings of the people included in the population), including life expectancy, the incidence of various acute and chronic illnesses, and infant and maternal morbidity and mortality,

"(2) the impact of such illness and disability on the economy of the United States and on other aspects of the well-being of its population (or of such groupings),

"(3) environmental, social, and other health hazards,

"(4) determinants of health,

"(5) health resources, including physicians, dentists, nurses, and other health professionals by specialty and type of practice and the supply of services by hospitals, extended care facilities, home health agencies, and other health institutions,

"(6) utilization of health care, including utilization of (i) ambulatory health services by specialties and types of practice of the health professionals providing such services, and (ii) services of hospitals, extended care facilities, home health agencies, and other institutions,

"(7) health care costs and financing, including the trends in health care prices and cost, the sources of payments for health care services, and Federal, State, and local governmental expenditures for health care services, and

"(8) family formation, growth, and dissolution; and

"(9) undertake and support (by grant or contract) research, demonstrations, and evaluations respecting new or improved methods for obtaining current data on the matters referred to in subparagraph (1).

"(e)(1) The Secretary shall (A) assist State and local health agencies, and Federal agencies involved in matters relating to health, in the design and implementation of a cooperative system for producing comparable and uniform health information and statistics at the Federal, State, and local levels; (B) coordinate the activities of such Federal agencies respecting the design and implementation of such cooperative system; (C) undertake and support (by grant or contract) research, development, demonstrations, evaluations and the Federal share of the data collection costs respecting such cooperative system; and (D) review statistical activities of the Department of Health, Education, and Welfare to assure that they are consistent with such cooperative system.

"(2) There shall be collection of data from the records of births, deaths, marriages, and divorces in registration areas. The data shall be obtained only from and restricted to such registration records of such States and municipalities as the Secretary, in his discretion, determines possess records affording satisfactory data in necessary detail and form. Each State or registration area shall be paid by the Secretary the Federal share of its reasonable costs (as determined by the Secretary) for collecting and transcribing (at the request of the Secretary and by whatever method authorized by him) its records for such data.

"(3) To secure uniformity in the registration and collection of mortality, morbidity, and other health data, the Secretary shall prepare and distribute suitable and necessary forms for the collection and compilation of such data which shall be published as a part of the health reports published by the Secretary.

"(4) To assure comparability and reliability of health statistics, the Secretary shall, through the Centers, provide adequate technical assistance to assist State and local jurisdictions in the development of model laws dealing with issues of confidentiality and comparability of data.

"(5) In carrying out health statistical activities under this part, the Secretary shall consult with and seek the advice of, the United States National Committee on Vital and Health Statistics and other appropriate professional advisory groups.

"(d) To assist in carrying out subsection (c) of this section, the Secretary shall cooperate and consult with the Departments of Commerce and Labor and any other interested Federal departments or agencies and with State and local health departments and agencies. For such purpose he shall utilize insofar as possible the services or facilities of any agency of the Federal Government and, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), of any appropriate State or other public agency, and may, without regard to such section, utilize the services or facilities of any private agency, organization, group, or individual, in accordance with written agreements between the head of such agency, organization, or group and the Secretary or between such individual and the Secretary. Payment, if any, for such services or facilities shall be made in such amounts as may be provided in such agreement.".

"(d)(1) Not later than September 1 of each year, the Secretary shall make a report to Congress respecting (A) the administration of this part during the preceding fiscal year, and (B) the current state and progress of health services research and health statistics.

"(2) The Secretary, acting through the National Center for Health Statistics, shall assemble and submit to the President and the Congress not later than September 1 of each year the following reports:

"(A) A report on health care costs and financing. Such report shall include a description and analysis of the statistics collected under section 305(b)(7);

"(B) A report on health resources. Such report shall include a description and analysis, by geographic area, of the statistics collected under section 305(b)(5);

"(C) A report on the utilization of health resources. Such report shall include a description and analysis, by age, sex, income, and geographic area, of the statistics collected under section 305(b)(6); and

"(D) A report on the health of the Nation's people. Such report shall include a description and analysis, by age, sex, income, and geographic area, of the statistics collected under section 305(b)(1).

"(3) The Office of Mangement and Budget may review any report required by paragraph (1) or (2) of this subsection before its submission to Congress, but the Office may not revise any such report or delay its submission beyond the date described for its submission, and many submit to Congress its comments respecting any such report.

"(e)(1) No grant may be made under this part unless an application therefor has been submitted to the Secretary in such form and manner, and containing such information, as the Secretary may by regulation prescribe.

"(2) Each application submitted for a grant or contract under title XIV of this section, in an amount exceeding $35,000 and for a health services research, evaluation, or demonstration project, shall be submitted by the Secretary for review for scientific merit to a panel of experts appointed by him from persons who are not full-time officers or employees of the United States and who possess qualifications relevant to the project for which the application was made. A panel to which an application is submitted under this paragraph shall report its findings and recommendations respecting the application to the Secretary in such form and manner as the Secretary shall by regulation prescribe.

"(3) If an application is submitted under this part for a grant or contract for a project for which a grant or contract may be made or entered into under another provision of this Act, such application may not be approved under this part and funds appropriated under this part may not be obligated for such grant or contract. The applicant who submitted such application shall be notified of the other provision (or provisions) of this Act under which such application may be submitted.

"(f) No information obtained in the course of activities undertaken or supported by the National Center for Health Statistics may be used for any purpose other than the purpose for which it was supplied unless authorized under regulations to the Secretary; and no such information may be published or otherwise released if the particular establishment or person supplying it is identifiable unless such establishment or person has consented (as determined under regulations of the Secretary) to its publication.

"(g)(1) Payments of any grants or under any contracts under this part may be made in advance or by way of reimbursement, and in such installments and on such conditions, as the Secretary deems necessary to carry out the purposes of this part.

"(2) The amounts otherwise payable to any person under a grant or contract made under this part shall be reduced by—

"(A) amounts equal to the fair market value of any equipment or supplies furnished to such person by the Secretary for the purpose of carrying out the project with respect to which such grant or contract is made, and

"(B) amounts equal to the pay, allowances, traveling expenses, and related personnel expenses attributable to the performance of services by an officer or employee of the Government in connection with such project, if such officer or employee was assigned or detailed by the Secretary to perform such services,

but only if such person requested the Secretary to furnish such equipment or supplies, or such services, as the case may be.

"(h) Contracts may be entered into under this part without regard to sections 3648 and 3709 of the Revised Statutes.

"(i) The Secretary shall (A) take such action as may be necessary to assure that statistics developed under this part are of high quality, timely, comprehensive as well as specific, standardized, and adequately analyzed and indexed, and (B) publish, make available, and disseminate such statistics on as wide a basis as is practicable.

"(j)(1) Except where the Secretary determines that unusual circumstances make a larger percentage necessary in order to effectuate the purposes of this part, a grant or contract under this part with respect to any project for construction of a facility or for acquisition of equipment may not provide for payment of more than 50 per centum of so much of the cost of the facility or equipment as the Secretary determines is reasonably attributable to research, evaluation, or demonstration purposes.

"(2) Laborers and mechanics employed by contractors and subcontractors in the construction of such a facility shall be paid wages at rates not less than those prevailing on similar work in the locality, as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a—276a-5, known as the Davis-Bacon Act); and the Secretary of Labor shall have with respect to any labor standards specified in this paragraph with authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

"(3) Such grants and contracts shall be subject to such additional requirements as the Secretary may by regulation prescribe.

"(k) For health statistical activities undertaken or supported under this section, there are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1975, and for each of the next three succeeding fiscal years.".

Mr. BEALL. Mr. President, it is my intention to ask for the yeas and nays, so if the attachés will request more Senators to come on the floor, I will ask for the yeas and nays at that time.

Mr. President, this amendment would substitute in effect, S. 723, the National Institute of Health Care Delivery, for the reported bill's provisions providing for a National Center for Health Services Research. The distinguished chairman of the Health Subcommittee, in his opening remarks, stated that this was not major legislation. I consider it to be major legislation, because what we are talking about is how we are going to improve a delivery system to deliver the benefits of medical services to all the people of America, and close the gap between what medical science knows and what reaches our citizens.

One of the great concerns in this country today is to make sure that the people have adequate access to the tremendous medical benefits that have been developed over the past 25 years. I think that any legislation dealing with this subject should be considered major legislation.

Senators may recall S. 723 originated in the Senate and has been approved on two separate occasions by the Senate. The other features of the reported measure, health statistics and medical library assistance, are essentially unchanged.

I voted to report H.R. 11385 to the Senate because it does represent a step forward for the Congress and the country in the neglected area of health care delivery research and development. I am convinced, however, that for the Senate the pending bill is a step backward from the stronger commitment and sounder structure provided in S. 723, a bill to establish a National Institute of Health Care Delivery.

I first proposed the establishment of a National Institute of Health Care Delivery in a 1971 speech in Gaithersburg, Md. Subsequently, I circulated the idea to the medical community and solicited their views and suggestions. I was encouraged with the interest and support that the proposal generated.

On March 13, 1972, I introduced S. 3329, the predecessor to S. 723, and the first bill introduced in Congress aimed at making research and development in health care delivery as effective and important a science as biomedical research. S. 3329 was included in the Health Maintenance Organization legislation, which passed the Senate in 1972, but final action was not taken on the legislation in the 92d Congress.

On February 1, 1973, I reintroduced the proposal as S. 723, along with Senators DOMINICK, HATHAWAY, HOLLINGS, JAVITS, PASTORE, STEVENS, and YOUNG, and S. 723 passed the Senate as separate legislation on May 15, 1973, by a vote of 79 to 15.

The House on January 21, 1974, passed H.R. 11385 and their bill is similar to the reported measure, except that the House combined the health services research program with the program of the National Center for Health Statistics. I support the separation of statistics from health delivery research and there is no disagreement between my amendment and the reported bill in this regard.

However, my amendment provides for a clearer separation of the research and development from statistics than does the committee bill.

While the committee bill intends to and would separate the research and statistics functions, it tracks the House bill language, which combined the two, with the result that the provisions are interwoven and somewhat confusing to follow.

Dr. Kerr White, professor of medical care and hospitals at Johns Hopkins University, is a recognized authority in this field. Dr. White, who chaired a Presidential panel which issued a report, "Improving Health Care Through Research and Development," on this point stated:

To accomplish its mission, the Center should be the subject of a separate section of the legislation; its mandate should not be lumped with a description of the responsibilities of the National Center for Health Services Research and Development. The present bill confuses the responsibilities of the two Centers, and I fear that it will only compound the documented record of waste, confusion, duplication, and bureaucratic rivalry that has persisted between the National Center for Health Statistics and the National Center for Health Services Research and Development since the latter's inception in 1968.

The amendment I offer substitutes the National Institute of Health Care Delivery, as passed twice by the Senate, for the National Center for Health Services Research. My amendment includes the statistics provisions essentially as in the reported bill, but in a separate section, as Dr. White urged, with the result that there is a clearer separation. My amendment does not change the medical library provisions which remain the same as in the bill.

A major change in the amendment from S. 723 as passed by the Senate, is that the Institute would be placed within HEW rather than as a separate agency within HEW.

Again, in this respect, the reported bill and my amendment are the same. The other significant change from S. 723 is that the amendment reduces the authorization level from $430 to $370 million.

When I introduced S. 723 in the Senate, I said the following with respect to the existing research and development effort in health care delivery:

The Nation's effort in this area is at the National Center for Health Services Research and Development (now changed to the Bureau of Health Services Research). The Center is presently buried in the bureaucracy of HEW. In its present position, the Center lacks visibility and its clout is small. It lacks an effective organizational structure and the flexibility that characterizes many government research and development organizations. It is not funded adequately. Its research function has been shortchanged and overemphasized. It does not even have a legislative mandate. I doubt whether many in Congress other than those with a special interest in health or those who serve on the Health or Appropriations Committees, know the Center exists.

I remain convinced that S. 723 responds best to existing deficiencies and is the superior approach for the following reasons:

The amendment, like S. 723, provides greater visibility and a stronger commitment to health care delivery research and development. It provides for a Presidentially appointed Director, who will be compensated at a level commensurate with the importance of the work he or she will direct.

One of the problems of research and development in health care delivery is that it has been buried in the bureaucracy. A presidentially appointed Director will help to elevate health care delivery research and development and will help attract the very best individual as Director. Given the talent we are seeking for the Director's position, it is obvious that the salary is not going to be the principal motivation for accepting this position. The Presidential appointment is an intangible that will help us to attract the exceptional individual who is critical, for the success of this undertaking.

The amendment, as would S. 723, provides for a clearer congressional mandate. There has been considerable concern in both Congress and the country with respect to the erosion of the powers of Congress. My amendment incorporates the pressing needs as identified by members of the health community who worked with me on the legislation. There is in the amendment a specific and strong mandate addressing the critical health issues of our day rather than general, unspecific language to "do good" as in the reported bill. Twenty-two specific functions are delineated in my amendment. They are listed to make certain that the critical issues are addressed while at the same time not straitjacketing the agency.

The amendment, like S. 723, authorizes up to eight regional centers. Now, the committee bill also authorizes centers but it mandates a minimum of six centers. Now, it is not clear what the purpose of the reported bill's centers are. Are these to be regional centers, or can they all be located in one area of the country? As far as I can tell, neither the report nor the bill itself answers this question. Furthermore, when S. 723 passed the Senate last year, our report noted that because of the manpower constraints that exist that it is not the intent of the committee that all eight centers be created initially. For example, two may be the maximum number of centers that could be started at the outset. Yet, the reported bill would require a minimum of six centers. I wonder what miracle produced the additional personnel since S. 723 passed last May so we can now mandate six centers?

In addition, my amendment like S. 723 would authorize two special emphasis centers, the health care technology center and the health care management center. A letter from a health administrator in Boston underscores the need, in particular, for the management center as follows:

Practitioners of health care administration, among whom I am one, have been flying by the seat of their pants for too long.

Also, Dr. Kerr White, a recognized authority in this area, said:

Vastly improved managerial expertise is a prerequisite for any meaningful improvement in our health care system at the operating and geographical levels.

The amendment, like S. 723, recognizes the importance of improved policy analysis. The committee report on S. 723 last year stated:

The need for improved policy analysis in the nation is critical. Even the Department of Health, Education, and Welfare with its enormous responsibilities has only a small number of individuals at the secretariat level dealing with these matters and their time and attention are too often devoted to "fire fighting" or responding to daily crises. As a result, little if any time remains for exploring long-term issues, no matter how important. The situation in the Congress is similar with the pressures of everyday work and legislation preventing only negligible attention to policy analysis.

Yet, the resolutions of major policy issues will fundamentally shape the future of health care in the United States. Thus, there is an urgent need for the development of important analytical capabilities to cope with the larger, more complex, and in the long run, the more important health issues.

Policy analysis will be an important part of the work of the Institute. The Committee intends that there be established within the Institute a Health Policy Analysis division to enable groups of professionals to concentrate on long-term policies in the health field. The reported bill fails to speak to this issue. Policy analysis is ignored in H.R. 11385 and its report.

The amendment, like S. 723, provides the strong organizational structure and the administrative provisions needed by a research and development agency. In preparing this legislation, I examined the various administrative provisions which seemed important to successful research and development efforts. Because there is a critical shortage of qualified personnel in this area, I believe that it is important that the agency be provided with some flexibility in its personnel system.

My amendment would provide this flexibility, including the authority for the agency to establish the entrance level up to two grades higher than it otherwise would be if the director deemed it necessary to attract top people.

The amendment also provides for joint funding authority. This enables the agency, where funds are advanced for a single project by more than one Federal agency, to act for all in administering the funds and allowing a single non-Federal share requirement to be established according to the portion of the funds advanced by each Federal agency. It further allows the director to waive technical grant or contract requirements which are inconsistent with similar requirements of the agency. The frustrating experiences of Johns Hopkins University in attempting to establish a prepaid group practice in Baltimore City illustrates the need for this kind of authority. To put the program together Johns Hopkins had to deal with thirteen different agencies, each with different standards and requirements. Program fragmentation, different rules and inconsistent regulations almost made the program come apart before it was implemented.

The amendment also provides the agency with the authority to carry funds over from one year to the next. This is critical in research efforts, and not to provide such a provision encourages waste and ineffective use of funds at the close of a fiscal year.

The amendment, like S. 723, also authorizes an Office of Health Care Information Services to make certain that the results of the research efforts are disseminated to the research and health communities and the general public in a timely fashion. Results are of little value if they do not reach those working in the field and it is important that specific responsibility for this task be assigned at the agency.

The amendment, like S. 723, would provide the Institute with a major evaluation role. As the committee said in their report on S. 723 last year:

The Committee believes that the federal health programs have not been adequately evaluated in the past and that the Institute will materially enhance the federal government's evaluation capacity in the health field.

The new agency should have more expertise, talent, and objectivity for the evaluation of programs than any other Federal agency. I believe it would be a waste for us not to utilize this talent to improve our evaluation of health programs.

The amendment, like S. 723, provides the resources required to do the job. The reported bill would authorize $65.2 million for each of the next 4 years. The present budget is $43.8 million, which represents a reduction from both the fiscal year 1974 and fiscal year 1973 levels for this research and development effort.

My bill authorizes $370.2 million over a 4-year period.

It is important to note that the committee's authorization level would have been exceeded by the appropriations in previous fiscal years. At best then, the committee's authorization level is exceedingly tight and seems to contemplate little more than the status quo and certainly does not provide resources adequate for an expanded effort.

