United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 93d CONGRESS, SECOND SESSION

SENATE—*Monday, May 20, 1974*

The Senate met at 8 a.m. and was called to order by the Acting President pro tempore (Mr. METCALF).

PRAYER

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

Almighty God, whose love never forgets, never forsakes, and never fails, draw near to us as we draw near to Thee. Stay with us hour by hour for we put our trust in Thee. Grant us fidelity to Thee and courage at every moment to obey the promptings of Thy Spirit. Keep us strong and true in success or failure, in prosperity or adversity, in pain or pleasure. Beyond these turbulent and tragic times may we see the glimmering light of a new day when hearts are pure, motives are honorable, attitudes are friendly, and all work is service in Thy kingdom.

We pray in His name who is the Way, the Truth, and the Life. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, May 16, 1974, be dispensed with.

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

WAIVER OF THE CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the legislative calendar, under rule VII, 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 nominations on the Executive Calendar.

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

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

U.S. ARMY

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Army.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

U.S. NAVY

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Navy.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

FEDERAL TRADE COMMISSION

The second assistant legislative clerk read the nomination of Stephen A. Nye, of California, to be a Federal Trade Commissioner for the unexpired term of 7 years from September 20, 1970.

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

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The second assistant legislative clerk proceeded to read sundry nominations in the Air Force, in the Army, and in the Navy, which had been placed on the Secretary's desk.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of these nominations.

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

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, 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.

CONSIDERATION OF CERTAIN ITEMS ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendars Nos. 770, 811, 812, 813, 814, 815, and 822.

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

NATIONAL OLYMPIC COMMISSION ACT OF 1974

The Senate proceeded to consider the bill (S. 1018) to create a National Commission on the Olympic Games to review the question of U.S. participation in the Olympic games and to evaluate and formulate recommendations concerning such participation, which had been reported from the Committee on Commerce with amendments. The amendments of the Committee on Commerce are as follows:

On page 1, line 4, after the word "of", strike out "1973" and insert "1974"; on page 3, line 7, after "Sec. 4.", strike out:

The Commission shall be composed of nine members who shall be appointed by the President of the United States. Such members shall be selected with the purpose of assuring objective consideration of all viewpoints. No more than two members of the Commission at any one time shall be an officer or director, past or present, of the United States Olympic Committee, or of any other national athletic association or federation.

And insert:

The Commission shall be composed of nine members, including not less than two amateur athletes who competed in the 1972 Olympic games as representatives of the United States, who shall be appointed by the President of the United States. In designating the members, the President shall give appropriate consideration to the representation of women and minority groups within the United States. No more than two members of the Commission may be or at any time have been officers or directors of the United States Olympic Committee, or of any national athletic association, federation, or union.

On page 5, line 11, after "Sec. 7.", strike out:

The Commission shall submit to the President and to the Congress a final report of its findings and recommendations not later than August 1, 1974.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

And insert:

The Commission shall submit to the President and Congress a final report of its findings and recommendations not later than December 31, 1974, or 180 days after all of the members of the Commission have been appointed, whichever is later.

And, on page 7, line 5, after "Sec. 12.", strike out:

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

And insert:

There is authorized to be appropriated to carry out the purpose of this Act, the sum of $750,000 to remain available until expended.

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 this Act may be cited as the "National Olympic Commission Act of 1974".

SEC. 2. The Congress hereby finds and declares that—

(1) serious problems have risen in the conduct of the Olympic games, both summer and winter, which have led to widespread and continuing criticism of certain aspects of the games and the manner in which the United States administers its preparation for and participation in the games;

(2) the participation of the United States in the Olympic games has a substantial effect on commerce between the United States and other nations, and such participation involves many issues relating to the area of amateur sports which have a substantial and continuing effect on interstate commerce, such as jurisdiction over various areas of amateur sports and training and development of amateur athletics;

(3) an evaluation is required of the form of organization and the means by which the United States can participate most effectively in the Olympic games and provide leadership in accomplishing action to assure that future games will be organized and conducted in a manner which will contribute to the achievement of the high ideals of the games and promote international friendship and good will through athletic competition between individuals; and

(4) the establishment of a National Commission on the Olympic Games would provide an effective means of determining constructive action toward accomplishing these goals and preparing specific legislative proposals which would command broad public support.

SEC. 3. There is hereby established a National Commission on the Olympic Games (hereinafter referred to as "the Commission").

SEC. 4. The Commission shall be composed of nine members, including not less than two amateur athletes who competed in the 1972 Olympic games as representatives of the United States, who shall be appointed by the President of the United States. In designating the members, the President shall give appropriate consideration to the representation of women and minority groups within the United States. No more than two members of the Commission may be or at any time have been officers or directors of the United States Olympic Committee, or of any national athletic association, federation, or union.

SEC. 5. The President shall designate a Chairman from among the members of the Commission. Any vacancy on the Commission shall not affect its powers and shall be promptly filled.

SEC. 6. The Commission shall review the participation of the United States in the Olympic games, and, if it recommends that such participation should be continued, shall also recommend the form of organization by means of which the United States should participate in the Olympic movement and shall present specific proposals for any legislation required to implement its recommendations. In formulating its legislative recommendations, the Commission shall take into account—

(1) the objectives of the modern Olympic movement and the extent to which those objectives are being met;

(2) the manner in which the Olympic games are administered, with particular attention to the views of those who participate in those games as athletes, coaches, officials, or otherwise, or who have attended such games in any other capacity;

(3) the role which the United States Olympic Committee has played in international sports and the manner in which the United States' participation in the Olympic games has been organized and administered by that Committee;

(4) the policies which would assure the selection on a fair and equitable basis of the best-qualified athletes, coaches, managers, trainers, and other officials and which would provide the maximum opportunity for persons to develop their athletic skills and participate in international athletic competition; and

(5) the arrangements which will best protect the interests of the individual athletes during the period of their training for, travel to, and participation in the games.

SEC. 7. The Commission shall submit to the President and Congress a final report of its findings and recommendations not later than December 31, 1974, or 180 days after all of the members of the Commission have been appointed, whichever is later.

SEC. 8. Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(1) appoint and fix the compensation of an Executive Director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title;

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals; and

(3) hold such hearings, sit and act at such times and places, and administer such oaths, as the Commission or any subcommittee or any three of the members thereof may deem advisable.

SEC. 9. 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, such data, reports, and other information as the Commission deems necessary to carry out its functions under this title. The Commission is further authorized to request from any public or private organization or agency and from the United States Olympic Committee any information deemed necessary to carry out its functions.

SEC. 10. Five members of the Commission shall constitute a quorum, but a lesser number may conduct hearings.

SEC. 11. Members of the Commission shall receive $100 per diem when engaged in the actual performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

SEC. 12. There is authorized to be appropriated to carry out the purpose of this Act, the sum of $750,000 to remain available until expended.

SEC. 13. The Commission shall cease to exist thirty days after the submission of its final report.

The amendments were agreed to.

Mr. TUNNEY. Mr. President, today the Senate is considering S. 1018, a bill which would create a National Commission on the Olympic Games.

After the tragedies of the 1972 Olympic games in Munich which culminated in the assassination of the 11 Israeli athletes, the Senate overwhelmingly adopted legislation which I introduced to create such a Commission. This legislation, however, was not acted upon by the House prior to the conclusion of the session in 1972.

After extensive conversations with athletes, administrators, and athletic organizations, I reintroduced this measure in February of 1973, because of the widely held belief that the need for review remains imperative to the interests of millions of aspiring young Americans. Extensive hearings were held on this measure and it has received unanimous support from the major amateur sports groups. S. 1018 was reported without objection from the Senate Commerce and Foreign Relations Committees.

As we all know, the Olympic ideal of peace and friendship through sporting competition was permanently bloodstained by the assassination of the 11 Israeli athletes in Munich. Yet, the entire Olympiad was a chaos of administrative bungling, inflexibility, and petty nationalism. U.S. athletes were hamstrung by these inefficiencies, and they and athletes from around the world were unfairly treated by officials who clearly were more interested in politics than in fair and impartial judging of the various competitions.

As a result of problems such as these, many have called for the abolition of the games altogether. I remain steadfast in the belief that we can achieve the Olympic ideal. But we must not allow the memory of the Munich Olympics to fade. Indeed, the recollection of the tragic events in Munich should strengthen our resolve to insure that future Olympics will more nearly approach that ideal, and that the U.S. effort is the best we can make, both as a country and individually.

Clearly, the time, energy, and efforts of the individual competitors, in many cases amounting to a virtual lifetime of work, should not be wasted, corrupted, and overshadowed by events irrelevant to the competition itself. In order to meet these goals, S. 1018 provides an Olympic Commission to be composed of nine members appointed by the President. It would review all facets of U.S. participation in the Olympics and make recommendations to the President and to Congress concerning the future of our Olympic effort. If continued participation is recommended, the Commission is to formulate specific proposals governing such participation.

The Commission is to evaluate the role of the U.S. Olympic Committee—USOC—in international sports and in administration of the U.S. Olympic program. The Commission is further instructed to consider the objectives of the

Olympics, the administration of the games, policies concerning selection and development of Olympic participation, and arrangements which will protect the best interests of the athletes in training for, traveling to, and competing in the games.

The membership of the Commission would be limited to insure that a majority of the Commission will be able to consider objectively all of the conflicting viewpoints and claims which will be presented and to create recommendations without preconceptions about any particular alternative. To assure that is the case, no more than two past or present officers or directors of the USOC or any other national sports groups will be allowed to serve on the Commission. Also to insure that there is representation of the most affected group it is mandated that no less than two amateur athletes who competed in the 1972 games as representatives of the United States shall serve on the Commission. The President is also requested to provide adequate representation of women and minority groups on the Commission. It is also my hope that the President will appoint members of the general public who have shown a particular interest in the Olympics or amateur sports. I believe that there should be at least one member with a legal background who can deal with the many legal intricacies involved in Olympic issues. Such breadth and diversity of membership will go a long way in guaranteeing that the Commission's deliberations will be successful.