Since serving on the Labor and Public Welfare Committee, I cannot recall a program of major importance for which the committee held the authorization level constant over the life of the program.

Mr. President, the respected Science Journal commenting favorably on the proposal to establish a National Institute of Health Care Delivery said:

A major tour de force is needed now—an administrative mandate backed by appropriate funding—to dramatize the importance of rational organization and planning services . . . if the magnificent benefits of American medical research are meant for all of our people then an effective science of health care delivery is as important as the medical research itself.

I believe as the committee report indicated last year on S. 723, that:

The Institute and its Centers will provide this major tour de force to make health care delivery as important as medical research, and to help speed the benefits of medical science and the scientific discovery system to the people of the United States.

My amendment then will provide the major tour de force; my amendment will provide the needed mandate; and my amendment will provide appropriate funding.

Four witnesses testified before the Health Subcommittee, three of whom, Dr. Kerr White of Johns Hopkins University, Secretary of Health Edwards for the administration, and Dr. Greenberg for the Association of Schools of Public Health, addressed this subject.

In a followup letter after Dr. White reviewed the amendment, he indicated preference for the approach of the amendment over both the committee bill and the House approach, saying:

I write now to comment on the amendment proposed to H.R. 11385, by Senator J. Glenn Beall, Jr. I have now had an opportunity to review the proposed amendment and find the intent and language much more in keeping with my own views and the general thrust of the PSAC Panel Report on Health Services Research and Development than either the original language of H.R. 11385 or S. 2996. In the amendment, the two institutions—the National Institute for Health Care Delivery and the National Center for Health Statistics—are clearly defined and have specifically delineated missions that are no longer in obvious conflict. The capability and influence of each should be enormously enhanced and their important potential for preparing the health care industry for National Health Insurance increased.

The administration has no objection to the adoption of the amendment.

Thus, the leading authority in the country, Dr. White, endorses the amendment; the administration has no objections to its adoption; and the Senate on two previous occasions has approved this approach. I strongly believe the amendment is preferred and the better approach. I urge the Senate to again confirm its action on two previous occasions and pass the stronger measure, the National Institute of Health Care Delivery approach, as embodied in this amendment.

I ask unanimous consent that my floor statement when S. 723 passed the Senate last year be printed in the RECORD, as well as portions of the Senate report accompanying S. 723.

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

NATIONAL INSTITUTE OF HEALTH CARE DELIVERY ACT OF 1973

Mr. BEALL. Mr. President, at the outset, I thank the distinguished chairman of the Subcommittee on Health, the distinguished Senator from Massachusetts (Mr. KENNEDY), for his initial remarks, and to thank and commend him for the leadership he has shown in the total area of providing an opportunity for better health care for the people of our country. I am particularly grateful for the support he has given to this particular piece of proposed legislation, calling for a National Institute of Health.

The measure was cosponsored by Senators PETER DOMINICK, WILLIAM HATHAWAY, ERNEST HOLLINGS, JACOB JAVITS, JOHN PASTORE, TED STEVENS, and MILTON YOUNG. I am grateful for their support and assistance on this bill. This measure has been reported to the full Senate with the unanimous recommendation of the full Labor and Public Welfare Committee.

S. 723 amends the Public Health Service Act to establish a National Institute of Health Care Delivery as a separate agency within the Department of Health, Education, and Welfare. The Institute's mission will be to conduct a multidisciplinary, research, and development effort to improve the delivery and organization of health care in this Nation. In addition, S. 723 authorizes up to eight regional centers and two special emphasis centers, the Health Care Technology Center and the Health Care Management Center. The total authorized funding for the Institute, the regional centers, and the Special Emphasis Centers, will be $100 million for the first year, $150 million for the second year, and $180 million for the third year, for a total authorization of $430 million over a 3-year period.

I would point out, however, that the authorization for the Institute and the centers does not represent all new funds since the National Center for Health Services Research and Development is transferred to the new

Institute, and the total outlays for fiscal year 1974 for this present Center is estimated at $64.4 million.

BACKGROUND AND NEED

Mr. President, I first made this proposal for a National Institute of Health Care Delivery in a June 25, 1971, speech in Gaithersburg, Md. Thereafter, I circulated reprints of the speech to various medical and health organizations and to many experts in the field around the country. The interest in the proposal was most encouraging. I was particularly pleased with the favorable editorial comment by the respected Science Journal. The comments, suggestions, and criticisms that I received were most helpful in molding the proposal into legislative form. I want to extend a special thanks to the Johns Hopkins University and the University of Maryland. Their faculties' interest and observations contributed significantly to the final bill. Before drafting this proposal, I also examined the administrative and organizational structure of the various Federal research and development efforts, as well as some private organizations.

I introduced this proposal in the last Congress as S. 3329 and the legislation was considered by the Labor and Public Welfare Committee in connection with S. 3327, the Health Maintenance Organization Development Act of 1972. The Labor and Public Welfare Committee last year incorporated the Institute as title V of the HMO legislation. The health maintenance organization legislation, including my proposal for a National Institute of Health Care Delivery, was subsequently considered and passed by the Senate on September 20, 1972, by a vote of 60 to 14. No opposition to the Institute was voiced during the Senate debate on the health maintenance organization legislation.

Senator KENNEDY reintroduced the HMO legislation this year as S. 14 in the identical form, which included the National Institute of Health Care Delivery, as passed by the 92d Congress. I also reintroduced my proposal for a National Institute of Health Care Delivery as a separate bill, S. 723. The Labor and Public Welfare Committee, in order to give this proposal the visibility and national attention it deserves, decided to report this measure as separate legislation.

Mr. President, since World War II, the United States has invested approximately $20 billion in biomedical research. This investment has produced many dividends in terms of medical breakthroughs. This effort has made the United States preeminent worldwide in biomedical research.

During the same period, comparatively small investments have been made in research and development to deliver the fruits of biomedical research to the American citizens. For example, the fiscal year 1974 total outlays for the National Institutes of Health, the Federal Government's chief biomedical research organization, is estimated to be $2,009 billion, while the estimated budget for the National Center for Health Services Research and Development is $64.4 million. I want to make it clear that the citing of this contrast does not suggest or imply that we are spending too much for biomedical research. For the record of this Senator, Congress, and the administration clearly reveals strong support for an accelerated attack against the Nos. 1 and 2 diseases of our citizens, heart and cancer. Biomedical research and health care delivery are inextricable pursuits. For as the famous 19th century chemist, Louis Pasteur, observed:

"To him who devoted his life to science, nothing can give more happiness than increasing the number of discoveries, but his cup of joy is full when the results of his studies immediately find practical applications.

"There are not two sciences. There is only science and the application of science and these two activities are linked as the fruit is to the tree."

The disparity in spending between biomedical research and health care research and development may help explain the preeminence of the United States in biomedical research and the deficiencies in our present health system, as well as the growing gap between what medical science knows and what is delivered to the patient.

I have talked to many Marylanders and citizens of this country. Although our citizens marvel and applaud the achievements of medical science, including the miracle-like transplants that are taking place, their first plea to the health community is not for more dramatic breakthroughs, although these are wanted, but for the health system to make available, accessible and affordable the achievements, methods and procedures developed by medical science over the last quarter to one-half century. The public is aware of the gap between the capabilities of medical science and what is delivered to the patient, and this is a source of much discontent.

Developing the means and methods to deliver the results of medical research to our citizens wherever they live and at a price they can afford will not be an easy task. It will be the difficult mission and challenge given the new Institute.

PRESENT EFFORTS INADEQUATE

Presently, the Nation's effort in this area is at the National Center for Health Services Research and Development. This Center presently is buried in the bureaucracy of the Department of Health, Education, and Welfare, being one of many units of the Health Services and Mental Health Administration.

This Center would be moved to the new Institute. At its present position in the Department, the Center for Health Services Research and Development lacks visibility and its clout is small. It lacks an effective organizational structure and the flexibility that characterizes many Government research and development organizations. It is not funded adequately. Its research function has been shortchanged and underemphasized. It does not even have a legislative mandate. I doubt whether many in Congress, other than those with a special interest in health or serving on the health or appropriations committees, know the Center exists.

Although some interesting efforts have been undertaken at the Center and elsewhere, one must admit that the efforts to date have contributed disappointingly little either to the solving of the problems of the present delivery system or to the producing of alternative systems. The fact is that important questions that had been raised about health care delivery 10 years ago, are still being asked today.

I do not believe that we can wait another decade for these answers. The committee shares this belief not only because of the urgency of our present problems, but also because we will be making fundamental decisions with respect to the directions of health care delivery in the near future and we need all the information and wisdom we can gather so that the decisions made will be the best possible. The new National Institute of Health Care Delivery, with a clear mandate from Congress, top management, the necessary organization structure and administrative provisions, and with adequate resources, will help us to find the answers to the many health care delivery questions and help make health care delivery in the United States as important as medical research.

LOCATION AND APPROACH

The new National Institute of Health Care Delivery will be a separate agency within the Department of Health, Education, and Welfare. Its organization position within the Department will be comparable to the National Institutes of Health. This position is needed because of the importance and urgency of health care delivery problems. It is necessary if the Institute is going to attract top management and talented men and women required for this undertaking. This elevated structure will give health care delivery research and development greater visibility and raise its stature among the public, the health community, and within the government. The Institute's new structure will enable it to have a strong voice for a needed increased investment and interest in research and development in health care delivery.

The Institute will provide a creative environment wherein multidisciplinary teams from such academic disciplines as health, medicine, engineering, science, accounting, statistics, social sciences, architecture, law, education, and the management sciences can interact and focus their attention and generate action oriented research on the critical and complex problems of health care delivery.

The importance of the multidisciplinary approach was underscored in a 1972 speech by Prof. William B. Schwartz of the Tufts University School of Medicine when he said:

There is a clear implication that the problems will require a multidisciplinary approach—we are not simply dealing with economic problems to be formulated and analyzed by economists or manpower problems to be dealt with by physicians. The problem of delivery or primary medical care, for example, obviously has an enormous number of facets. It involves not simply a question of more and larger medical schools training more physicians but a range of issues including the maldistribution of physicians, inducements to rural and ghetto practice, restriction of physician entry into specialties that are overpopulated, the use of allied medical personnel to replace physicians in the delivery of primary care, the introduction of computer-aided diagnosis and management as a means of upgrading the nonphysician's performance and increasing his range of responsibilities, the use of television as a link between doctors and patients, and the introduction of new transportation strategies as a means of making high quality care available to areas of low population density.

In weighing these approaches, consideration must also be given to patient acceptance of new personnel and new technology, to the reliability of computer-aided diagnosis and management, to the response of the physician to incursions of new health personnel and new technology into his domain, to legal problems related to licensure and malpractice, to the time lags involved in the introduction of new strategy, and to the tradeoff between quality and quantity that is implicit in changing the traditional patterns of health care. Only in this way can we allocate resources appropriately and can a desirable mix of manpower and technology be brought to bear.

There is another important concept in research and development; namely, "critical mass." This term originated in nuclear physics where critical mass is defined as the amount of radioactive material needed to produce a self-sustaining nuclear reaction. In research and development, critical mass refers to the minimum size and composition needed to achieve the important self-sustaining creative atmosphere for the undertaking. In theoretical basic research, one or two researchers may be the critical mass. On the other hand, in complex and larger research efforts, the critical mass may be hundreds of individuals from many disciplines. In complex and large undertakings where the criti-

cal mass is not achieved, researchers tend to pursue smaller tasks individually. The smaller efforts of individuals doing their "own thing" do not often cumulate to produce major efforts. Today we have inadequate numbers of people trained and experienced in this area, and those with this experience are dispersed throughout the Government, universities, and research institutions. As a result, the synergism that can occur when a critical mass of people who are problem solvers from many academic disciplines interact has not yet been adequately developed.

POLICY ANALYSIS ROLE

We also need to develop a strong capability in health care policy analysis. The United States, in reality, today has no overall health policy although there is growing recognition of the need for one.

Even the Department of Health, Education, and Welfare with its enormous responsibility in the health field, has no cadre of full-time professionals solely committed to policy research and analysis. At the Secretariat level, there are a handful of individuals dealing with these matters, but their time and efforts are too often devoted to dealing with present crisis or "firefighting" rather than examining the long-term issues, no matter how important the latter may be.

I might also add that the situation here in the Congress is even more critical. We in Congress should consider establishing a Joint Committee on Health to serve as adjunct to the respective legislative committees of both the House and the Senate. Such a committee could serve a role to the congressional committees with jurisdiction in the health area, similar to that played by the Joint Committee on Taxation in supporting and complementing the Ways and Means and Finance Committees.

It is clear that the resolution of major policy issues will shape the future of health care delivery in the country. Thus, there is an urgent need to develop analytical capabilities to cope with the large, complex and longrun issues, while the Nation continues to address the immediate problems in the health field.

Policy analysis then will be an important assignment of the Institute through its policy analysis division. As the committee report says:

"Policy analysis will be an important part of the work of the Institute. The Committee intends that there be established within the Institute a Health Policy Analysis Division to enable groups of professionals to concentrate on long-term policies in the health field."

INSTITUTE'S MANDATE

The Institute will be headed by a Director, appointed by the President, with the advice and consent of the Senate. The salary of the Director will be at executive level 4, which is similar to and competitive with other Federal research and development agencies. The Institute will also have a Deputy Director, also appointed by the President, and not to exceed four Assistant Directors, selected by the Director.

It will carry out its functions through an inhouse capability and through an extramural effort at the regional health care centers and its two National Special Emphasis Centers, to the Health Care Management Center, and the Health Care Technology Center, as well as broad authority to: First, make grants to States, political subdivisions, universities, hospitals, and other public or nonprofit agencies, institutions, or organizations, and second, contract with public or private agencies, institutions, or organizations for the conduct of research and development, experiments, studies, demonstrations, and the training of individuals to plan and conduct such efforts.

The objectives and mandate of the Institute will be broad. It will pursue all methods and opportunities, efficiency, and quality of health care delivery in the States, regions, and communities of the United States through initiation and support of studies, research, experimentation, development, and demonstration of, but not limited to, 22 specific functions which are spelled out in the legislation. I read these functions as follows:

(1) The existing health care system, emphasizing means and methods to improve such systems and the devising and testing of alternative delivery systems;

(2) Health care systems and subsystems in States, regions, and communities which give special attention to the effective combination and coordination of public and private methods or systems for health care delivery;

(3) Preventive medicine and the techniques and technology, including multiphasic screening and testing, to improve the early diagnosis and treatment of diseases, particularly for preschool children;

(4) Systems and technical components of emergency health care and services (including at least one experimental statewide helicopter transportation emergency care system), which utilize, where possible, the skills of returning military corpsmen;

(5) Systems and components of rural health services;

(6) The development of policy with respect to long-term care, particularly for mentally and physicial handicapped individuals and senior citizens, with special emphasis on alternatives to institutionalization, including the use of home health aides;

(7) Methods to meet the Nation's medical manpower requirements, including new types of manpower and their utilization and the extent to which tasks performed by physicians and other health professionals may be safely delegated to other appropriately trained individuals in both new and existent health occupations;

(8) Continuing education and the exploration of programs and methods to help health professionals to stay abreast of current developments and to maintain professional excellence;

(9) Health manpower credentialing, licensing, and certification;

(10) The medical malpractice problem, particularly as it relates to quality care, the practice of "defensive medicine" and added costs to the public;

(11) Programs for educating health manpower and the accreditation of such education programs;

(12) Application of all forms of technology, including computers and other electronic devices, in health care delivery;

(13) The efficiency, management, and utilization of new and existing health care facilities including studies of admission practices and exmaination of cost-finding techniques;

(14) The development of tools and methods to improve planning, management, and decisionmaking in the health care system;

(15) The development of information by which quality, efficiency, and cost of health care may be measured;

(16) The development of uniform accounting practices, financial reporting, and uniform health records;

(17) The development and testing of incentive payment mechanisms that reward efficiency in health care delivery without compromising the quality of care;

(18) The needs of individuals, families, and groups for health care and related services, emphasizing the various life styles, including environmental, recreation, and nutritional factors that bear on an individual's health; identification of those factors affecting acceptance and utilization of health care and related services; and the development of educational materials and methods communicating to the public the importance of personal decisions and actions on health;

(19) The economics of health care and related services, and the impact of the total system of health care delivery and related services upon the standards of living and the general stability of the national economy;

(20) Proposals for the financing of health care, including the potential cost and benefits, and their impact on the health care system;

(21) Concepts and data essential to formation of a factual basis for national health policies; and

(22) The effects on health care delivery of the organization, functions, and interrelationships of Federal, State, and local governmental agencies and programs concerned with planning, organization, and financing of health care delivery.

Mr. President, I would like to make some comments on a number of the specific functions assigned to the institute. It will examine the ways physicians and other health professionals are organized and utilized and the extent to which tasks performed by such professionals may be delegated to other appropriately trained individuals. With respect to any illness, we can combine the talents of medical personnel in various ways. Take a routine physical examination. It may be performed entirely by a doctor, by a doctor-nurse combination, with the nurse taking the medical history and the patient's temperature, or by a doctor-nurse-technician team where the technician performs many of the tests and the doctor's role is limited to the interpretation of the results such as in multi-phasic screening. These different approaches to the routine physical examination may produce medical care of the same quality.