The bill provides for an appropriation from general revenues. Cost of this Commission should not exceed $750,000. The pay of the members of the Commission is set at $100 a day in addition to reimbursement for expenses incurred.

I would like to elaborate briefly on the specific factors to be considered. The first and most important would be a thorough evaluation of the structure and policies of the USOC. The USOC is presently charged with exclusive jurisdiction over all matters relating to the Olympics in the United States by the terms of its Federal charter. Much of the criticism of the U.S. effort in past Olympics has centered on the role of the USOC. Many organizations, such as the recently formed Committee for a Better Olympics, have committed themselves to seeking restructuring of the USOC.

Indeed, the USOC itself has taken some steps toward internal reorganization. Last year, it appointed several well-known Olympic athletes to its board of directors and executive board. Such self-corrective action is a commendable step toward the broad reform which will be required if we are going to improve our Olympic program. It became clear through the hearings held on this bill, however, that more sweeping action is needed. And it was the consensus that the additional reform required could not come from within the USOC, but must come from a representative and independent Commission.

The Commission is also directed to review the selection process of athletes, coaches, and officials for the Olympic team. The selection process has been marred in the past by jurisdictional disputes, political factors, and personal friendships. If we are to compete in the Olympics, we must commit ourselves to selection of the best athletes, coaches, and officials. Anything else is a betrayal of the competitors and the American public, which regards the Olympic team as its national representatives.

Development and training programs for athletes must also be considered. The haphazard approach of the past is clearly inadequate. The efforts of the vast millions of our young people in amateur sports all too often pale before the concerted efforts of other nations to develop and train their athletes. We ask too much of our athletes if we ask them alone to sacrifice time, employment opportunities, and families to train for Olympic competition.

The Commission should further consider arrangements for training and participation in the Olympics by those selected to compete. Athletes should not be subjected to administrative harassment and inflexibility as they have been too many times in the past.

Finally, we must review areas over which the United States does not have direct control. A good example is the conduct of awards ceremonies, which has been criticized for excessive nationalism. The International Olympic Committee controls this and many other policies. Although the United States cannot unilaterally change such policies, we can make a comprehensive evaluation and framework for future action by American representatives within the IOC.

It is essential that Congress take immediate action on the Olympic question. Although 1976 seems distant, it is a relatively short time if we are to act effectively before the next Olympics. It is for that reason that I have proposed a deadline of December 31, 1974, for the Commission's report to the Congress and the President. This date is approximately 14 months before the 1976 Winter Olympics. In the limited time available, I submit that my proposal provides the most effective way to generate a comprehensive and reasonable evaluation of our Olympic program.

U.S. Olympian Ken Moore eloquently summarized his conception of the Olympic ideal in the September 18 issue of Sports Illustrated:

> In Mexico and here the village had been a refuge, admittedly imperfect, from a larger seedier world in which individuals and governments refused to adhere to any human code. For 2 weeks every 4 years we direct our kind of fanaticism into the essentially absurd activities of running and swimming and being beautiful on a balance beam. Yet even in the rage of competition we keep from hurting each other.

That ideal was severely damaged in Munich. We can resurrect it if we act now. If we delay, we risk further deterioration and possible destruction of the Olympics as a means of promoting that ideal. We risk further national discord over the conduct of our Olympic program. And most important, we risk further waste of the dedicated efforts of those who take part in the Olympic games.

We cannot afford further delay. Conflict between the AAU and the NCAA over player participation in the United States-Russian basketball series, and in the swimming competition with Red China, demonstrate the need for immediate action. If we do not act, we can count on this organizational rivalry to hamstring our efforts to prepare for the 1976 games. The creation of the National Olympic Commission which I have proposed is the first and most effective step which we can take to reform our Olympic program. I strongly urge the Senate to take that step by passing this bill.

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

RESOLUTIONS ABOUT TO BE CONSIDERED

Mr. McCLURE. Mr. President, I am concerned that the resolutions we are about to consider may be misunderstood by those not familiar with American constitutional requirements. The Constitution wisely requires consent of two-thirds of the Senate to adopt or alter a treaty. A sense of the Senate resolution regarding treaties has no legal weight.

Although they are not binding, I believe it would be a serious mistake to let these resolutions pass without expressing my strong reservations. American sovereignty was gained at a very high cost. It should not be given away lightly.

Support for these resolutions seems to be based more on wishful thinking than on realistic assessment of how best to protect our just national interest in a sometimes hostile world. Rather than automatically endorsing moves toward greater dependence on the International Court of Justice, we should first seek answers to some fundamental questions. Can the Court be depended upon to be an impartial, dispassionate judicial body, or will it inevitably reflect the ideological, cultural, and political factionalism that divides today's world?

Is the record of the Court such that each nation—whether popular or unpopular—can have complete confidence that its rights will be safeguarded? The concept of the "rule of law" is nearly sacred to Americans, but good law is far more than a set of arbitrary regulations.

It develops from accepted customs and values held in common. To what extent do the various nations hold values in common? How much does a jurist raised in the English common law tradition have in common with a jurist from Mongolia, or Laos, or Zaire? To us in the West, the term "law" implies a whole tradition of safeguards, rights and impartial proceedings.