They, however, carry vastly different implications, both in terms of cost and the utilization of the physician's scarce time. Similarily, experts tell us that from 70 to 80 percent of the pediatrician's medical task force could be performed by a trained physician-assistant, such as nurses. Furthermore, it is generally felt that doctors spend too much time on routine tasks, including 25 percent of their time on business, such as bookkeeping, billing, ordering supplies, et cetera. Also, it has been estimated that nurses spend up to 25 percent of their time on paperwork. We need to explore all of these areas and to improve our utilization of scarce medical personnel.

The institute will study the manpower credentialing and malpractice problem. Both of these issues have been examined recently, but it is important that an examination and followup on these reports be made. Indications are that malpractice insurance may cost some hospitals as much as $2 a day per patient. The malpractice problem has also resulted in what some refer to as "defensive medicine" under which certain tests or procedures are ordered which may not be really necessary in order to protect a physician from a possible charge of negligence. The institute could use the Federal Government's Public Health Service hospitals and outpatient clinics if license laws prove to be an obstacle to experimentation on the use of new categories of health manpower. Successful experimentation in these Federal facilities should encourage their use elsewhere.

The new institute also will have the responsibility of examining the efficiency, management, and utilization of new and existing health care facilities including studies of admissions practices, financial reporting, and uniform health records.

Some medical experts estimate that as many as 30 percent of hospital admissions are unnecessary. With the average cost of a single day's stay in any hospital being $100 in many urban areas, it becomes important to avoid unnecessary hospitalization. The U.S. Chamber of Commerce in their excellent

study, "Improving Our Nation's Health Care System: Proposals for the Seventies," pointed out the need and potential for operational analysis to control cost saying:

Operational analysis by hospitals should quickly become widespread. One hospital director has an effect a predicted length of stay profile for each diagnosis, to use in measuring a doctor's performance. He requires a prospective rather than a retrospective hospital utilization review to be carried out, so that each discharge can be measured against the predicted length of stay for that diagnosis. He suggests greater reward for doctors whose performance results in lowering community costs.

The average length of stay in his hospital is much lower than surrounding institutions. These illustrations suggest the scope for applying to the hospital cost-saving operational analysis familiar to industrial engineers for a generation or more.

An article in Medical Economics of December 1971 featured Parkview Hospital in Indiana which operates with one-fourth fewer employees per patient than comparable hospitals nationally, and at no apparent sacrifice in the general level of care. The cost per patient at this hospital was $58.09 compared with an average of $83.11 for other Indiana hospitals with 250 beds or more.

While I have not evaluated these particular situations personally, I believe they illustrate the potential for operational analysis and the desirability of uniform accounting rules and reporting so that administrators will be able at least to compare the cost and quality of their facility with comparable facilities elsewhere. This should be a useful tool in moderating health costs.

There is also the serious problem of communities and professionals competing for the most advanced and expensive equipment. This often results in unnecessary duplication. Open-heart surgery is a good example. One hospital director has said that open-heart surgery requires a team of 12 doctors, nurses and technicians on constant standby and that 50 operations are needed a year in order to keep the team at its maximum effectiveness and efficiency.

Yet, of the 800 hospitals equipped to do this surgery, one-third do not have a single operation in a year, let alone 50.

A 1972 General Accounting Office study pointed out that the problem of duplication also exists at the Federal Veterans Hospitals. The study noted that since 1965 the Veterans Administration has established 23 open-heart surgery centers in its hospitals and that only 7 centers during fiscal year 1971 performed the minimum number of open-heart operations considered necessary.

The Institute would have a mandate to develop and test incentive payment mechanisms that reward efficiency in health care delivery without, of course, compromising the quality of health care.

The Institute would also examine the applications of all forms of technology including computers and other electronic devices in health care delivery. In this connection the Institute along with the Health Care Technology Center, will examine data processing, which has become standard in other segments of our society. One of the Nation's aerospace corporations did a study of the famed Mayo Clinic and they found that in a $1,000 hospital bill, $300 went to unproductive information handling and filing. Alarmingly, they also found that with all the red tape required, 12 individual steps were needed merely for an X-ray picture—there was one chance in six that the hospital test had some error in it.

The potential of data processing has been illustrated in my State by the Maryland Blue Cross—computer link arrangements with 30 Maryland hospitals. This has enabled Blue Cross to cut its costs of processing patients' admissions and claims by 30 percent from $3.60 per claim to $2.52 per claim.

The Institute will also encourage the development of preventive medicine and the techniques and technology, including multiphasic screening and testing, to improve the early diagnosis and treatment of diseases, particularly for preschool children. One issue that needs to be answered here is the cost and benefits associated with annual physical examinations or periodic physical examinations at critical ages. With the growing evidence regarding the importance of the early learning years and the growing interest in early childhood programs, I believe it is important that we develop techniques for early detection of physical or mental difficulties that children may have. That is why I have particularly emphasized the early diagnosis for preschool children.

The Institute will give special emphasis to the development of systems and components of rural health services. Certainly, there is little disagreement with respect to the need to upgrade health care in many rural areas.

The Institute will develop policy with respect to long-term care, particularly for mentally and physically handicapped individuals and senior citizens, with special emphasis on alternatives to institutionalization, including the use of home health aids. Long-term care was one of the areas of concern at the White House Conference on Aging. I believe that society's experience in other areas such as mental retardation demonstrates that alternatives to institutionalization are possible.

The Institute will develop and test systems and technical components of emergency health care and services—including at least one experimental statewide helicopter transportation emergency care system—which utilize, where possible, the skills of returning military corpsmen. This is a neglected area and has been aptly called the "hidden crisis in health care." Injuries are the chief killer of Americans aged 1 through 38. All of us are potential victims. Yet, the fact is that a trauma victim in Vietnam probably has a better chance of survival than accident victim in the United States. This is because the military, during the Second and Korean Wars developed a highly organized system for transporting and caring for the emergency victim. This procedure has been perfected in Vietnam to such an extent that former Secretary of Defense Laird, during the war was able to declare that the death rate of such victims in Vietnam was near zero.

The technology and know-how is there; all we have to do is organize on a rational basis and apply these lifesaving methods. Heart attack victims could also benefit from improved emergency care arrangements, as some experts have estimated that prompt and early care might potentially save 150,000 heart attack victims annually.

My own State of Maryland, for example, is a pioneer in the emergency health field with one of the Nation's most sophisticated trauma centers, which was recently named the Institute for Emergency Medicine. The State has announced plans to develop a statewide emergency medical system. I work closely with the State and they have received a major grant to develop a communications system. They have now four helicopters in operation and need three or four more. When such a system is operational, the able director of the institute, Dr. R. Adams Cowley, predicts that accident deaths in Maryland could be cut in one-half in 2 years.

TRAINING AND TECHNICAL ASSISTANCE

The Institute will develop methods and support training of individuals to plan and conduct research, development, and evaluation of health care delivery and provide technical assitance and develop methods for the transfer of new knowledge, components, and systems to the health community. The Institute is also authorized to exchange information and collaborate with other countries for the advancement of health care delivery in the United States. The Institute and its affiliated centers will also provide an opportunity for individuals from industry, local and State government and Federal agencies to receive training.

In addition, alumni of the Institute and centers will be available for administrative and policymaking positions in the health community.

These responsibilities are critical. Our ability to expand research and development in the health care delivery field will require additional skilled and trained personnel. Yet the number of economists, physicians, engineers, lawyers, and other experts qualified by training and experience to work in health care research and policy analysis field is limited. I believe that the broad authority granted to the Institute and its centers to develop methods and support for the training of individuals in this field will enable the production of the required manpower.

The Institute should seriously explore the fellowship and training grant mechanism employed so successfully by the National Institutes of Health to lure young talent into Biomedical Research. Basically, NIH uses two approaches. First, following an individual's intern or residency, fellowships are available on a national competitive basis for research. The competitive nature of the fellowship program plus the preeminence of the National Institutes of Health have combined to make this mechanism most successful.

Second, certain universities become training centers for a specific area, for example, heart diseases, and that institution is given a grant by the National Institutes of Health which enables the Institute to attract researchers.

The critical importance of the training function make it imperative that the Institute capitalize on the experience of NIH and others and provide the support necessary to produce first-rate professionals in this field.

The Institute may also consider the scholarship approach for postdoctoral work as this might encourage the flow of skilled individuals to create a cadre of professionals sharing common analytical concepts of understanding. The Institute may also determine that long-term appointments are needed to attract individuals from academic life and this certainly would be possible under the broad authority also. Furthermore, the Institute or the Centers may be supporting or conducting seminars in this area. These examples are only cited as illustrative of the broad authority provided to the Institute and the Centers. The specific training program, incentives, and personnel policies will be decided by the Director.

It cannot be emphasized too much the importance of this training function for as the committee report notes, "The committee believes that the requirement and training of top caliber personnel must be an important priority of the Institute, for the ultimate success of the enterprise will depend on men and women who direct and work in the Institute and its Centers.

The new Institute will also have a major evaluation role. The Institute will evaluate the quality, effectiveness and efficiency of Federal health programs, including medicare, medicaid, and the maternal and child health programs of the Social Security Act. For such evaluation, the Secretary of Health, Education, and Welfare is authorized to transfer the evaluation funds appropriated pursuant to section 513 of the Public Health Service Act as he deems necessary.

The Institute will have more expertise, talent and objectivity for evaluation of programs than probably any other Federal agency, and I believe its utilization for this purpose will be exceedingly desirable. There

is general agreement that more and improved efforts in evaluation are needed.

EXPERIMENT INCENTIVES

The legislation also provides for supplemental incentive grants to encourage experimentation. The basic thrust of this section is that when the National Advisory Council designates a project or a health facility as essential to the research and development efforts of the Institute or centers, and where it was determined that such experimental efforts would not be undertaken without this incentive, the Director could increase or supplement the regular Federal grant-in-aid health programs up to 80 percent.

For example, under Hill-Burton, the Federal program for health facility construction and modernization, the Federal matching in general cannot exceed two-thirds. Assuming that a particular facility was designated as essential, this section would enable the facility to receive 80 percent Federal matching. Not more than 10 percent of the funds authorized by this legislation could be used for these incentive grants to encourage experimentation.

REPORTS

The Director of the Institute, within 1 year after his appointment and prior to February 1 of each year thereafter, is required to prepare and submit to the Secretary of Health, Education, and Welfare for transmittal shortly thereafter to the President and the Congress, a written report including: First, an appraisal of the Institute's activities, and accomplishments; second, a summary of its significant research and development findings; third, an identification and recommendation concerning those factors or barriers which inhibit implementation of the Institute's significant findings or prevent innovation in health care.

ACTIVE ADVISORY COUNCIL

The Institute will have a prestigious National Advisory Council on Health Care Delivery. This Council will have 21 members, including the Secretary of Health, Education, and Welfare, the chief medical officer of the Veterans' Administration, a medical officer designated by the Secretary of Defense, the Director of the National Institutes of Health, the Administrator of the Health Services and Mental Health Administration, and the Director of the National Institute of Health Care Delivery as ex officio members. The other 15 members will be selected by the President from persons who are leaders in the field of medical science, or the organization, delivery or financing of health care; leaders in the management sciences; or representatives of consumers of health care.

In selecting the membership of this Council, it is my intention that the President search for the most distinguished and talented individuals available. The legislation does not spell it out, but it is my intention, and that of the committee, that at least one of the Council members be a practicing physician. At least seven of the Council members must be representatives of consumers. The President will designate the Chairman of the Council, and they will meet at the call of the Chairman, but not less than four times a year.

The bill contemplates an active Council, and specific responsibilities are delineated in the legislation. The Council will be responsible for reviewing the programs, policies, and priorities of the Institute; examining and coordinating health care delivery efforts within the Department of Health, Education, and Welfare and other Federal agencies so as to avoid duplication; assuring that significant research and development findings are communicated throughout the health system and to the public; and evaluating the impact of the Institute's research and development efforts on the health care system.

The Council will be independent and will have its own Executive Director. If the Council is to enjoy the independence that the legislation envisions it is important that it have a top staff person accountable only to the Council.

The Council under the measure would also be required to submit, as an appendix to the Director's report which I previously discussed, a summary of the progress of the Institute in achieving the bill's objectives and the Council's evaluation of the status of health care delivery and research and development in the Nation. Any minority views of Council members will also be included in this report.

NEEDED ADMINISTRATIVE PROVISIONS

In drafting this legislation, I have studied the various Federal research and development agencies such as the National Institutes of Health, the National Aeronautics and Space Administration, the National Science Foundation, and the National Institute of Education, which was enacted into law last year. We have given to the Institute the administrative provisions which seem to be important to a successful research and development effort.

Thus, the new Institute and centers are provided a flexible personnel system to enable the attraction of the most qualified and talented individuals. This will include the authority, when the Director deems it necessary, to establish the entrance pay level up to two grades higher than it otherwise would be and the authority to appoint a percentage of the employees without regard to civil service laws.

The new Institute is granted the authority to carry over unexpended funds from 1 year to the next. This is vital and will permit the Institute to provide stable funding for multiyear projects which are important in research and development.

The new Institute would be given joint funding authority which will enable the waiver of certain requirements for undertakings where funds are advanced to a single project by more than one Federal agency. The frustrating experience that Johns Hopkins University had in my State when they were moving to establish a prepaid practice program in Baltimore City, illustrates the need for this kind of authority. To put their program together, Johns Hopkins had to deal with 13 different agencies, each with different standards and requirements. Program fragmentation and different, inconsistent rules and regulations almost made the program come apart before it was implemented.

The health programs of the Federal Government are divided in nine departments and at least one dozen agencies. There are a number of provisions in my bill aimed at this problem. First, there is a specific provision directing the establishment within the Institute of offices and procedures necessary to provide for the greatest possible coordination of research and development under the act with activities conducted by other Federal agencies and public and private agencies.

Second, the National Advisory Council has a specific assignment to examine and coordinate health care delivery efforts of the Department of Health, Education, and Welfare and other Federal agencies so as to avoid duplication.

Third, the President is granted for a 2-year period, the authority to transfer to the Institute any program or personnel within the Department of Health, Education, and Welfare when he feels such action is desirable.

DISSEMINATING RESULTS

Mr. President, it is important that the results of the Institute and its centers be disseminated in a timely manner to the health care system and to those Federal agencies responsible for health services. Significant results are or little value if they remain on some shelf or in some Federal storage room. Health is a field which the president of Blue Cross recently characterized as "restlessly in transition." Health is a field in which change may occur rapidly and I believe it is imperative that health researchers and administrators be kept up to date with respect to current development.

To assure that the significant findings are disseminated to the health system and to the public, there would be created within the Institute a Health Care Delivery Information Service. This office would provide, or arrange for, the provisions of indexing abstracting, translating, or other services leading to a more effective dissemination of health care delivery information and undertake programs to develop new or improved methods for making such information available.

A variety of media could be used by the Health Care Information Services, including a computerized storage and retrieval system, microfiches and suitable periodicals or other publications. The office might also publish or support a monthly journal which would abstract both national and international literature bearing on health services. In addition, it would be useful for the office to establish or to encourage the establishment of a high quality, timely publication service for research reports, monographs, state of the art papers, and other information in the field.

In addition to making certain that the timely information reaches individuals in the health system, the office is expected to help prevent needless duplication of research efforts and the waste of scarce Federal resources.

REGIONAL AND SPECIAL EMPHASIS CENTERS

S. 723 also authorizes a maximum of eight regional centers and two special emphasis centers, the Health Care Technology Center and the Health Care Management Center. The objectives of the regional centers are: First, to enable the study of the different health care problems of the various regions of the Nation; second, to broaden and strengthen the Nation's research and development base in health care delivery; and third, to link better research and development with actual practice.

It may also be desirable, in addition to the above general purposes and programs, that some or all of the regional centers might specialize in an area or areas such as the malpractice problem and other medical-legal issues; and information handling problems.

The location of the regional centers will be determined by the National Advisory Council. This Council, to the extent feasible, is directed to provide broad geographical dispersion of the centers. When all of the centers are operational, each region of the Nation will be served by a center.

I do not want to emphasize that the bill authorizes, not to exceed eight regional centers. I want to underscore the admonition in the committee report that "It is not the intent of the committee that all eight centers be created initially." The committee, mindful of the manpower and other constraints, by this language is stressing our intent that we desire the regional centers to be of highest quality. While I envision that all eight centers will be operational sometime in the future, I want to reach that number without sacrificing quality.

Thus, it may be desirable that only two centers be established at the outset. Then, as the Institute's training efforts begin to produce the additional trained manpower, more centers would be established. An added advantage of this approach is that the experience of the early centers should enable subsequent centers and the Congress to learn and make adjustments as experience indicated were necessary.

The regional centers will be funded initially by the Institute for up to 3 years. Thereafter, following a review of each center's work and operations, by the Director and upon the recommendation of the National

Advisory Council, the Director may extend the centers for an additional period of not more than 3 years. After this period, it is my intent that the majority of the regional centers' support will be program support in competition with other institutions. I also hope and believe that the States in the regions in which the various centers are located will utilize the centers for research, development, and evaluation.

Thus, at the end of the 6-year period, the success of the center will be determined by the quality of their efforts and the degree of interest shown in their work by the States, local governments, private foundations, industry, and the health care community within the area in which the centers are located. These centers may be managed by a university, or a number of universities and colleges under a consortium arrangement, or by public and private organizations and associations, both profit and nonprofit.

SPECIAL EMPHASIS CENTERS

Two special emphasis centers, a Health Care Technology Center and a Health Care Management Center are also authorized.

The Health Care Technology Center will focus on all forms of technology, including computers, and electronic devices, and its application in the improvement of health care.

Technological advances in such areas as space, communications, and data processing in the last decade have been almost unbelievable. Yet, the technology has not made a similar impact on the health system. In fact, much of the health care system continues to employ the same manual procedures used at the turn of the century. We need to wed 20th century technology with 20th century research to improve the delivery of health care. This will be the assignment of the Health Care Technology Center.

President Nixon, in a number of messages to the Congress, has emphasized the need to encourage the application of science and technology to the solution of domestic problems. In his March 2, 1972, health message, the President specifically identified health as a "vital area" for exploiting technology.

One must confess that the expectation particularly in the 1960's that technology would produce a "revolution in health care" have not materialized. The Health Care Technology Center is expected to provide the leadership and mobilize the Nation's involvement and interest in the development and utilization of technology. Particular attention needs to be paid to the involvement of private industry, for the successful development of technology depends, to a great extent, on the interest and actions of private industry. Industry's limited involvement in the health technology area today results from a number of factors including the diffused markets of the health field; the limited success achieved to date; and the Government's failure, to give priority to the utilization of technology in solving of health problems as has been done, for example, in space and defense.

Technological solutions are not likely to result unless the above difficulties are addressed.

There is a need to aggregate both health resources and markets. Once this occurs, I believe industry will identify and take advantage of the economics of scale that generally results from larger markets.

I am convinced that there are steps that the Federal Government in general and the Health Care Technology Center in particular can take to encourage technological development in the health area.

For example, various agencies of the Federal Government operate their own health systems, such as the Defense Department and Veterans' Administration. These Federal health systems offer the opportunity for a market sufficiently large to attract industry investment.

Second, the Federal Government could identify potential opportunity for technological solutions and solicit competitive bids through requests for proposals (RFP's) as is done by the Defense Department. Thereafter, there could be full funding of a prototype followed by a guarantee that a sufficient number would be purchased to insure a profit. The units produced could then be sold, loaned, leased, or donated to individuals or organizations that would use them effectively.

A decision, for example, could be made by the Federal Government to do something about the problems of the visually handicapped in the country. There are about 400,000 legally blind persons in the Nation today. It has been estimated that many of them have a significant amount of visual perception in at least one eye. Optical devices, such as eyeglasses, are of limited value to many of these citizens since such glasses only magnify the image and do not control brightness and contrast which are equal in importance in perceptual acuity. The Rand Corporation has designed and fabricated a prototype circuit television system (CCTV), an electro-optical system involving image magnification, brightness, and contrast. This prototype system has been tested on a number of visually handicapped people ranging in ages from 10 to 83 with a wide variety of eye disorders. Better than 80 percent of the subjects have found the system helpful in reading and writing.

Work is now underway on a second generation system which is aimed at solving the difficult problem that many partially sighted persons face, namely the transfer of information from one place to another.

The CCTV could well be the forerunner of the new series of devices which would be used to enhance the education of visually handicapped children, to permit partially sighted persons of working age to obtain and hold well-paying jobs which would otherwise be closed to them, and to allow elderly persons with reduced vision to enjoy the pleasures of reading and writing during their declining years.

I cite this as only an example of the problem area for which there exists a sufficiently large market which would undoubtedly create a response from the industrial community, as well as lead to a tremendous aid for the handicapped, if the decision were made to exploit technology in this area.

The committee report makes a point with respect to the technology center's purposes which is important and bears reiteration. The report states—

"The committee wishes to emphasize that the center's purpose is to encourage the development of technology to solve the health problems of our citizens and our health institutions and not as a place to find markets for available technology."

In other words, the center should be searching for technological solutions to patient care, health institutions, and systems problems, and not for ways to utilize available technology.

It is also important that the technology or systems that are developed are such that can or will be adopted by the health professionals. It would be also extremely valuable if the technology center would develop expertise with respect to technological forecasting so that the consequences, particularly the cost, of new technology might be predicted. Certainly, with the rising health care costs, the health system does not need "technological playthings" which are neither cost effective or fail to increase productivity.

Mr. President, the Senate Labor and Public Welfare Committee, on which I served in 1971 heard testimony regarding the potential of the computer coupled with new "health care specialists." The committee saw demonstrated a potential way of extending the doctor in remote areas which have been unable to attract a physician.

The computer is already being employed in such areas as the interpretation of the electrocardiogram and the automation of history taking. Last year I visited the University of Maryland Hospital Trauma Center and I watched the computer perform a variety of tasks, including the constant monitoring of even the chemical content of the air that the center's severe trauma victims were breathing.

I believe that there is enormous potential for the use of technology that could bring many benefits to the public and the patient.

At present, our success has been limited. At present, only a handful of individuals are actively concerned with the technology and its potential in helping to solve health problems.

The health care technology center is designed to remedy this situation and serve as the focal point for an accelerated group research effort on both program and hardware development.

The second special emphasis center, the health care management center, is of critical importance. For as Dr. Kerr White, professor of medical care and hospitals, of the Johns Hopkins University, has observed—

"Vastly improved managerial expertise is a prerequisite for any meaningful improvement in our health care system at the operating and geographical levels."

The health care management centers will focus on the improvement of management and/or organization in the health field, the training and retraining of health administrators, and the development of leaders, planners and policy analysts in the health field. The job of the managers in the health field is most complex. The modern manager of a health enterprise, if he is to carry out his responsibilities with maximum effectiveness, must have a basic understanding of a wide variety of management skills and some background in such areas as health, economics, computer technology, and statistics, to mention a few.

Quite often medical administrators are elevated to these positions without adequate preparation for these new responsibilities. Certainly American industry would make certain that its top executives are adequately trained and the health system must do no less. There is also often the need to provide retraining, as is evidenced by the letter I received from an administrator, Dr. Fine, deputy commissioner of the Boston Department of Health and Hospitals. He said—

"Practioners of health care administration, among whom I am one, have been flying by the seat of their pants for too long.

The nation deserves better. There is currently no systematic effort I know of to reach decision makers in the health care field with the results of innovative research and to stimulate a research orientation to many of the problems we all face in the financing, organization, and delivery of services.

"There is moreover, an almost total neglect of more formal continuing education opportunities for health care administrators . . . After ten years or more in the field, many of us are in positions of responsibility and strong in experience but weak in understanding of fundamental advances in health care systems, e.g. the problem-oriented medical record, how to organize a prepaid group practice, the use of television in medical diagnosis and treatment, computer applications to health systems problems, etc."

The administrative officer of each regional center and each special emphasis center will be required to submit annually to the director a report which shall include an audit of expenditures; bibliographies, with annotations of research performed; and a description of on-going research program including

a summary of significant research and development findings.

The regional and special emphasis centers have a separate authorization of $20 million for the initial fiscal year and a total of $75 million over a 3-year period. Support for a center, other than support for construction, shall not exceed $2 million per year per center, except for the health care technology center, and Federal assistance may be used for research and development, staffing and other basic operating costs, training, demonstration purposes, and construction where the National Advisory Council deems necessary.

CONCLUSION

Mr. President, the health care enterprise in the country is our second largest industry today with spending totaling $83.4 billion, or 7.6 percent of our gross national product. By 1974, health will probably become our largest enterprise with expenditures exceeding $100 billion.

The magnitude of these expenditures alone argue for an accelerated and strengthened research and development component in the health field. There is considerable public frustration and dissatisfaction with various aspects of health care. The public is alarmed over rising costs. Last year I made reference to an Associated Press story which appeared around the time that the institute proposal passed the Senate. This story headlined that the hospitals per day cost in 1971 averaged $92.31, an increase of 13.9 percent over the previous year.

The story hastened to add, however, that the 1970 increase was 15.7 percent and that hospitals have been able to slow the rate of increase. I said then and I repeat today—

"Think about it, over a 2-year period almost a 30 percent increase in hospital costs occurred. This obviously cannot continue."

The public is also concerned about the manpower and facility shortages as well as their maldistribution and the last Congress passed legislation in response to this problem. The public is also distressed that the benefits of medical science and the scientific discovery system are not reaching them.

There is considerable change occurring in the health system. The rapidity of change and reform is likely to accelerate in the years ahead. I believe that it is imperative that we strengthen our research and development capabilities in the health area so that we may make more intelligent choices and foster constructive changes. I believe that we desperately need advanced warnings of approaching "crises." I believe we need more information upon which to base decisions and make meaningful comparisons in the area.

I believe we need to sharpen our abilities to illuminate issues and to identify possible options and their implications. I believe we need a framework for evolving health care policy for the long term while we continue to address the immediate problems. The size of the health enterprise, its importance to the American public, and the growing Federal investment, make it imperative, in my judgment, that research and development in health care delivery must become as important and achieve the preeminence of biomedical research in the United States.

The respected "Science Journal," in a favorable editorial on my proposal, said—

"A major tour de force is needed now to dramatize the importance of rationale organization and planning services . . . if the magnificent benefits of American medical research are meant for all of our people, then an effective science of heatlh care delivery is as important as the medical research itself."

Mr. President, as Dr. Kerr White of Johns Hopkins University noted—

"The issue in research and development, it seems to me, is the extent to which we are prepared to make federal, state, institutional, academic and industrial commitments to aggressive pursuit of improved ways of providing health care.

"Acceptance of change is inevitable and recognition that we need more science in health care rather than less seems essential. The point to be recognized is that the sciences required are more than those encompassed by the traditional biomedical sciences."

The new National Institute of Health Care Delivery recognizes the need for a multidisciplinary attack, represents such a commitment and provides the "major tour de force" to make health care delivery as important as medical research, and to help speed the benefits of medical science and the scientific discovery system to the people of the United States.

I strongly urge its enactment by the Senate and the Congress.

In conclusion, once again I thank the distinguished Chairman of the Health Subcommittee, the Senator from Massachusetts (Mr. KENNEDY), for his work and cooperation in bringing this legislation to the floor.

EXHIBIT 1

THE TOPSY-TURVY WORLD OF HEALTH CARE DELIVERY

In a recent speech Senator J. GLENN BEALL, JR., (R–Md.), called for the establishment of a National Institute of Health-Care Delivery.* In so doing, he has focused attention on a national problem of broad scale and transcendent urgency.

Over the years the American people have prided themselves on being the best clothed best fed, best housed, best educated, and healthiest people in the world. But recent health statistics give cause for concern. Across the board, we are not the healthiest people in the world, in spite of a number of impressive facts. The nation has spent some $20 billion on biomedical research since the late 1940's. We now have more physicians and hospitals than ever before. And currently we spend for health services more—and the rate of expenditure is escalating more rapidly—than we have ever done before. In the last decade alone, physicians' fees have risen twice as rapidly and hospital charges four times as fast as other items in the Consumer Price Index.

The situation is a complex one. Certainly, the balance among the diseases has shifted toward the degenerative disorders. But, in addition, there are striking geographic variations in the availability of health resources. There are marked differences in availability for urban and rural populations and for the poor and the more affluent. Most insurance coverage is inadequate in that it excludes outpatient and preventive services and only partially accommodates catastrophic incidents. And, generally, resources, particularly these for unusual treatment, are poorly utilized everywhere. (If, for example, the utilization of health-care resources were improved by only 10 percent, the saving would be $5 billion. But, with a high proportion of third-party payments, there is little incentive for efficiency. Instead, the trend is to use the higher-cost facilities and services and to make as many of these available as possible.)

The essential ingredients of the Beall proposal merit serious examination. By 1970, health-care delivery had become the nation's second largest industry. But last year only $18 million was spent on research in this area. No other industry can make such a claim. The National Institutes of Health are charged with the technical aspects of prevention and treatment. The Health Services and Mental Health Administration is concerned with health-care delivery, but it has other responsibilities as well. A major four de force is needed now—an administrative mandate backed by appropriate funding—to dramatize the importance of rational organization and planning of services, even through such action would add yet another agency to the welter already existing in the health field. Future legislation would do well to direct its sole attention to the social sciences, both basic and applied, which underlie effective organization and management. Furthermore, the importance of testing and evaluation should receive significant consideration. Already, a number of alternative systems—for instance, group practice, private prepaid care, a variety of community health-care schemes, and health maintenance organizations—are in various stages of design and development, and a nation with an established scientific tradition must certainly recognize the importance of pilot projects.

If the magnificient benefits of American medical research are meant for all of our people, then an effective science of health-care delivery is as important as the medical research itself.—WILLIAM BEVAN

NATIONAL INSTITUTE OF HEALTH CARE DELIVERY ACT OF 1973

The Committee on Labor and Public Welfare, to which was referred the bill (S. 723) to establish a National Institute of Health Care Delivery, and for other purposes having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

SUMMARY

S. 723 amends the Public Health Service Act to establish a National Institute of Health Care Delivery as a separate agency within the the Department of Health, Education, and Welfare.

The Institute's mission, will be to carry out an accelerated multidisciplinary research and development effort to improve the organization and delivery of health care in the nation.

The bill also authorizes up to eight regional centers and two National Special Emphasis Centers, a Health Care Technology Center, and a Health Care Management Center.

The total authorized funding level for both the Institute and the Centers will be $100 million for the initial year, $150 million for the second year, and $180 million for the third year, for a total authorization over the three year period of $430 million.

A twenty-one member National Advisory Council on Health Care Delivery will advise the Institute on the development, priorities, and execution of its program.

BACKGROUND AND NEED

S. 723 was introduced on February 1, 1973 by Senator J. Glenn Beall, Jr., and was cosponsored by Senators Peter Dominick, William Hathaway, Ernest Hollings, Jacob Javits, John Pastore, Ted Stevens and Milton Young.

The proposal was initially introduced as S. 3329 in the 92nd Congress and was considered by the Labor and Public Welfare Committee in connection with the Health Maintenance Organization and Development Act of 1972, S. 3327. The Committee incorporated the Institute as Title V of S. 3327, which was subsequently considered and passed by the Senate on September 20, 1972, by a vote of 60–14. No opposition was voiced during Senate consideration of the HMO legislation to the Institute though the Committee made a number of modifications to the bill as introduced in order to conform it to other related provisions of S. 3327, particularly with respect to the Commission on Quality Health Care Assurance as authorized by S. 3327.

Senator Kennedy reintroduced the HMO legislation, S. 14, in this Congress in the identical form, including the National Institute of Health Care Delivery, as passed by the Senate last year. The Committee, in order to give this proposal the visibility and national attention it deserves and merits,

decided to report this measure as separate legislation. The Committee was unanimous in recommending favorable action by the Senate on S. 723 but the version reported by the Committee does not contain the conforming amendments to the HMO bill referred to above, since the Committee decided to report it as a separate bill.

Since World War II, the United States has invested approximately $20 billion in biomedical research. This investment has produced many dividends in terms of major medical breakthroughs and has made the nation preeminent in the world in medical research.

On the other hand, comparatively small investments have been made in research and developments to improve the organization and delivery of health care. Appropriations for fiscal year 1973 contrast our investment in medical research as compared to health care delivery research. The total outlays for fiscal 1973 for the National Institutes of Health, the Federal Government's chief biomedical research organization, is estimated to be $2.009 billion, while the estimated budget for the National Center for Health Services Research and Development for the same year is $64.4 million. By citing this contrast, the Committee is not suggesting or implying that spending on medical research is out of line. To the contrary, the Committee and the Congress has supported an acceleration of the nation's research effort. The Committee does suggest that this disparity in spending between biomedical research and health care delivery research may help account for the nation's preeminence in biomedical research, the deficiencies in our present delivery system, and the growing gap between what medical science knows and what is delivered to our citizens.

The American people are aware of and grateful for the achievements of medical science, but they are also aware of this "gap" which is a source of public dissatisfaction. Our citizens marvel at the miracle-like heart transplants that are taking place, but their plea to the health care community is to make available, accessible, and affordable the achievements, methods, and procedures developed by medical science over the last quarter to one-half century.

To develop the means and methods to deliver the results of medical research and know-how to our citizens, wherever they live and at a price they can afford, is the principal task facing our nation and the health community. This is the challenge that will be the work of the National Institute of Health Care Delivery.

COMMITTEE CONCERNS

The Committee wishes to emphasize in very strong terms that the mandate given to the National Institute of Health Care Delivery will be very difficult to carry out and that it is, therefore, essential that the activities of the Institute be understaken in a prudent and orderly manner. The dual goals of the Institute are to enhance the breadth and effectiveness of health services research and development in the nation through an expansion of available funds and through the transfer of the National Center for Health Services Research and Development to the Institute and to create a capability to carry out health policy research, development, and training through the staff of the Institute, and the Regional and Special Emphasis Centers.

While this innovative approach to policy research and formulation is, in the Committee's view, urgently needed and deserving of support, there are serious constraints which will plague this effort. These constraints are: (1) there is in the nation essentially no tradition of health policy research and development and no suitable models on which to base the establishment of a complex, large, and multi-faceted R&D effort. (2) there is in the nation essentially no body of experienced managers to initially head up an effort of the magnitude the Committee's bill ultimately envisions. (3) there is in the nation a critical shortage of qualified professional personnel in respect to the broadbased function of the Institute and, therefore, the recruitment of adequate numbers of such persons will be arduous.