If its court comes to be dominated by a combination of Marxists and representatives of small non-Western countries, can anyone predict what the rule of law will mean?

In light of these unanswered questions, the wisdom of retaining the Connolly reservation is increasingly obvious.

INTERNATIONAL COURT OF JUSTICE—TERRITORIAL DISPUTES

The Senate proceeded to consider the resolution (S. Res. 74) expressing the sense of the Senate with respect to access to the International Court of Justice, which had been reported from the Committee on Foreign Relations with an amendment, to strike out all after the word *"Resolved"* and insert:

That it is the sense of the Senate that the President is requested to direct the Secretary of State forthwith to seek to submit to the International Court of Justice for binding decisions as many as possible of those outstanding territorial disputes involving the United States, where such disputes cannot be resolved by negotiation.

SEC. 2. It is further the sense of the Senate that the President should direct the Secretary of State to consider submitting to the International Court of Justice as many as possible of the approximately 28 territorial disputes involving our country and a number of close allies over desolate and largely uninhabited islands in the Caribbean Sea and the Pacific Ocean.

SEC. 3. It is further the sense of the Senate that the President should direct the Secretary of State to make a full written report to the Senate and to its Committee on Foreign Relations within one year after the adoption of this resolution, and a report for each of the five years thereafter, of actions taken and progress achieved in submitting such disputes to the Court.

SEC. 4. The Secretary of the Senate is instructed to transmit a copy of this resolution to the President of the United States with the request that the President report to the Senate in due course what actions he has taken pursuant to this expression of advice.

The resolution, as amended, was agreed to.

The preamble was amended.

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

Whereas the adjudication of disputes which affect neither the national security nor the vital interests of the parties concerned is one of the most practical and immediate ways to develop and strengthen an international judicial system;

Whereas the International Court of Justice must be used by parties to the statute of the Court if it is to fulfill its purpose;

Whereas the submission of cases to the International Court of Justice for the binding settlement of disputes between states is not a provocative gesture but rather a step toward international peace through law; and

Whereas the United States has contributed greatly to the development of international law and seeks an ordered world under law: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President is requested to direct the Secretary of State forthwith to seek to submit to the International Court of Justice for binding decisions as many as possible of those outstanding territorial disputes involving the United States, where such disputes cannot be resolved by negotiation.

SEC. 2. It is further the sense of the Senate that the President should direct the Secretary of State to consider submitting to the International Court of Justice as many as possible of the approximately 28 territorial disputes involving our country and a number of close allies over desolate and largely uninhabited islands in the Caribbean Sea and the Pacific Ocean.

SEC. 3. It is further the sense of the Senate that the President should direct the Secretary of State to make a full written report to the Senate and to its Committee on Foreign Relations within one year after the adoption of this resolution, and a report for each of the five years thereafter, of actions taken and progress achieved in submitting such disputes to the Court.

SEC. 4. The Secretary of the Senate is instructed to transmit a copy of this resolution to the President of the United States with the request that the President report to the Senate in due course what actions he has taken pursuant to this expression of advice.

ADJUDICATION OF DISPUTES ARISING OUT OF THE INTERPRETATION OR APPLICATION OF INTERNATIONAL AGREEMENTS

The Senate proceeded to consider the resolution (S. Res. 75), expressing the sense of the Senate with respect to the adjudication of disputes arising out of the interpretation or application of international agreements which had been reported from the Committee on Foreign Relations with an amendment, on page 2, after line 10, insert a new section, as follows:

SEC. 2. The Secretary of the Senate is instructed to transmit a copy of this resolution to the President of the United States with the request that the President report to the Senate in due course what action he has taken pursuant to this expression of advice.

The resolution, as amended, was agreed to.

The preamble was agreed to.

The resolution, as amended, with its preamble reads at follows:

Whereas the United States is committed to the universal rule of law; and

Whereas the effective rule of law requires that provision be made for an agreed third party to settle disputes as to the interpretation of treaties and other international agreements; and

Whereas the absence of such provisions has often resulted in prolonged and acrimonious disputes as to the meaning of these treaties or other international agreements or the existence of a violation of the obligations incurred under them: Now, therefore, be it

Resolved, That it is the sense of the Senate that the United States endeavor to include, in all future treaties and other international agreements to which the United States shall be a party or which shall be negotiated subsequent to the adoption of this resolution, operative clauses providing that any dispute arising from the interpretation or application of these treaties and international agreements which is not settled by agreement between or among the States concerned shall be subject to the jurisdiction of the International Court of Justice or other appropriate body.

SEC. 2. The Secretary of the Senate is instructed to transmit a copy of this resolution to the President of the United States with the request that the President report to the Senate in due course what action he has taken pursuant to this expression of advice.

ESTABLISHMENT OF REGIONAL COURTS WITHIN INTERNATIONAL COURT OF JUSTICE

The Senate proceeded to consider the resolution (S. Res. 76), expressing the sense of the Senate with respect to establishing regional courts within the International Court of Justice, increasing the categories of parties which may request advisory opinions from the International Court of Justice, selecting judges of the International Court of Justice and having the International Court of Justice consider cases outside The Hague which had been reported from the Committee on Foreign Relations with an amendment, to strike out all after the word *"Resolved"* and insert:

That it is the sense of the Senate that the President should instruct the Secretary of State to give favorable consideration to making use of the various chambers of the International Court of Justice, including chambers convened to resolve regional disputes, where such disputes cannot be resolved by negotiation.

SEC. 2. It is further the sense of the Senate that the President should take all appropriate measures to attempt to expand the range of international bodies eligible to request advisory opinions of the Court, giving special attention to attempting to extend eligibility to regional organizations as well as any two or more states jointly seeking an advisory opinion on any legal questions relating to a dispute between them.

SEC. 3. It is further the sense of the Senate that the President should undertake appropriate steps to improve, within the existing provisions of the statute, the process whereby persons are nominated and elected to serve as judges of the International Court of Justice.

SEC. 4. It is further the sense of the Senate that the President should undertake all appropriate steps to encourage the International Court of Justice, from time to time, to sit and exercise its functions outside The Hague at places more convenient to the various parties to the Statute of the International Court of Justice.

SEC. 5. The Secretary of the Senate is instructed to transmit a copy of this resolution to the President of the United States with the request that the President report to the Senate in due course what action he has taken pursuant to this expression of advice.

The resolution, as amended was agreed to.

The preamble was amended.

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

Whereas it is desirable for the International Court of Justice to be increasingly accessible and responsive to the need of the world community;

Whereas the International Court of Justice has been inadequately utilized in the settlement of international disputes;

Whereas states and regional agencies are now precluded from seeking advisory opinions of the International Court of Justice and the availability of such advisory opinions would facilitate the peaceful settlement of international disputes;

Whereas the effective role of law requires the election of impartial judges of high moral character and recognized competence in international law;

Whereas the Charter of the United Nations recognizes the importance of the contribution of Members to the maintenance of international peace and security and to the other purposes of the organization; and

Whereas paragraph 1 of article 22 of the Statute of the International Court of Justice provides that the establishment of the Court at The Hague shall not prevent the Court from sitting elsewhere: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should instruct the

Secretary of State to give favorable consideration to making use of the various chambers of the International Court of Justice, including chambers convened to resolve regional disputes, where such disputes cannot be resolved by negotiation.

SEC. 2. It is further the sense of the Senate that the President should take all appropriate measures to attempt to expand the range of international bodies eligible to request advisory opinions of the Court, giving special attention to attempting to extend eligibility to regional organizations as well as any two or more states jointly seeking an advisory opinion on any legal questions relating to a dispute between them.

SEC. 3. It is further the sense of the Senate that the President should undertake appropriate steps to improve, within the existing provisions of the statute, the process whereby persons are nominated and elected to serve as judges of the International Court of Justice.

SEC. 4. It is further the sense of the Senate that the President should undertake all appropriate steps to encourage the International Court of Justice, from time to time, to sit and exercise its functions outside The Hague at places more convenient to the various parties to the Statute of the International Court of Justice.

SEC. 5. The Secretary of the Senate is instructed to transmit a copy of this resolution to the President of the United States with the request that the President report to the Senate in due course what action he has taken pursuant to this expression of advice.

The title was amended, so as to read: "Resolution expressing the sense of the Senate with respect to encouraging the use of the various chambers of the International Court of Justice, increasing the categories of parties which may request advisory opinions from the International Court of Justice, selecting judges of the International Court of Justice, and having the International Court of Justice consider cases outside The Hague."

INTERNATIONAL COURT OF JUSTICE—USE OF CHAPTER VI OF U.N. CHARTER

The Senate proceeded to consider the resolution (S. Res. 77), expressing the sense of the Senate with respect to the jurisdiction of the International Court of Justice which had been reported from the Committee on Foreign Relations with an amendment, to strike out all after the word *"Resolved"* and insert:

That it is the sense of the Senate that the President should direct the Secretary of State to encourage the maximum possible use of the procedures outlined in chapter VI of the Charter of the United Nations, relating to the pacific settlement of international disputes, whose continuance is likely to endanger the maintenance of international peace and security, particularly those procedures providing for the reference of legal disputes to the International Court of Justice.

SEC. 2. The Secretary of the Senate is instructed to transmit a copy of this resolution to the President of the United States with the request that the President report to the Senate in due course what action he has taken pursuant to this expression of advice.

The resolution, as amended, was agreed to.

The preamble was amended.

The title was amended, so as to read: "Resolution expressing the sense of the Senate with respect to referring international disputes to the International Court of Justice."

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

Whereas peace between nations will be placed on a sounder foundation when they agree to follow scrupulously the terms and spirit of chapter VI of the Charter of the United Nations referring to the pacific settlement of international disputes;

Whereas paragraph 1 of article 33 of chapter VI of the Charter of the United Nations provides that "the parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice";

Whereas paragraph 3 of article 36 of chapter VI of the Charter of the United Nations provides that "legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court"; and

Whereas the United States is a party to the Statute of the International Court of Justice and is dedicated to the principles by which it was founded and is guided: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should direct the Secretary of State to encourage the maximum possible use of the procedures outlined in chapter VI of the Charter of the United Nations, relating to the pacific settlement of international disputes, whose continuance is likely to endanger the maintenance of international peace and security, particularly those procedures provides for the reference of legal disputes to the International Court of Justice.