Given these formidable constraints, it is clear that it is not possible to draw a complete analogy between this proposal Institute and the ongoing National Institutes of Health. When the NIH was established (in 1937), there was a large pool of well-trained biomedical researchers who were then constrained principally by the lack of money and resources with which to carry out high-level biomedical research. At that time, there was also a large body of potential investigators eager for training if resources could be made available. Such is not the case in health policy research today, in which there is only a small body of practitioners from economics, law, medicine, social sciences, etc., which has specialized in the conduct of the kinds of efforts which are intended to be carried out by the Institute.

The Committee, therefore, believes that, if the efforts of the National Institute of Health Care Delivery are to be successful, priorities must be set which will take cognizance of these constraints. For example, the small number of qualified policy analysis leads the Committee to the conclusion that only a few centers of excellence are possible at the outset of the Institute's activities. The Committee also urges that the Institute devote a major share of its effort to the creation of a major intramural health care research effort analogous to the clinical center of the NIH. The Committee also urges the establishment within the Institute of a specific unit charged with supporting and developing training programs and training centers for health policy and health care research workers. The expansion of trained manpower in this area is absolutely essential to the viability of the Institute's long-term program. The Committee further urges that the Institute and the Department of HEW give serious thought to the relationships between the Institute's program and the Lister Hill Center for Biomedical Communications which is located in the Department at the National Library of Medicine.

In summary the Committee wishes to stress that the initial years of operation of the Institute will be critical in respect to the long-term success or failure of the Institute, and that the decisions that are taken in respect to the initial year's activities should be made with the greatest possible care, commonsense, and vision.

Finally, the Committee believes it is essential that the legislation establishing the Institute be compatible with those provisions of the HMO legislation, S. 14, particularly the proposed Commission on Quality Health Care Assurance.

PRESENT EFFORTS INADEQUATE

The present effort in this respect is largely the responsibility of the National Center for Health Services Research and Development. This Center presently is buried in the Department of Health, Education, and Welfare, being one of many units of the Health Services and Mental Health Administration.

The Committee's bill proposes to transfer and upgrade the National Center by transferring it to the new Institute. At its present layer in the Department, the Center lacks visibility and its clout is small. It lacks an effective organizational structure and the flexibility that characterizes many government research and development organizations. It is not funded adequately. It does not even have a real legislative mandate as it operates only under general research authority.

Although some interesting efforts have been undertaken at the Center and elsewhere, efforts to date for the most part have contributed disappointingly little either to a solution of the problems of the present delivery system or to the creation of alternative systems. Important questions raised about health care delivery ten years ago are still being asked today.

The Committee is of the opinion that we cannot wait another decade for these answers, not only because of the urgency of these problems, but also because decisions with respect to the directions of health care delivery must be made.

To help find the answers to the many health care delivery questions, the Committee believes that research into health care delivery must be made as important as medical research. A new National Institute of Health Care Delivery, with a clear legislative mandate, top management, the necessary organizational structure and administrative provisions, and adequate resources, is needed, in the judgment of the Committee, to achieve this objective.

LOCATION AND APPROACH

The National Institute of Health Care Delivery will be a separate agency within the Department of Health, Education, and Welfare comparable in organizational structure to the National Institutes of Health. This organizational position is needed in view of the urgency of the health care delivery problems. This elevated structure will give health care delivery research and development the necessary visibility and raise its stature among the public, the health community, and within the government; will permit the new Institute to attract the necessary top management and the talented men and women; and provide the needed strong voice for an increased investment and interest in research and development in health care delivery.

The Institute, in carrying out its research and development efforts, will utilize the multidisciplinary approach. Teams from such academic disciplines as health, medicine, economics engineering, science, accounting, statistics, social sciences, architecture, law, education, and the management sciences, will interact and devote their energies and their attention to an objective inquiry in the public interest and generate action and problem oriented research on the critical and complex problems of health care delivery.

In research and development, one frequently hears the concept "critical mass", a term borrowed from nuclear physics. In research and development this term is used to indicate the minimum size and composition needed to achieve a self-sustaining, creative atmosphere for the undertaking.

The number necessary for this "critical mass" varies with the undertaking. In theoretical basic research, one or two researchers may be adequate. On the other hand, in complex and large research efforts, the "critical mass" may require many more individuals from many disciplines. In these larger and more complex undertakings when the "critical mass" is not achieved, researchers tend to pursue smaller tasks, individually. The Committee believes that the "critical mass" concept is an important one and that the synergism that can occur when a "critical mass" of problem solvers from many academic disciplines interact has not been adequately developed.

Professor William B. Schwartz of the Tufts University School of Medicine last year emphasized the importance of the multidisciplinary approach when he said:

"There is a clear implication that the problems will require a multidisciplinary approach—we are not simply dealing with economic problems to be formulated and analyzed by economists or manpower problems to be dealt with by physicians. The problem of delivery or primary medical care, for example, obviously has an enormous

number of facets. It involves not simply a question of more and larger medical schools training more physicians but a range of issues including the maldistribution of physicians, inducements to rural and ghetto practice, restriction of physician entry into specialists that are overpopulated, the use of allied medical personnel to replace physicians in the delivery of primary care, the introduction of computer-aided diagnosis and management as a means of upgrading the non-physician's performance and increasing his range of responsibilities, the use of television as a link between doctors and patients, and the introduction of new transportation strategies as a means of making high quality care available to areas of low population density.

"In weighing these approaches, consideration must also be given to patient acceptance of new personnel and new technology, to the reliability of computer-aided diagnosis and management, to the response of the physician to incursions of new health personnel and new technology into his domain, to legal problems related to licensure and malpractice, to the time lags involved in the introduction of new strategy, and to the trade-off between quality and quantity that is implicit in changing the traditional patterns of health care. Only in this way can we allocate resources appropriately and can a desirable mix of manpower and technology be brought to bear."

The need for improved policy analysis in the nation is critical. Even the Department of Health, Education, and Welfare with its enormous responsibilities has only a small number of individuals at the secretariat level dealing with these matters and their time and attention are too often devoted to "fire fighting" or responding to daily crises. As a result, little if any time remains for exploring long-term issues, no matter how important. The situation in the Congress is similar with the pressures of everyday work and legislation preventing only negligible attention to policy analysis.

Yet, the resolutions of major policy issues will fundamentally shape the future of health care in the United States. Thus there is an urgent need for the development of important analytical capabilities to cope with the larger, more complex, and in the long run, the more important health issues.

Policy analysis will be an important part of the work of the Institute. The Committee intends that there be established within the Institute a Health Policy Analysis division to enable groups of professionals to concentrate on long-term policies in the health field.

The Institute will be headed by a Director, appointed by the President with the advice and consent of the Senate. The Director's salary will be at Executive Level Four, which is similar to and competitive with other Federal Research and Development agencies. The Director is authorized to appoint a Deputy Director and up to four Assistant Directors.

MANDATE

The National Institute is provided with a broad legislative mandate to examine all aspects of the health care system and the ways and means to improve that system, as well as the devising and testing of alternative systems. Its functions will be carried out through both an intramural capability and through an extramural effort at the Regional Health Care Centers and two National Special Emphasis Centers, the Health Care Technology Center and the Health Care Management Center, and through broad authority to: (1) make grants to States, political subdivisions, universities, hospitals, and other public or nonprofit agencies, institutions, or organizations and (2) contract with public or private agencies, institutions, or organizations for the conduct of research and development, experiments, studies, demonstrations, and the training of individuals to plan and conduct such efforts.

Specifically, the Institute is directed to "pursue methods and opportunities to improve and advance the effectiveness, efficiency, and quality of health care delivery in the states, regions, and communities of the United States, through initiation and support of studies, research, experimentation, development, demonstration of, but not limited to, the following:

(1) The existing health care system, emphasizing means and methods to improve such system and the devising and testing of alternative delivery systems;

(2) Health care systems and subsystems in states, regions, and communities which give special attention to the effective combination and coordination of public and private methods or systems for health care delivery;

(3) Preventive medicine and the techniques and technology, including multiphasic screening and testing, to improve the early diagnosis and treatment of diseases, particularly for preschool children;

(4) Systems and technical components of emergency health care and services (including at least one experimental statewide helicopter transportation emergency care system), which utilize, where possible, the skills of returning military corpsmen;

(5) Systems and components of rural health services;

(6) The development of policy with respect to long-term care, particularly for mentally and physical handicapped individuals and senior citizens, with special emphasis on alternatives to institutionalization, including the use of home health aides;

(7) Methods to meet the Nation's medical manpower requirements, including new types of manpower and their utilization and the extent to which tasks performed by physicians and other health professionals may be safely delegated to other appropriately trained individuals in both new and existent health occupations;

(8) Continuing education and the exploration of programs and methods to help health professionals to stay abreast of current developments and to maintain professional excellence;

(9) Health manpower credentialing, licensing, and certification;

(10) The medical malpractice problem, particularly, as it relates to quality care, the practice of 'defensive medicine' and added costs to the public;

(11) Programs for educating health manpower and the accreditation of such education programs;

(12) Application of all forms of technology, including computers and other electronic devices, in health care delivery;

(13) The efficiency, management, and utilization of new and existing health care facilities including studies of admission practices and examination of cost-finding techniques;

(14) The development of tools and methods to improve planning, management, and decisionmaking in the health care system;

(15) The development of information by which quality, efficiency, and the cost of health care may be measured;

(16) The development of uniform accounting practices, financial reporting, and uniform health records;

(17) The development and testing of incentive payment mechanisms that reward efficiency in health care delivery without compromising the quality of care;

(18) The needs of individuals, families, and groups for health care and related services, emphasizing the various life styles, including environmental, recreational, and nutritional factors that bear on an individual's health; identification of those factors affecting acceptance and utilization of health care and related services; and the development of educational materials and methods communicating to the public the importance of personal decisions and actions on health;

(19) The economics of health care and related services, and the impact of the total system of health care delivery and related services upon the standards of living and the general stability of the national economy;

(20) Proposals for the financing of health care, including the potential cost and benefits, and their impact on the health care system;

(21) Concepts and data essential to formation of a factual basis for national health policies; and

(22) The effects on health care delivery of the organization, functions, and interrelationships of Federal, State, and local governmental agencies and programs concerned with planning, organization, and financing of health care delivery.

TRAINING AND TECHNICAL ASSISTANCE

The Committee is aware that our ability to expand research and development in the health field will require additional skilled, and talented personnel. The Committee is further aware that the number of economists, health professionals, engineers, lawyers, and other experts, qualified by training and experience to work in the health policy field is limited. The Committee believes, however, that the flexibility granted to the Institute and its Centers will assist it to recruit qualified individuals.

Similarly, the training authority of the Institute and Centers is also broad and will help to create the additional manpower needed. They are directed to develop methods and support for the training of individuals to plan and conduct research, development, demonstration and evaluation of health care delivery.

The Committee believes that the recruitment and training of top caliber personnel must be an important priority of the Institute, for the ultimate success of the enterprise will depend on the men and women who direct and work in the Institute and the Centers.

The Institute is also directed to provide technical assistance and to develop methods for the transfer of new knowledge, components and assistance to the health community and to collaborate and exchange information with other countries for the advancement of health care in the United States and cooperating nations.

EVALUATION ROLE

The Committee envisions a major evaluation role for the Institute and the Committee's bill specifically directs the Institute to evaluate the quality, the effectiveness, and the efficiency of all Federal health programs.

The Committee believes that Federal health programs have not been adequately evaluated in the past and that the Institute will materially enhance the Federal Government's evaluation capacity in the health field.

For such evaluation, the Secretary of Health, Education, and Welfare is authorized to transfer evaluation funds appropriated pursuant to Section 513 of the Public Health Service Act as he deems necessary.

SUPPLEMENTAL INCENTIVE GRANTS TO ENCOURAGE EXPERIMENTATION

Sec. 1214 authorizes the Director of the Institute to make supplemental incentive grants to individuals, institutions, and health facilities to encourage experimentation. Under this authority, the Director may supplement regular Federal health grant-in-aid programs in order to encourage experimental projects which would not otherwise be undertaken without such assistance and which have been designated as "essential" by the

National Advisory Council. There are two limitations on this authority. First, the Federal portion of the funding of the project may not exceed 80 percent and, secondly, not more than 10 percent of the funds appropriated to the Institute may be used for such grants.

ACTIVE ADVISORY COUNCIL

The Institute will have a twenty-one member National Advisory Council on Health Care Delivery. Fifteen of the members will be selected by the President from: (1) persons who are leaders in the field of medical science, or in the organization, delivery, or financing of health care; (2) leaders in the management sciences; and (3) representatives of the consumers of health care. The Committee believes that at least one member of the Council should be a practicing physician. At least seven of the appointed members must be representatives of consumers.

The Secretary of Health, Education, and Welfare, the Chief Medical Officer of the Veterans Administration, a medical officer designated by the Secretary of Defense, the Director of the National Institutes of Health, the Administrator of the Health Services and Mental Health Administration, and the Director of the National Institute of Health Care Delivery will serve as ex officio members of the Board. The Committee intends, however, that all members of the Council participate fully in the Council activities—discussions, voting, etc.—and that there will be no distinction made in such activities between appointed and other members.

The President will designate the Chairman of the Council. The Council will meet at the call of the Chairman, but not less than four times yearly. The Committee intends that the Council should be an active one and specific responsibilities are outlined in the legislation. The Council will be responsible for: (1) reviewing the programs, policies, and priorities of the Institute and Centers; (2) examining and coordinating health care delivery efforts within the Department of Health, Education, and Welfare and other federal agencies so as to avoid duplication; (3) assuring that significant research and development duplication; (3) assuring that significant research and development findings are communicated within the research community and to the public; and (4) evaluating the impact that the Institute's research and development efforts are having on the health care system.

As further indication of the Committee's views regarding the Council's active role and its importance, the Council is provided with its own executive director, accountable only to the Council.

This will help to assure that the Council will be able to meet its responsibilities and maintain the independence envisioned by this legislation.

ADMINISTRATIVE PROVISIONS

There are some common characteristics of federal research and development agencies, such as the National Science Foundation, the National Institutes of Health, the National Aeronautics and Space Administration and the new National Institute of Education.

Because adequate administrative provisions are important to the functioning of an effective research and development health organization, the Committee has provided the Institute with the needed and necessary administrative provisions. These include the authority for a flexible personnel system; the authority to carry over unexpended funds from one year to the next; the authority for multigrant projects; and a specific direction to provide for the coordination of research and development activities in this field.

The Committee is particularly concerned with the problems of duplication and lack of coordination in the health field. The health efforts of the Federal Government are scattered over a dozen departments and agencies. Each has an interest in health services and to some extent contributes to the federal research and development effort in health. There is little coordination of these efforts and the lack of common statistics preclude even elementary comparisons of efforts and results. A number of provisions are aimed at this problem. First, the Institute is directed to establish offices and procedures to coordinate its research and development activities with those conducted by other federal agencies and public and private agencies.

Secondly, the National Advisory Council is granted the specific assignment of examining and coordinating health care delivery efforts of the Department of Health, Education, and Welfare, and other federal agencies so as to avoid duplication. Thirdly, the President is granted for a two year period the authority to transfer to the Institute any programs or personnel of the Department of Health, Education, and Welfare when he feels such action is desirable.

With the many priorities in the health and other domestic areas, the failure to coordinate and share the results of research and development between federal departments and agencies represents a serious loss. The Committee believes that these provisions will help to maximize resources and eliminate needless duplication.

DISSEMINATING RESULTS

It is not enough merely to produce significant results in health care delivery research and development. Such findings must not be allowed to remain on some shelf or in some federal storage room. They must, in order to be useful, be disseminated in a timely manner to the health care system and federal agencies responsible for health services. Health is a field in which change may occur rapidly and it is important that researchers and administrators be kept abreast of the current status of developments and not have to rely on information which may be a number of years old.

Accordingly, the legislation creates within the Institute, an Office of Health Care Delivery Information Services to facilitate the communication of the research results. This Office would provide, or arrange for, the provisions of indexing, abstracting, translating, or other services leading to a more effective dissemination of health care delivery information and undertake programs to develop new or improved methods for making such information available.

A variety of media could be used by the Health Care Information Services, including a computerized storage and retrieval system, microfiches and suitable periodicals or other publications. The Office might also publish or support a monthly Journal which would abstract both national and international literature bearing on health services. In addition, it would be useful for the Office to establish or to encourage the establishment of a high quality, timely publication service for research reports, monographs, state of the art papers, and other information in the field.

The Committee views the functions of this Office necessary not only to assure that promising improvements in the delivery of health care reach the proper individuals in a timely manner, but also to prevent needless duplication of research efforts and the waste of scarce resources.

REGIONAL AND SPECIAL EMPHASIS CENTERS

The Committee's bill also authorizes up to eight Regional Centers and two Special Emphasis Centers, the Health Care Technology Center and the Health Care Management Center. The Regional Centers are designed to: (1) enable the study of the different health care delivery problems peculiar to the various regions of the country; (2) broaden and strengthen the nation's research and development base in health care delivery; and (3) link better research and development activities and actual practice.

The Regional Centers' locations will be determined by the National Advisory Council. In selecting these locations, the Committee expects the National Advisory Council, to the extent feasible, to bring about the broadest possible geographical distribution of such Centers. The Centers will be funded by the Federal government for an initial period of three years.