SEC. 2. The Secretary of the Senate is instructed to transmit a copy of this resolution to the President of the United States with the request that the President report to the Senate in due course what action he has taken pursuant to this expression of advice.

ACCESS TO INTERNATIONAL COURT OF JUSTICE

The Senate proceeded to consider the resolution (S. Res. 78) expressing sense of the Senate with respect to access to the International Court of Justice which had been reported from the Committee on Foreign Relations with an amendment, to strike out all after the word *"Resolved"* and insert:

That it is the sense of the Senate that the President should direct the Secretary of State to undertake a study examining and appraising the various ways of granting direct and indirect access to the International Court of Justice and other international tribunals to individuals, corporations, nongovernmental organizations, intergovernmental organizations, regional organizations, and other natural or legal persons, in cases concerning questions of international law arising within the scope of activities directly pursued by such natural and legal persons.

SEC. 2. It is further the sense of the Senate that such a study should include an examination of the feasibility of establishing a special committee of the General Assembly of the United Nations, similar to the committee used for review of decisions of the Administrative Tribunal of the United Nations, with authority to request from the International Court of Justice advisory opinions on behalf of those natural and legal persons referred to in the first section, concerning questions of international law arising within the scope of activities directly pursued by such persons.

SEC. 3. It is further the sense of the Senate that such a study should be submitted to the Senate and to its Committee on Foreign Relations within one year after this resolution is agreed to.

SEC. 4.. The Secretary of the Senate is instructed to transmit a copy of this resolution to the President of the United States with the request that the President report to the Senate in due course what action he has taken pursuant to this expression of advice.

The resolution, as amended, was agreed to.

The preamble was amended.

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

Whereas in an increasingly interdependent world a growing number of international entities other than nation-states influence the course of world events;

Whereas the peaceful adjudication of international disputes to which they are a party should be available to such international entities, including individuals, corporations, nongovernmental organizations, intergovernmental organizations, regional organizations, and other natural or legal persons;

Whereas article 11 of the Statute of the United Nations Administrative Tribunal establishes a procedure whereby upon written application by an individual in respect of whom a judgment has been rendered by the tribunal, a special committee may request an advisory opinion from the International Court of Justice concerning that judgment;

Whereas article XII of the Statute of the Administrative Tribunal of the International Labor Organization provides for certain appellate procedures whereby a judgment affecting an individual rendered by the tribunal can be annulled or reversed by the International Court of Justice; and

Whereas there are still other precedents for according entities other than states and public international organizations access to international tribunals: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should direct the Secretary of State to undertake a study examining and appraising the various ways of granting direct and indirect access to the International Court of Justice and other international tribunals to individuals, corporations, nongovernmental organizations, intergovernmental organizations, regional organizations, and other natural or legal persons, in cases concerning questions of international law arising within the scope of activities directly pursued by such natural and legal persons.

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SEC. 3. It is further the sense of the Senate that such a study should be submitted to the Senate and to its Committee on Foreign Relations within one year after this resolution is agreed to.

SEC. 4. The Secretary of the Senate is instructed to transmit a copy of this resolution

to the President of the United States with the request that the President report to the Senate in due course what action he has taken pursuant to this expression of advice.

Mr. TAFT. Mr. President, the action taken by the Senate today in adopting Senate Resolutions 74–78 is a very constructive step in reaffirming the peaceful disposition of international disputes and controversies. The resolutions introduced by myself and the Senator from California (Mr. CRANSTON) were reported unanimously by the Foreign Relations Committee and have the support of the State Department and the administration.

Resolution 74 directs the Secretary of State to submit to the World Court as many as possible of the pending territorial disputes involving the United States.

Resolution 75 recommends inclusion in future treaties operative clauses providing that disputes arising under such treaties, which are not settled by negotiation, be submitted to the court.

Resolution 76 directs the Secretary of State to give favorable consideration to making use of the various chambers of the court, particularly convening of chambers to resolve regional disputes. The resolution also directs the President to: first, take all appropriate measures to attempt to expand the range of international bodies eligible to request advisory opinions of the court; second, to seek to improve the process whereby judges are nominated and elected; and third, to encourage the court to exercise its functions outside The Hague from time to time.

Resolution 77 requests the President to direct the Secretary of State to encourage the maximum use of the procedures for the settlement of international disputes outlined in Chapter IV of the Charter of the United Nations, particularly those procedures providing for the reference of legal disputes to the court.

Resolution 78 requests the Secretary of State to undertake a study examining the various ways of granting direct and indirect access to the court and other international tribunals to individuals, corporations, nongovernmental organizations, intergovernmental organizations, regional organizations, and other natural or legal persons. The study undertaken by this resolution also is to include the feasibility of establishing a special committee of the United Nations General Assembly with authority to request from the court advisory opinions on behalf of these groups.