The Committee wishes to emphasize that the legislation authorizes "not to exceed eight regional centers". This number would result in a Center for the various regions of the nation. While this number may be ultimately desirable, the Committee is aware of the possible manpower constraints that exist and indeed, has directed the Institute to give the manpower problem a top priority. It is not the intent of the Committee that all eight centers be created initially. For example, two may be the maximum number of centers that could be started at the outset. The actual number to be established initially, and subsequently will be determined by the Director and the Advisory Council, giving due considerations to the manpower and other constraints. Clearly, these programs should be begun in an orderly and prudent manner, consistent with the effective use of the Nation's resources in this respect.

HEALTH CARE TECHNOLOGY CENTER

Two Special Emphasis Centers, a Health Care Technology Center and a Health Care Management Center are also authorized.

The Health Care Technology Center will focus on all forms of technology and its application in health care delivery. The achievements of this nation in technology, such as in space, electronics, communications, and data processing, have been truly amazing. Yet, much of the health care system continues to employ outdated manual procedures.

President Nixon, last year, both in his State of the Union Address and his Health Message to the Congress, emphasized the need to stimulate the application of science and technology to the solution of domestic problems. The President's 1972 Health Message specifically identified health as a "vital" area for exploiting technology.

The Health Care Technology Center will be expected to exercise leadership in mobilizing the involvement and investment of private industry for the successful development of such technology will depend on our ability to motivate the involvement of industry.

The Committee wishes to emphasize that the Center's purpose is to encourage the development of technology to solve the health problems of our citizens and our health institutions and not as a place to find markets for available technology.

Presently, there are only a small number of individuals concerned with such problems. The Health Care Technology Center is designed to remedy this situation and serve as a focal point for an accelerated research and development effort on both program and hardware development. This Center will also provide us with an opportunity to utilize the talents of some of the unemployed engineers and scientists.

The Committee believes there is great potential for the use of technology in the health delivery area and that such utilization would result in enormous benefits to the public and the patient.

HEALTH CARE MANAGEMENT CENTER

The second Special Emphasis Center is the Health Care Management Center. This Center will focus on the improvement of management and organization in the health field, the training and retraining of health administrators and the development of leaders, planners, and policy analysts in the health field.

The job of Administrators and Managers in the health field is exceedingly complex. To

carry out these responsibilities with maximum effectiveness health managers need a basic understanding of a wide variety of management skills. Some background in such areas as health, economics, computer technology, statistics and the management sciences are just samples of areas in which health managers should be familiar.

In practice, however, medical administrators are often elevated to positions without adequate preparation for their new responsibilities. Certainly American industry would ascertain that its top executives are adequately trained and the health system must do no less. The following comments from a letter of a health administrator illustrates the need for a Health Care Management Center:

"Practitioners of health care administration, among whom I am one, have been flying by the seat of their pants for too long. The nation deserves better. There is currently no systematic effort I know of to reach decision makers in the health care field with the results of innovative research and to stimulate a research orientation to many of the problems we all face in the financing, organization, and delivery of services. There is moreover, an almost total neglect of more formal continuing education opportunities for health care administrators . . . After ten years or more in the field, many of us are in positions of responsibility and strong in experience but weak in understanding of fundamental advances in health care systems, e.g. the problem-oriented medical record, how to organize a prepaid group practice, the use of television in medical diagnosis and treatment, computer applications to health systems problems, etc."

Dr. Kerr White of Johns Hopkins University at the Second Sun Valley Forum on National Health last summer similarly emphasized the importance of improved management in the health field when he stated: "Vastly improved managerial expertise is a prerequisite for any meaningful improvement in our health care system at the operating and geographical levels."

The Regional and Special Emphasis Centers have a separate authorization of $20 million for the initial year and a total of $75 million for a three year period. Support for a Center, other than support for construction, shall not exceed $2 million per year per center, except for the Health Care Technology Center. Federal assistance to such Centers may be used for research and development, staffing and other basic operating costs, training, demonstration purposes, and construction where the National Advisory Council deems such is necessary.

CONCLUSION

The health care enterprise is the Nation's second largest industry. In the fiscal year 1972, health spending totaled $83.4 billion, or 7.6 percent of our Gross National Product. By 1974 health expenditures will exceed $100 billion and probably make health the largest single segment of our society. By 1980, it is possible that one out of every ten dollars spent in the Nation will go for health care.

The magnitude of health care expenditures alone argues for a strengthened research and development component in the health area. There is considerable public frustration and dissatisfaction with aspects of health care. The public is alarmed over rising costs, is concerned over the manpower and facility shortages as well as their maldistribution, and is distressed that the benefits of medical science are not reaching them. Change is already occurring in the health field. The pace of such reform is likely to accelerate in the years ahead.

The Committee believes that it is imperative that we strengthen our research and development capabilities in the health area so that we may make more intelligent choices and foster constructive changes. We desperately need to have advance warnings of approaching "crisis"; we badly need more information upon which to base decisions and make comparisons in the health area; we need to sharpen our capabilities to illuminate issues and to identify possible options and their implications; and we need better evaluation and monitoring of both experimental efforts and ongoing programs. In short, we need a framework for evolving health care policies for the long haul as we continue to deal with the short-term policies. The National Institute of Health Care Delivery will provide that framework.

The respected "Science" Journal in commenting favorably on the proposal to establish a National Institute of Health Care Delivery said: "A major tour de force is needed now—an administrative mandate backed by appropriate funding—to dramatize the importance of rational organization and planning services . . . if the magnificent benefits of American medical research are meant for all of our people then an effective science of health care delivery is as important as the medical research itself".

The Committee believes that the Institute and its Centers will provide this "major tour de force" to make health care delivery as important as medical research, and to help speed the benefits of medical science and the scientific discovery system to the people of the United States.

Mr. KENNEDY. Mr. President, I yield myself such time as I may require.

One of the points the membership of the Senate ought to know is the cost of the Beall amendment. Could the Senator tell us what the cost of his amendment would be?

Mr. BEALL. It is $370 million, over 4 years.

Mr. KENNEDY. Does that include the libraries?

Mr. BEALL. No, it does not.

Mr. KENNEDY. So that would add another $77 million on the bill which has not had any hearings and on which I was not quite sure whether the Senator was referring to S. 723, whether this was S. 723 or not S. 723.

When I looked at the position of the administration on S. 723 before our committee they said:

Turning to the bills before you today, S. 723 would require a separate agency level Institute for Health Services Delivery, thereby creating a seventh Health Agency in the Department of Health, Education, and Welfare.

It would make more difficult the coordination and linkage with the research effort into the policy-making process by removing the Bureau of Health Services Research from close contact with those involved in other programs of the Health Resources Administration.

Mr. Chairman, the health component of the Department of Health, Education, and Welfare does not need another reorganization. For these reasons we strongly oppose the enactment of S. 723 . . .

Their reasons can be readily understandable when you consider the report of the President's Science Advisory Committee on the Evaluation of the National Center for Health Services R. & D. They, in effect, indicated their strong belief in such a separation in terms of research and development as our bill requires.

Our committee has followed that. We have had this same debate in our committee, and followed the recommendation of the President's own panel on this particular issue which came out in March of 1972. We are following the recomendations of the administration, and we have testimony here from the principal authority which is quoted by the Senator from Maryland, Dr. Kerr White, who expressed similar concerns about the amalgamation of these functions.

This is a far-reaching, comprehensive amendment which has been suggested by the Senator from Maryland. I would like to add to the RECORD a detailed statement of my reasoning talking about the separation of functions and separation of personnel, including those relevant parts of the report of the President's commission, on why these functions ought to be maintained separately, and why they should receive prompt and widespread support. I will make those a part of my complete comments.

The thrust of this amendment runs contrary to the President's commission and study on effectiveness of Health Services R. & D. For that reason, the committee turned the Beall amendment down by a vote of 10 to 6.

Our committee's report on this very point, Mr. President, included the following reasoning with respect to the main thrust of Senator BEALL's amendment:

However, such progress cannot be assured simply by legislative fiat. As the Committee indicated in its report on S. 723, National Institute of Health Care Delivery, nearly a year ago, there are serious constraints which must be considered, and the Committee stated:

(1) there is in the nation essentially no tradition of health policy research and development and no suitable models on which to base the establishment of a complex, large, and multifaceted R&D effort, (2) there is in the nation essentially no body of experienced managers to initially head up an effort of the magnitude the Committee's bill ultimately envisions. (3) there is in the nation a critical shortage of qualified professional personnel in respect to the broad-based function of the Institute and, therefore, the recruitment of adequate numbers of such persons will be arduous.

Given these formidable constraints, it is clear that it is not possible to draw a complete analogy between this proposed Institute and the ongoing National Institutes of Health. When the NIH was established (in 1937), there was a large pool of well-trained biomedical researchers who were then constrained principally by the lack of money and resources with which to carry out high-level biomedical research. At that time, there was also a large body of potential investigators eager for training if resources could be made available. Such is not the case in health policy research today, in which there is only a small body of practitioners from economics, law, medicine, social sciences, etc., which has specialized in the conduct of the kinds of efforts which are intended to be carried out by the Institute.

Moreover, the Committee is convinced that health services research programs and health services development programs should not be legislatively and programatically combined, as Senator Beall's amendment proposed. The Committee's feeling in this respect is based upon the report of the Panel on Health Services Research and Development of the President's Science Advisory Committee entitled. *Improving Health Care Through Research and Development*. The distinguished panel which conducted this study was chaired by Kerr L. White, professor of medical care and hospitals of Johns Hopkins University, who is a recognized expert in this field.

The Committee's bill creates a clear separation between health services research and large-scale health services development, as

the panel has recommended, and is the basis for the Committee's feeling that Senator Beall's amendment would perpetuate the problems which have plagued HEW's health services R. & D. program since 1967.

The pertinent portions of the Panel's report regarding the differences between health services *research* and health services *development* follow:

Health services R. & D. is a broad scientific field, the overall objective of which is to improve the provisions of personal health services. It spans many disciplines including epidemiology, biomedical sciences, economics, sociology, engineering, systems analysis, and management science. It utilizes such varied activities and methods as fundamental research, collection of statistical information, applied research, development, testing and evaluation, and policy analysis.

The most important conceptual problem is the need to clarify and restructure the different tasks involved in health services R. & D. There are four major components or functions in this field:

Policy analysis.

Collection and diffusion of information and statistics.

Development, testing, and evaluation of new health services systems and processes.

Research and the related activity of training new investigators for the field.

Each has different potentials and limitations and each has different responsibilities, organizational requirements, funding needs, and timing requirements. Failure to take into account these differences weakens the total thrust of health services R. & D. and also helps lead to unrealistic expectations.

The Committee also wishes to draw attention to the fact that there is at this point in time no consensus respecting the need for legislation respecting a National Institute of Health Care Delivery, as proposed in Senator Beall's amendment. For example, Dr. Kerr White, Professor of Medical Care Hospitals, Johns Hopkins University, has testified as follows:

A. May 14, 1973—Hearings before the Subcommittee on Public Health and Environment of the House Committee on Interstate and Foreign Commerce.

"You may wish to consider separating the research from the 'development' components in health services R. & D. Our PSAC panel recommended such a separation on the grounds that these two activities require different skills and disciplines, different time frames, different scales of activities, and quite different orders of financial support. I believe there is considerable merit in merging the health services."

B. November 20, 1973—Letter to the Senate Health Subcommittee.

Development on Health Services.—The PSAC Panel on Health Services Research and Development recommended that developmental activities be distingiushed and separated from research activities. This was done on the grounds that the problems of health services development involved different types of people, required more time and much larger sums of money, had different political implications, and require different management skills than are required for health services research. I would urge, therefore, that health services development (in contrast to development of health statistical systems) and demonstrations be taken out of the new National Center for Health Services Statistics, Research and Evaluation and be placed in some other bureau or agency.

C. February 19, 1974—Testimony before the Committee.

. . . I strongly support the general intent of the bill to create a National Institute of Health Care Delivery, but I would urge that its major focus be on the problems of development for the reasons I have given . . ."

I am prepared to vote at the earliest possible moment, Mr. President. I reserve the remainder of my time.

Mr. BEALL. Mr. President, I cannot resist taking the opportunity to reply to a couple of the comments by the distinguished chairman of the Health Subcommittee.

First, I ask unanimous consent that Mr. Steinberg, Mr. Greenberg, and Mr. Edie of the minority staff and Mr. Joe Carter, of my staff be granted the privilege of the floor during the consideration of this measure.

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

Mr. BEALL. Mr. President, the distinguished chairman of the Health Subcommittee has alluded to the authorization amount of this proposal, and he is quite right; it authorizes the expenditure of $110 million more. My substitute authorizes the expenditure of $110 million more, over a 4-year period, than does the committee bill.

I might point out that the Senate on two separate occasions in preceding years has passed S. 723, which was for $470 million more than the present amendment. Further, the Senate previously, with the approval of the Health Committee, on two previous occasions has approved a higher amount of money for the same purpose as is encompassed in the present substitute amendment that I am now offering.

So it is nothing new; it would just be a reaffirmation of a previous Senate commitment to see to it that the proper research and development effort toward improving the health care and delivery system is mounted at the Federal level.

The Senator is correct in that the previous time we passed S. 723, the administration was opposed to the legislation. I might say that the Senate, including the Senator from Massachusetts and the Senator from Maryland, in spite of the administration's protestations, voted in favor of the legislation at that time, and passed it.

Since that time, I am happy to report that the administration has been enlightened, because they have now registered no objection to this particular substitute amendment, and one of the reasons they do not object is that their principal objection, that of creating a separate agency, has been eliminated, and as I pointed out at the beginning of my remarks, we have changed the amendment from S. 723 so that the institute would be placed within HEW rather than creating a separate agency, and I suspect that is one of the reasons why the administration no longer opposes the proposal.

The Senator is right when he says this is a far-reaching amendment. It is indeed far reaching. I think we should be taking far-reaching steps when we consider the research and development into the health care delivery system. So I do not apologize for offering a far-reaching amendment in the nature of a substitute to the committee bill. I am rather proud that this is indeed far reaching, and I hope the Senate recognizes the vision of the far-reaching approach in this amendment, and votes favorably toward its adoption.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I shall take only a moment.

As has been mentioned, we either have S. 723 or we have not got S. 723. We hear, on the one hand, where the administration and other students of this particular issue who have questioned what is the most effective program for the administration of health services R. & D. believe there should be a separation of the functions to provide a consolidation and a coordination of the functions. It seems to me that both the administration and the bipartisan group of distinguished experts who have reviewed this and studied it have all indicated they think that this should be separated. The Subcommittee on Health followed their recommendations.

We have good legislation here. It is a good proposal. I am hopeful that the Senate will reject the amendment.

I am prepared to vote, Mr. President.

Mr. BEALL. Mr. President, I am prepared to yield back my time as soon as I can get the yeas and nays.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BIDEN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BEALL. 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. BEALL. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

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

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

The PRESIDING OFFICER. All time on this amendment has now been yielded back.

The question is on agreeing to the amendment (No. 1244) of the Senator from Maryland (Mr. BEALL).

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 Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND) the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Ohio (Mr. METZENBAUM), the Senator from New Mexico (Mr. MONTOYA), the Senator from Maine (Mr. MUSKIE), the Senator from Alabama (Mr. SPARKMAN), and the Senator from California (Mr. TUNNEY) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Utah (Mr. BENNETT), the Senator from New York (Mr. BUCKLEY), the Senator from Kentucky (Mr.

COOK), the Senator from New York (Mr. JAVITS), the Senator from Illinois (Mr. PERCY), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

I also announce that the Senator from North Dakota (Mr. YOUNG) is absent on official business.

I further announce that, if present and voting, the Senator from Illinois (Mr. PERCY) would vote "yea."

The result was announced—yeas 29, nays 51, as follows:

[No. 177 Leg.]

YEAS—29

Aiken	Fong	Pearson
Baker	Goldwater	Roth
Bartlett	Griffin	Scott, Hugh
Beall	Helms	Scott, William L.
Brock	Hollings	Stafford
Brooke	Hruska	Taft
Dole	Humphrey	Thurmond
Domenici	Mathias	Tower
Dominick	McClure	Weicker
Fannin	Packwood	

NAYS—51

Abourezk	Ervin	Metcalf
Allen	Gurney	Mondale
Bayh	Hansen	Moss
Bentsen	Hart	Nelson
Bible	Haskell	Nunn
Biden	Hatfield	Pastore
Burdick	Hathaway	Pell
Byrd, Harry F., Jr.	Huddleston	Proxmire
Byrd, Robert C.	Hughes	Randolph
Cannon	Jackson	Ribicoff
Case	Johnston	Schweiker
Chiles	Kennedy	Stennis
Clark	Long	Stevenson
Cotton	Magnuson	Symington
Cranston	Mansfield	Talmadge
Curtis	McGee	Williams
Eagleton	McGovern	
	McIntyre	

NOT VOTING—20

Bellmon	Gravel	Muskie
Bennett	Hartke	Percy
Buckley	Inouye	Sparkman
Church	Javits	Stevens
Cook	McClellan	Tunney
Eastland	Metzenbaum	Young
Fulbright	Montoya	

So Mr. BEALL'S amendment (No. 1244) was rejected.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, for the benefit of Senators, I believe the Senator from Maryland (Mr. BEALL) has two or three amendments which we have gone over and reviewed and which will be accepted by the committee. There is one other amendment, a technical amendment, which I will offer on behalf of myself and Senator JAVITS. So I expect that we will have final passage within 10 minutes.

Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 43, strike out lines 9 through 12 and insert in lieu thereof the following:

(2) establish and maintain fellowships in the United States and in participating foreign countries;

Mr. KENNEDY. Mr. President, this amendment has been discussed with the minority. It is to make this legislation comply with the existing legislation, to permit the Fogarty International Center at NIH to pay for U.S. experts to come to NIH to consult with foreign experts. That is in the law. Through an oversight, it was excluded in the drafting of this legislation. It will make this legislation conform with existing law, as desired by NIH.

The PRESIDING OFFICER. Does the Senator yield back the remainder of his time?

Mr. KENNEDY. I yield back the remainder of my time.

Mr. SCHWEIKER. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BEALL. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. BEALL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 40, between lines 4 and 5, add the following new subsection:

(f)(1) The Secretary shall, by grant or contract, or both, assist public or private nonprofit entities in meeting all or part of the cost of planning, establishing and providing basic operating support for the two national special emphasis centers, one of which shall be designated as the Health Care Technology Center to focus on all forms of technology, including computers and electronic devices, and its applications in health care delivery; and one of which shall be designated as the Health Care Management Center to focus on the improvement of management and organization in the health field, the training and retraining of administrators of health care enterprises, and the development of leaders, planners, and policy analysis in the health field.

"(2) The centers established under this subsection shall meet the following requirements:

"(A) Each center shall have a full-time director. The director of the Health Care Technology Center shall be an individual of exceptional ability and with a demonstrated capacity for leadership in health care technology and its application. The director of the Health Care Management Center shall be an individual of exceptional ability and with a demonstrated capacity for leadership in the management and organization of health care enterprises.

"(B) Each center shall utilize the multidisciplinary approach.

"(C) Each center shall be located within an established academic or research institution with departments and resources appropriate to the programs of the center and shall have working relationships with health service delivery systems where experiments involving management or technology may be initiated and evaluated.

"(D) Each center shall meet such additional requirements as the Secretary may by regulations prescribe.

On page 40, line 5, strike "(f)" and insert in lieu thereof "(g)".

On page 42, line 5, strike "(g)" and insert in lieu thereof "(h)".

On page 51, line 10, beginning with the word "and", strike all through "years" on line 11 and insert in lieu thereof the following: "$80,000,000 for the fiscal year ending June 30, 1976, $100,000,000 for the fiscal year ending June 30, 1977, and $125,000,000 for the fiscal year ending June 30, 1978".

On page 51, line 16, add the following new sentence: "Any unexpended sums appropriated pursuant to this subsection may be carried over without fiscal year limitation.".

Mr. BEALL. Mr. President, this amendment combines amendment No. 1168, which deals with the authorization level and amendment No. 1173, which deals with the Special Emphasis centers.

The first part of the amendment would increase the authorization for the National Center for Health Services Research. The reported bill authorizes $65.2 million for each year over a 4-year period. The present appropriations request is $43.8 million, a sum representing a reduction from both the fiscal year 1974 and the fiscal year 1973 appropriations levels for this research effort.

This amendment would authorize the same amount for the first year, $65.2 million; $80 million for the second year; $100 million for the third year; and $125 million for the fourth year, for a 4-year total of $370.2 million.

The committee's authorization level would have been exceeded by the appropriations level in previous fiscal years. At best, the bill's authorization level is tight. It seems to contemplate little more than the status quo. It does not, in my judgment, provide the resources adequate for an expanded effort and emphasis that I feel is necessary.

The health care industry is our second largest industry. The magnitude of the expenditures in the health area alone argue for a greater research and development effort. While money alone is not the answer, we must provide resources adequate to do the task and challenge of the center.

The second part of the amendment would authorize two special emphasis centers, the Health Care Technology Center and the Health Care Management Center. Amendment No. 1173, like S. 723, would have authorized up to eight regional centers and the two special emphasis centers.

Since the bill authorizes the establishment of at least six centers, and I assume they are going to be regional centers, this amendment would merely provide for the establishment of the two special emphasis centers, the Health Care Technology Center and the Health Care Management Center. The Health Care Technology Center will focus on all forms of technology and its application in health care delivery. The achievements of this Nation in technology, such as in space, electronics, communications, and data processing, have been truly amazing. Yet, much of the health care system continues to employ outdated manual procedures. We need to wed 20th century technology with 20th century research to improve the delivery of health care and this will be the

assignment of the Health Care Technology Center.

President Nixon in the past has emphasized the need to stimulate the application of science and technology to the solution of domestic problems. For example, the President's 1972 health message specifically identified health as a vital area for exploiting technology.

The Health Care Technology Center will exercise leadership in mobilizing the involvement and investment of private industry for the successful development of such technology will depend on our ability to motivate the involvement of industry. I want to emphasize that the Center's purpose is to encourage the development of technology to solve the health problems of our citizens and our health institutions and not as a place to find markets for available technology. As the committee report on S. 723, which passed the Senate last year, said with respect to the technology centers:

The Committee believes there is great potential for the use of technology in the health delivery area and that such utilization would result in enormous benefits to the public and the patient.

Preently there are only a small number of individuals concerned with such problems. The Health Care Technology Center is designed to remedy this situation and serve as a focal point for an accelerated research and development effort on both program and hardware development. This Center will also provide us with an opportunity to utilize the talents of some of the unemployed engineers and scientists.

The second special emphasis center, the Health Care Management Center, is of critical importance, for as Dr. Kerr White of Johns Hopkins University has observed:

Vastly improved managerial expertise is a prerequisite for any meaningful improvement in our health care system at the operating and geographical levels.

The Health Care Management Center will focus on the improvement of management and/or organization in the health field, the training and retraining of health administrators, and the development of leaders, planners, and policy analysts in the health field. The job of the managers in the health field is most complex. The modern manager of a health enterprise, if he is to carry out his responsibilities with maximum effectiveness, must have a basic understanding of a wide variety of management skills and some background in such areas as health, economics, computer technology, and statistics, to mention a few.

Quite often medical administrators are elevated to these positions without adequate preparation for these new responsibilities. Certainly American industry would make certain that its top executives are adequately trained and the health system must do no less. There is also often the need to provide retraining, as is evidenced by the letter I received from an administrator, Dr. Fine, deputy commissioner of the Boston Department of Health, and Hospitals. He said:

Practitioners of health care administration, among whom I am one, have been flying by the seat of their pants for too long. The nation deserves better. There is currently no systematic effort I know of to reach decision makers in the health care field with the results of innovative research and to stimulate a research orientation to many of the problems we all face in the financing, organization, and delivery of services. There is, moreover, an almost total neglect of more formal continuing education opportunities for health care administrators . . . after ten years or more in the field, many of us are in positions of responsibility and strong in experience but weak in understanding of fundamental advances in health care systems, e.g., the problem-oriented medical record, how to organize a prepaid group practice, the use of television in medical diagnosis and treatment, computer applications to health systems problems, etc.

The critical importance of improved management was emphasized by Dr. White who stated:

As nearly as our PSAC Panel could ascertain, one reason that health care systems in this country are in such difficulty is that they are largely operated by amateurs with on-the-job training. So-called "public health officers" trained in traditional schools of public health are, for the most part, unqualified to assume the serious responsibilities of policy analysis and health care system management that today's problems and pressures require. They and their colleagues in University Programs of Hospital Administration are generally uninstructed in contemporary analytical methods and untutored in the management of large (or even "small") service organizations that are under increasing pressure to make more prudent use of scarce resources directed at achieveing consumer-determined goals and to provide greater fiscal accountability, improved quality, and broader access to care. We are in a new "ball game" and I would urge you to take a hard look at current efforts of Schools of Public Health and Programs of Hospital Administration to see how they can be best encouraged to meet these new needs in innovative and aggressive ways.

Our PSAC Panel recommended improved and expanded training of epidemiologists, health statisticians, medical economists, medical sociologists, political scientists, and lawyers to undertake policy analysis and health services research and development, but above all, health planners and health care administrators to run the country's medical institutions and systems. At best, no more than twenty percent of the 17,200 "hospital administrators" running the nation's 7,000 hospitals and their related clinics have had anything that could be called formal training for these responsibilities. This is a serious matter and one that needs prompt attention.

Mr. President, I envision that the Health Care Management Center will employ the multidisciplinary approach. Involved in such an effort should be at least the schools of medicine, public health, business administration, and programs of hospital administration. Therefore, I urge the Senate to adopt this amendment, which would increase the authorization level and also establish two special emphasis centers, both of which I believe are of utmost importance.

As the Senator from Massachusetts has pointed out, we have discussed these amendments. I believe they are acceptable to him.

Mr. KENNEDY. This covers amendments 1168 and 1173?

Mr. BEALL. Yes.

Mr. KENNEDY. I am willing to accept the amendment. This would add two special emphasis centers, one on health care technology, to be able to try to develop research technology in the health care area, and the second is for health care management centers to try to develop better programs for health care management.

This will be important as we go toward HMO's and as we go down the road toward national health insurance. I think both provisions are helpful and useful. I urge that the Senate accept the amendments.

I yield back the remainder of my time.

Mr. BEALL. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CURTIS. Mr. President, I would like to direct a question to the manager of the bill. What is the level, approximately, of appropriations for those programs that are being extended now?

Mr. KENNEDY. This is an authorization bill. I do not have the current appropriation levels for each of these programs at this time, though I would estimate that the total is approximately $80,000,000. I will be pleased to have the precise levels available for the distinguished Senator from Nebraska by tomorrow.

Mr. CURTIS. I thank the distinguished Senator.

Mr. BEALL. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BEALL. 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 35, between lines 4 and 5, add the following new paragraph:

"(5) appoint and fix the compensation of the personnel of the National Center for Health Services Research in accordance with chapter 51 of title 5, United States Code, except that (A) to the extent that the Director deems such action necessary to recruit men and women of exceptional talent, he may establish the entrance grades for personnel at a level of two grades higher than the grade level provided for such personnel under the General Schedule established by such title and fix their compensation accordingly, and (B) to the extent that the Director deems such action necessary to the discharge of his responsibilities, he may appoint personnel of the Center without regard to civil service or classification laws, except that personnel appointed under such laws do not exceed at any one time one-third of the number of full-time regular technical or professional employees of the Center;".

On page 35, insert between lines 11 and 12 the following new subsection:

(d) The President, by and with the advice and consent of the Senate, shall appoint the Administrator of the Health Resources Administration and the Directors for the National Center for Health Services Research and the National Center for Health Statistics. The Administrator and each Director shall appoint a Deputy Administrator or Director.

On page 42, between lines 20 and 21, insert the following:

(h)(1) There is established in the Office of the Secretary of Health, Education, and Welfare a committee to be known as the United States National Committee on Vital and Health Statistics (hereinafter referred to as the "Committee"), which shall consist of fifteen members.

(2) The members of the Committee shall be appointed by the Secretary from among persons who have distinguished themselves in the fields of health statistics, epidemiology, and the provision of health services. Members shall serve for a term of three years, except that of the members first appointed, one-third shall serve for a term of one year, one-third for a term of two years, and one-third for a term of three years.

(3) Members of the Committee shall be compensated in accordance with section 208 (c).

(4) It shall be the function of the Committee to assist and advise the Secretary—

(A) to delineate statistical problems bearing on health and health services which are of national or international interest;

(B) to stimulate studies of such problems by other organizations and agencies whenever possible or to make investigations of such problems through subcommittees appointed for the purpose;

(C) to determine, approve, and revise the terms, definitions, classifications, and guidelines for assessing health status and health services, their distribution and costs, for use within the Department of Health, Education, and Welfare, by all programs administered or funded by the Department including Federal-State-local cooperative health statistics systems, and, to the extent possible as determined by the head of the agency involved, by the Veterans' Administration, the Department of Defense, and other Federal agencies concerned with health and health services;

(D) to assist in the design of and approve all health statistical and health information systems concerned with the collection, processing, and tabulation of health statistics within the Department of Health, Education, and Welfare;

(E) to review and comment on findings and proposals developed by other organizations and agencies and to make recommendations for their adoption or implementation by local, State, National, or international agencies;

(F) to cooperate with national committees of other countries and with the World Health Organization and other national agencies in the studies of problems of mutual interest;

(G) to issue an annual report on the state of the Nation's health, its health services, their costs and distributions, and to make proposals for improvement of the Nation's health statistics and health information systems.

On page 45, line 22, strike "section" and insert in lieu thereof "sections".

On page 51, insert between lines 20 and 21 the following:

"TRANSFER OF FUNDS

"SEC. 310D. Funds available to any department or agency of the Federal Government for health care delivery research and demonstrations, or for the provision of facilities therefor shall be available for transfer with the approval of the head of the department or agency involved, in whole or in part to the National Center for Health Services Research for such use as is consistent for the purposes for which such funds were provided and funds so transferred shall be expendable.".

On page 49, strike lines 16 through 24 and insert in lieu thereof the following:

(f)(1)(A) The Secretary shall establish within the National Center for Health Services Research an Office of Health Services Information. Such office shall provide—

(i) for the provision of indexing, abstracting, translating, publishing, and other services leading to a more effective and timely dissemination of information on health services research, demonstration, and evaluation in health care delivery, to public and private agencies, institutions, and individuals engaged in the improvement of health care delivery and the general public; and

(ii) undertake programs to develop new or improved methods for making such information available.

(B) The Secretary may not restrict the publication and dissemination of data from, and results of, projects undertaken by Centers supported under section 305 (e) and (f).

On page 51, insert between lines 20 and 21 the following:

"(g) Part A of title III as amended by this Act is further amended by adding at the end thereof the following new section:

"'SEC. 310D. There is hereby established a National Advisory Council on Health Services Research (hereafter referred to as the 'Council') to be composed of twenty-one members. The Council shall consist of the Secretary of Health, Education, and Welfare, the Chief Medical Director of the Veterans' Administration, a medical officer designated by the Secretary of Defense, the Administrator of the Health Resources Administration, the Director of the National Center for Health Services Research, and the Director of the National Institutes of Health who shall be ex officio members and an additional fifteen members not otherwise of the regular full-time employ of the United States to be appointed by the President without regard to civil service laws. The appointed members shall be (1) persons who are leaders in the field of medical sciences or in the organization, delivery, or financing of health care, (2) leaders in the management sciences, or (3) representatives of the consumers of health care. At least seven of the appointed members shall be representatives of the consumers of health care.

"'(b) The President shall designate a Chairman of the Council. The Council shall meet at the call of the Chairman but not less than four times a year.

"'(c) Each appointed member of the Council shall hold a term of four years except that any member appointed to fill a vacancy prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, except that the terms of the office of the members first taking office shall expire as designated by the President at the time of appointment, three at the end of the first year, four at the end of the second year, four at the end of the third year, and four at the end of the fourth year after the date of appointment. An appointed member shall not be eligible to serve continuously for more than two terms.

"'(d) Appointed members of the Council shall receive compensation at rates not to exceed the daily rate prescribed for GS-18 under section 5332, title 5, United States Code, for each day they are engaged in the actual performance of their duties, including traveltime, and while so serving away from their homes or regular place of business, they may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expense authorized by section 503, title 5, United States Code, for persons in the Government service employed intermittently.

"'(e) The Chairman of the Council, with the concurrence of a majority of the Council members, shall appoint an Executive Secretary of the Council. The Executive Secretary may be appointed without regard to civil service laws and may be compensated at a rate not exceeding the appropriate rate provided for individuals in grade GS-18 under section 5332, title 5, United States Code. The Director of the Center shall make available to the Council such additional staff information, and other persons as it may require to carry out its activities.

"'(f) The Council shall—

"'(1) review programs, policies, and priorities of the National Center for Health Services Research, and advise the Director on the development and conduct of programs of the Center;

"'(2) examine and seek to achieve appropriate coordination of health care delivery efforts within the Department of Health, Education, and Welfare and other Federal departments and agencies; and

"'(3) assure that significant research and demonstration findings of the Center are being disseminated to the health care system, and evaluate the extent such findings are making an impact on the health care delivery system.

"'(g) The Council shall submit to the President and the Congress not later than February 1 of each year an annual report on the progress of the Center and the status of health services research evaluation and demonstrations in the United States.'."

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

Mr. BEALL. I yield to my colleague from Maryland.

Mr. MATHIAS. Mr. President, I ask unanimous consent that Colbert King be permitted on the floor during the debate on this matter.

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

Mr. BEALL. Mr. President, this amendment combines the following amendments which I introduced on April 8:

No. 1162, which would establish an Office of Health Services Research Information to make certain that the results of research are disseminated in a timely manner;

No. 1165, which would provide needed flexibility in the personnel system so as to enable the Center to attract the best people available;

No. 1167, which allows the transfer of funds from other Federal agencies to the National Center for Health Services Research;

No. 1169, which would provide for the Presidential appointment of the Directors of both the National Center for Health Services Research and the National Center for Health Statistics. In addition, I have also made the Administrator of the Health Resources Administration a Presidential appointee since in the HEW hierarchy, the Administrator is higher than both Directors;

No. 1172, which would establish a National Advisory Council for Health Service Research; and

No. 1174, which would provide statutory authority and broaden the mandate of the U.S. National Committee on Vital and Health Statistics.

These amendments have been discussed with the floor manager and I believe are acceptable to him. I have prepared a statement which I would have delivered on each of the individual amendments and I ask unanimous consent that these statements be printed in the RECORD.