Each resolution requires that the President report to the Senate in due course what action he has taken pursuant to these resolutions and Resolutions 74 and 78 require the Secretary of State to report to the Foreign Relations Committee as to appropriate action required by such resolutions.

Mr. President, the continuation of armed conflict in Southeast Asia, the war in the Middle East, and controversies elsewhere offer fresh evidence of the need for more effective use of international law and peacekeeping procedures. Just as we must have order and justice under law to prevent violence domestically, so must we have order and justice under law in the world to settle international differences that could lead to future wars. The resolutions, however, do not go to the question of expanding compulsory jurisdiction of the court or to matters of domestic concern.

Passage of these five resolutions will help to promote interest in the court and reaffirm the Senate's interest in long-range peaceful alternatives to international confrontation and violence. I am hopeful that the President and the Secretary of State will act expeditiously and affirmatively on them.

AMENDMENT OF THE MIGRATORY BIRD TREATY ACT

The bill (H.R. 10942) to amend the Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755), as amended, to extend and adapt its provisions to the convention between the United States and the Government of Japan for the protection of migratory birds and birds in danger of extinction, and their environment, concluded at the city of Tokyo, March 4, 1972, was considered, ordered to a third reading, read the third time, and passed.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum with the time to be taken out of both sides.

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

The second assistant legislative clerk proceeded to call the roll.

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

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

EDUCATION AMENDMENTS OF 1974

Mr. MANSFIELD. Mr. President, what is the pending business?

The ACTING PRESIDENT pro tempore. There is no pending business. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 1539, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1539) to amend and extend certain acts relating to elementary and secondary education programs, and for other purposes.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Maryland (Mr. MATHIAS) is recognized to call up his amendment, on which there is an hour and a half for debate.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, with the time to be charged against both sides.

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

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STAFFORD. 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. STAFFORD. Mr. President, I ask unanimous consent that Michael Francis and Victor Murphy of my staff be allowed the privilege of the floor during the consideration of the Mathias amendment during the pending business of the Senate.

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

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

Mr. MATHIAS. Mr. President, will the Senator withhold the request?

Mr. STAFFORD. Yes, I withdraw the request.

The ACTING PRESIDENT pro tempore. Under the previous order the Senator from Maryland is recognized. How much time does the Senator yield? The Senator's amendment has not been reported.

Mr. MATHIAS. Mr. President, may I inquire whether the time for the quorum call just had was taken from the time on the amendment?

The ACTING PRESIDENT pro tempore. The time was equally divided and the time was running.

Mr. MATHIAS. How much time was used?

The ACTING PRESIDENT pro tempore. Each side used 10 minutes. The Senator from Maryland has 35 minutes remaining and the Senator from Rhode Island has 35 minutes remaining.

Mr. MATHIAS. Mr. President, I call up my amendment No. 1305, and I yield myself 10 minutes after the amendment is stated.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. MATHIAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. 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 362, beginning with line 9 strike out through line 25, and insert in lieu thereof the following:

STATE ENTITLEMENTS

SEC. 604. (a) Section 611 of the Education of the Handicapped Act is amended to read as follows:

"GRANTS TO STATES FOR EDUCATION OF HANDICAPPED CHILDREN

"(a) The Commissioner shall, in accordance with the provisions of this part, make payments to States for the purpose of assisting the States in the initiation, expansion, and improvement of programs and projects for the education of handicapped children at preschool, elementary school, and secondary school levels in order to provide full educational opportunities to all handicapped children.

"(b)(1) Subject to the provisions of section 612, the maximum amount of the grant to which a State shall be entitled under this part shall be equal to—

"(A) the number of children in average daily attendance as determined by the Commissioner in the public elementary and secondary schools in that State in the most recent fiscal year for which satisfactory data are available;

multiplied by—

"(B) $15.

"(2) For the purpose of this subsection, the term 'State' does not include the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

"(c)(1) The jurisdictions to which this subsection applies are the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

"(2) Each jurisdiction to which this section applies shall, for each fiscal year ending prior to July 1, 1978, be entitled to a grant in an amount equal to an amount determined by the Commissioner, in accordance with criteria established by regulations, needed to initiate, expand, or improve programs and projects for the education of handicapped children at the preschool, elementary school, and secondary school levels, in that jurisdiction, except that the aggregate of the amount to which such jurisdictions are so entitled for any fiscal year shall not exceed an amount equal to 2 per centum of the aggregate of the amounts to which all States are entitled under subsection (b) of this section for that fiscal year. If the aggregate of the amounts, determined by the Commissioner pursuant to the preceding sentence, to be so needed for any fiscal year exceeds an amount equal to such 2 per centum limitation, entitlement of each such jurisdiction shall be reduced proportionately until such aggregate does not exceed such 2 per centum limitation.

"(d) The Commissioner is authorized to make payments to the Secretary of the Interior according to the need for such assistance for the education of handicapped children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior and the terms upon which payments for such purposes shall be made to the Secretary of the Interior shall be determined pursuant to such criteria as the Commisioner determines will best carry out the purposes of this part. The amount of such payment for any fiscal year shall not exceed 1 per centum of the aggregate amounts to which States are entitled under subsection (b) of this section for that fiscal year.".