There being no objection, the state-

ments were ordered to be printed in the RECORD, as follows:

STATEMENTS

Mr. President, I call up my amendment number 1162. Section 310 C, (f) of the bill authorizes the Secretary to disseminate the results of the health services research demonstrations and evaluations.

I believe that it is imperative that the signficant results of the National Center be disseminated in a timely manner to the health care system and the federal agencies responsible for health services. Merely producing results is not enough. Such findings must not be allowed to remain on some shelf or in some federal storage room.

I believe this is particularly true in the health area where change may occur rapidly. It is important that researchers and health administrators be kept abreast of the current status of developments and not have to rely on information which may be a number of years old.

We cannot leave this vital dissemination function to chance. This amendment would establish within the Center an Office of Health Services Research Information charged with the responsibility of communicating research results. This Office would provide, or arrange for, the provisions of indexing, abstracting, translating, or other services leading to a more effective dissemination of health care delivery information and undertake programs to develop new or improved methods for making such information available.

A variety of media could be used by the Office of Health Services Research Information, including a computerized storage and retrieval system, microfiches and suitable periodicals or other publications. The Office might also publish or support a monthly Journal which would abstract both national and international literature bearing on health services. In addition, it would be useful for the Office to establish or to encourage the establishment of a high quality, timely publication service for research reports, monographs, state of the art papers, and other information in the field.

As the Committee last year stated with respect to this Office which was included in S. 723, "The Committee views the functions of this Office necessary not only to assure that promising improvements in the delivery of health care reach the proper individuals in a timly manner, but also to prevent needless duplication of research efforts and the waste of scarce resources."

Mr. President, I call up my amendment number 1165.

When I was drafting S. 723, I examined the various federal research and development agencies such as the National Institutes of Health, the National Aeronautics and Space Administration, the National Science Foundation, and the National Institute of Education, and incorporated into S. 723 those administrative provisions which seemed to be important or helpful to a successful research and development effort.

One important administrative provision, and this is the subject of this amendment, provides for some flexibility in the Center's personnel system. We should keep in mind that there are serious manpower constraints that could plague the effort envisioned by the pending legislation. The Committee report on S. 723 last year underscored the serious constraints, and the language from last year's report was also reiterated in the majority report to the pending bill. This language was as follows:

"(1) There is in the nation essentially no tradition of health policy research and development and no suitable models on which to base the establishment of a complex, large and multifaceted R&D effort. (2) There is in the nation essentially no body of experienced managers to initially head up an effort of the magnitude the Committee's bill ultimately envisions. (3) There is in the nation a critical shortage of qualified professional personnel in respect to the broad-based function of the institute, and therefore, the recruitment of adequate numbers of such persons will be arduous."

This amendment authorizes the Secretary to establish the entrance grades for personnel at a level of up to two grades higher than the regular grade level, when the director deems such action necessary to recruit men and women of exceptional talent for the National Center for Health Services Research.

Secondly, the amendment would allow the appointment of a limited number of personnel of the Center without regard to civil service or classification laws. There is a limitation on this authority, namely the number of such appointments could not exceed one-third of the regular technical or professional employees of the Center. This administrative flexibility should be of great assistance in helping to overcome some of the manpower problems that exist and will help the Center to attract top-flight men and women.

The Senate approved these provisions in S. 723 last year for the reasons stated in the report:

"Because adequate administrative provisions are important to the functioning of an effective research and development health organization, the Committee has provided the Senate with the needed and necessary administrative provisions.

I urge, therefore, adoption of this amendment.

Mr. President, I call up my amendment number 1167.

This amendment simply permits the transfer of research funds of other government agencies to the Center if such agencies approve such transfer. It further requires that such transfers can only be made if the Center will utilize such funds for the purpose for which the transfer was made. This provision was included in the National Institute of Health Care Delivery, which passed the Senate on two previous occasions and was taken from the language of the present National Science Foundation. It is my understanding that this has been a useful provision for the National Science Foundation and I believe that the new Center should have similar authority.

Mr. President, I call up my amendment number 1169.

This amendment is not very complex and will not take long to explain. The amendment would simply provide for the Presidential appointment of the Administrator of the Health Resources Administration and the Directors of the National Center for Health Services Research and the National Center for Health Statistics. The advice and consent of the Senate would also be required. It also authorizes the Administrator of Health Resources Administration and the Director of each center to appoint a Deputy Director.

I urge adoption of this amendment for the following reasons. First, I believe that a Presidential appointment attaches more prestige and more visibility to a position. One of the problems of research and development in the health care delivery field is that it has been buried in the bureaucracy. A Presidentially appointed director will help to elevate the Center and give it greater prominence and attention.

Secondly, and this is related to the first point also, it is important that the very best individual be attracted to head the center. This being the case, it is likely that such an individual is not going to be motivated to accept the position of Director for the salary. A Presidential appointment is an intangible that will help us attract the exceptional individuals required for the job.

Thirdly, through the Senate confirmation process we will have an opportunity to make certain that the nominee is, in fact, of a caliber we want and desire.

I have also made the Administrator of the Health Resources Administration a Presidential appointment. Since he is above both Center Directors in the HEW structure, this is required.

For these reasons, I urge the passage of this amendment.

Mr. President, amendment number 1172 will provide the National Center for Health Services Research with a prestigious Advisory Council. This Council will have twenty-one members, including the Secretary of Health, Education, and Welfare, the chief medical officer of the Veterans' Administration, a medical officer designated by the Secretary of Defense, the Director of the National Institutes of Health, the Administrator of the Health Resources Administration, and the Director of the National Center for Health Services Research, as ex officio members. The other fifteen members will be selected by the President from persons who are leaders in the field of medical science, or the organization, delivery or financing of health care; leaders in the management sciences; or representatives of consumers of health care.

In selecting the membership of this Council, it is my intention that the President search for the most distinguished and talented individuals available. The legislation does not spell it out, but it is my intention, and that of the committee, that at least one of the Council members be a practicing physician. At least seven of the Council members must be representative of consumers. The President will designate the Chairman of the Council and they will meet at the call of the Chairman, but not less than four times a year.

The bill contemplates an active Council, and specific responsibilities are delineated in the legislation. The Council will be responsible for reviewing the programs, policies, and priorities of the Center; examining and coordinating health services research, demonstration, and evaluation with the Department of Health, Education and Welfare and other federal agencies so as to avoid duplication; assuring that significant research and development findings are communicated throughout the health system and to the public; and evaluating the impact of the Center's research and development efforts on the health care system.

The Council will be independent and will have its own Executive Director. If the Council is to enjoy the independence that the legislation envisions, it is important that it have a top staff person accountable only to the Council.

The Council under the measure would also be required to submit an annual report on the progress of the Center and the status of health services research in the Nation.

Mr. President, I call up my amendment number 1174. This amendment was suggested to me by Dr. Kerr White and I believe the amendment is an important one.

It is the intent of this amendment to ensure that health statistics on the health needs and problems of the population, on the health services provided, on the payments, charges and costs for those services will be comparable over time and place within the Department of Health, Education, and Welfare. At present it is seldom possible to relate survey data compiled by the National Center for Health Statistics, hospital discharge data,

Medicare data, Medicaid data, PSRO data, facilities and manpower data and many other types of fragmented health services information generated by the varied activities of the Department, nor is it possible to compare data between the national, state and local levels. To do this requires the official promulgation of terms, definitions and classifications for the Department of Health, Education, and Welfare. The United States National Committee on Vital and Health Statistics traditionally has done this, but primarily for vital statistics and without any formal statutory authority. This new legislation gives the Committee statutory authority and broadens its mandate to include all health and health services statistics. This is the only way that coordinated information can be obtained from the Department of Health, Education, and Welfare, and it will go a long way towards informing Congress and the executive branch about health needs and about the costs, quality and impact of health services and insurance on those needs. Dr. White cogently made the case for this amendment as follows:

At present there is no specific mention in the statutes of the U.S. National Committee on Vital and Health Statistics. The new legislation should, therefore, enlarge upon the method of appointment and functions of this important advisory body. It should be formally designated as the official body of obtaining public advice, assistance and approval for the development and promulgation of terms, basic data sets, classifications, and guidelines for national and international use. All Western countries have such a body, and it is this group through which we "legitimize" common approaches to health statistics at home and cooperate with the World Health Organization and other countries so that international comparisons of health needs, services, demands, and outcomes can be made.

"An official committee such as this would strengthen the current efforts of the National Center for Health Statistics in promulgating terms, basic data sets, definitions, classifications, and guidelines for quality control of the information and protection of confidentiality, which are being rapidly adopted and adapted at state and local levels. This is the best way to insure cooperation and also provide flexibility for individual and local needs. With the advent of new technology, data can be collected in any format, aggregated by the computer and arrayed in any desired output format. This important distinction between forms for data acquisition, computer systems for data processing, standards and guidelines should be clearly stated. To do otherwise is to promote confusion and, as industry has found, increase the costs of collecting masses of data untouched by human thought!"

I urge adoption of this amendment.

Mr. BEALL. Mr. President, these amendments have been discussed with the manager of the bill and I think they are acceptable to him.

Mr. KENNEDY. Mr. President, these amendments are generally useful and they do strengthen the bill. They provide for an office of information and better coordination between private and Government research; they provide some flexibility in the interchange of personnel in the agencies; and they provide for some transfer of funds, but the stricture on that is that it can only be with the agreement of the different departments and the agreement of the heads of departments. And it provides an effective committee on vital statistics.

These are all useful and helpful. I have indicated to my good friend from Maryland that I was glad to accept this in subcommittee when first introduced, but they were part of the other proposal which had other features which were troublesome.

We are glad to accept the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. BEALL. I yield back my time.

Mr. KENNEDY. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Maryland.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committe amendment, as amended, and third reading of the bill.

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

The bill was read the third time.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. KENNEDY. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is, Shall the bill pass? 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 Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Ohio (Mr. METZENBAUM), the Senator from New Mexico (Mr. MONTOYA), the Senator from Maine (Mr. MUSKIE), the Senator from Alabama (Mr. SPARKMAN), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that if present and voting, the Senator from California (Mr. TUNNEY) and the Senator from Ohio (Mr. METZENBAUM) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Utah (Mr. BENNETT), the Senator from New York (Mr. BUCKLEY), the Senator from Kentucky (Mr. COOK), the Senator from New York (Mr. JAVITS), the Senator from Illinois (Mr. PERCY), the Senator from Alaska (Mr. STEVENS), and the Senator from New Hampshire (Mr. COTTON) are necessarily absent.

I also announce that the Senator from North Dakota (Mr. YOUNG) is absent on official business.

I further announce that, if present and voting, the Senator from Illinois (Mr. PERCY) would vote "yea."

The result was announced—yeas 69, nays 10, as follows:

[No. 178 Leg.]

YEAS—69

Abourezk	Ervin	Moss
Aiken	Fong	Nelson
Allen	Griffin	Nunn
Baker	Gurney	Packwood
Bayh	Hart	Pastore
Beall	Haskell	Pearson
Bentsen	Hatfield	Pell
Bible	Hathaway	Proxmire
Biden	Hollings	Randolph
Brock	Huddleston	Ribicoff
Brooke	Hughes	Roth
Burdick	Humphrey	Schweiker
Byrd, Harry F., Jr.	Jackson	Scott, Hugh
Byrd, Robert C.	Johnston	Stafford
Cannon	Kennedy	Stennis
Case	Long	Stevenson
Chiles	Magnuson	Symington
Clark	Mansfield	Taft
Cranston	Mathias	Talmadge
Dole	McGee	Tower
Domenici	McGovern	Weicker
Dominick	McIntyre	Williams
Eagleton	Metcalf	
	Mondale	

NAYS—10

Bartlett	Hansen	Scott, William L.
Curtis	Helms	Thurmond
Fannin	Hruska	
Goldwater	McClure	

NOT VOTING—21

Bellmon	Fulbright	Montoya
Bennett	Gravel	Muskie
Buckley	Hartke	Percy
Church	Inouye	Sparkman
Cook	Javits	Stevens
Cotton	McClellan	Tunney
Eastland	Metzenbaum	Young

So the bill (H.R. 11385) was passed.

Mr. KENNEDY. Mr. President, I move that the Senate reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. 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. KENNEDY. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make such technical changes and corrections in the bill as are necessary.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

TRIBUTE TO SENATORS MAGNUSON, HART, MOSS, AND OTHER SENATORS ON PASSAGE OF NO-FAULT INSURANCE

Mr. MANSFIELD. Mr. President, there is no doubt that the entire Senate may be proud of the achievements of this week on the no-fault insurance measure which was so ably guided through to ultimate success. In his unsurpassed way, the chairman of the Senate Committee on Commerce, the senior Senator from Washington (Mr. MAGNUSON), has once again displayed his immense skill and knowledge and initiative in directing our attention to this extremely vital issue which will mean so much to the people of this Nation. We are indebted to Senator MAGNUSON for his leadership and for his contribution to our understanding of the full ramifications of this bill.

We are deeply indebted, as well, to the Senator from Michigan, our distinguished colleague, Senator HART, for his diligent work and devotion to this issue and for his willingness to do the extensive work required to make this measure just and workable. We appreciate the sincere and compelling presentation of his views and are indebted to him also for the manner in which he added to our understanding of the issues involved.

The Senator from Utah (Mr. Moss) is also recognized as one who has had an abiding interest in the concerns of the consumer and has faithfully and consistently represented those interests on the Senate floor and in committee. Senator Moss' efforts in managing this proposal were greatly appreciated and we are grateful to him as well for the work and thought which he contributed both in committee and on the floor.

We are equally appreciative of the contributions made by the ranking minority member of the Commerce Committee, the distinguished Senator from New Hampshire (Mr. COTTON) who, as always, made invaluable contributions to the discussion and debate. The Senator from Kentucky (Mr. COOK) is to be recognized as well for the yeoman tasks he performed in committee and on the floor with regard to this measure. Senator COOK's views were most helpful to us in our grasping the significance of the measure and the entire Senate is indebted to him for his concern and commitment.

Also to be recognized for his splendid cooperation is the Senator from Nebraska, our distinguished colleague, Mr. HRUSKA. He aided so much by his contributions to the development of the high level of debate on the measure. Senator HRUSKA's views were welcomed and important and we appreciate having had the assistance which he gave us in understanding this complicated measure.

I wish to thank the entire Senate for the judicious and efficient disposition of the bill. It had been waiting in the wings for some time and it is to the credit of all who were involved in its presentation that it was handled fairly and with reasonable dispatch on the Senate floor. I am grateful for this.

THE ACHIEVEMENTS THIS WEEK: A CREDIT TO THE SENATE

Mr. MANSFIELD. Mr. President, having disposed of the no-fault measure, a vast significant achievement, the Senate must not lose sight of the other important proposals adopted this week. Senator CRANSTON's small business amendments, the Peace Corps authorization, led by Senator SPARKMAN, the Federal Energy Administration Conference Report and Senator KENNEDY's Public Health Service amendments are just some of the major items on which action was completed. This adds to what is shaping up as one of the most outstanding Senate records of achievement ever obtained. It is a record in which all Senators may take enormous pride and satisfaction.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, May 2, 1974, he presented to the President of the United States the enrolled bill (S. 1115) to amend the Controlled Substances Act to provide for the registration of practitioners conducting narcotic treatment programs.

ORDER FOR ADJOURNMENT UNTIL 10 A.M. MONDAY, MAY 6, 1974

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 o'clock on Monday morning next.

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

NO ROLLCALL VOTES ON MONDAY PRIOR TO 3 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday no rollcall votes occur prior to 3 p.m., rather than 2:30 p.m.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on Monday the Senate will convene at 10 o'clock a.m.

After the two leaders or their designees have been recognized under the standing order, the senior Senator from Wisconsin (Mr. PROXMIRE) will be recognized for not to exceed 15 minutes.

There will then be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 5 minutes each.

Upon the conclusion of routine morning business, the Senate will take up S. 2999, the military construction authorization bill, under a time limitation. Yea-and-nay votes will occur, at least on final passage. I am confident that amendments will be offered to that bill, which will in all likelihood necessitate rollcall votes.

Upon the disposition of S. 2999, the Senate will take up the supplemental appropriation bill. At least one yea-and-nay vote will occur on the final passage of that bill, if not on amendments thereto.

By unanimous consent, on Monday no rollcall votes will occur on amendments prior to the hour of 3 o'clock p.m.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 10 o'clock a.m. on Monday, May 6, 1974.

The motion was agreed to; and (at 6:44 p.m.) the Senate adjourned until Monday, May 6, 1974, at 10 o'clock a.m.

NOMINATIONS

Executive nominations received by the Senate May 2, 1974:

DEPARTMENT OF STATE

Deane R. Hinton, of Illinois, a Foreign Service Officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Zaire.

William D. Wolle, of Iowa, a Foreign Service Officer of class 3, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Sultanate of Oman.

IN THE AIR FORCE

The following officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. James D. Hughes, [redacted] FR (major general, Regular Air Force), U.S. Air Force.

IN THE NAVY

Vice Adm. Harold E. Shear, U.S. Navy, having been designated for commands and other duties of great importance and responsibility determined by the President to be commensurate with the grade of admiral within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of admiral while so serving.

CONFIRMATION

Executive nomination confirmed by the Senate May 2, 1974:

COMMODITY CREDIT CORPORATION

Richard L. Feltner, of Illinois, to be a member of the Board of Directors of the Commodity Credit Corporation.

(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.)