(b) Section 612 of such Act is amended to read as follows:

"ALLOCATIONS OF APPROPRIATIONS

"SEC. 612. (a) Sums appropriated for any fiscal year ending prior to July 1, 1978, shall be made available to States and allocated to each State, on the basis of unsatisfied entitlements under section 611, in an amount equal to the amount it received from the appropriation for this part for the fiscal year 1974.

"(b) Any sums appropriated to carry out this part for any fiscal year which remain after allocations under subsection (a) of this section shall be made to States in accordance with entitlement created under section 611 (to the extent that such entitlements are unsatisfied) ratably reduced.

"(c) In the event that funds become available for making payments under this part for any fiscal year after allocations have been made under subsection (a) and (b) for that year the amounts reduced under subsection (b) shall be increased on the same basis as they were reduced.".

(c) Section 613(a) of such Act is amended by striking out "desires to receive grants" in the first sentence of such subsection and inserting in lieu thereof "is entitled to receive payments".

On page 123, in the Table of Contents, amend item 604 to read as follows:

"Sec. 604. State Entitlements.".

The ACTING PRESIDENT pro tempore. The Senator from Maryland may proceed.

Mr. MATHIAS. Mr. President, I ask unanimous consent that Michael Smith of my staff be permitted on the floor during the debate on this amendment.

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

Mr. MATHIAS. Mr. President, last Monday, on behalf of the distinguished Senator from Minnesota (Mr. HUMPHREY), the distinguished Senator from Montana (Mr. MANSFIELD), the distinguished Senator from Maryland (Mr. BEALL), and the distinguished Senator from Ohio (Mr. METZENBAUM), I submitted amendment No. 1305 to S. 1539 which had the primary purpose of providing critically needed financial assistance to States for the education of handicapped children.

At this point I want to pay particular tribute to several Members of the Senate who have worked in this field for many years, most particularly the distinguished Senator from West Virginia (Mr. RANDOLPH) and the distinguished Senator from New Jersey (Mr. WILLIAMS). Their leadership in this field, I think, is not only unchallenged but unchallengeable, and they have expressed the original interest of the Senate in the field of trying to help provide means by which the handicapped can achieve their full potential.

There has been other interest in the Senate, and evidence of that is the fact that since this amendment No. 1305 was introduced, it has been cosponsored by the Senator from Florida, Mr. CHILES; the Senator from Kansas, Mr. DOLE; the Senator from New Jersey, Mr. CASE; the Senator from South Dakota, Mr. MCGOVERN; the Senator from Oregon, Mr. HATFIELD; the Senator from Indiana, Mr. HARTKE; the Senator from Connecticut, Mr. RIBICOFF; the Senator from Michigan, Mr. HART; the Senator from New Mexico, Mr. MONTOYA; the Senator from Texas, Mr. TOWER; and the Senator from Iowa, Mr. CLARK.

Mr. President, I commend the distinguished chairman and members of the Education Subcommittee and members of the Labor and Public Welfare Committee for including a section in S. 1539 which reaffirms the national goal of equal educational opportunity as a matter of high priority. The key provision of section 3 of this bill before us today "declares it to be the policy of the United States of America that every citizen is entitled to an education to meet his or her full potential without financial barriers and limited only by the desire to learn and ability to absorb such education." During last week, Mr. President, when debate on the education bill was most highly charged, it is significant that no Member of this body ever saw fit to challenge this statement of national policy.

The reason, in my judgment, was not because of an oversight, but rather because each Member of the U.S. Senate, regardless of ideology, regardless of geography, regardless of where he stands on the political spectrum, equally believes in and accepts this profound and fundamental statement of policy, for which we are indebted to the subcommittee. I think it indicates that no other concept is as widely accepted by the citizens of our country as the concept of equal educational opportunity. I think, unfortunately, our Nation is still a long way from achieving that most desirable goal.

If, however, we believe in the basic premise that equal educational opportunities must be provided to all handicapped children, then our Nation is a long way from achieving that most desirable goal.

The amendment we shall vote on today represents an important step toward achieving equality of educational opportunity for 7 million handicapped children in the United States. Mr. President, the most compelling argument in support of my amendment can be found in the committee report on S. 1539. I quote:

> There are 7 million (1 million of preschool age) deaf, blind, retarded, speech-impaired, motor-impaired, emotionally disturbed, or other health-impaired children in the United States who require special education programs. Although these children represent approximately 10 percent of the school age population (a conservative estimate), and although the number of children receiving special help has grown from 2.1 million to nearly 3 million in the past 5 years, current data indicates that less than 40 percent are receiving an adequate education—

Which, I might interpolate, Mr. President, means that 60 percent are not receiving an adequate education.

Continuing the quotation:

> It is the committee's belief that good education programs are an investment rather than merely an expenditure of funds, for even the most severely handicapped child can be made less dependent through education. It costs taxpayers about $250,000 to support a totally dependent person over his lifetime in an institution. Given the opportunity, these children can become self-sufficient, productive members of society, rather than remaining dependent on society. Therefore, from both a humanitarian and an economic standpoint, it is obvious that an adequate education must be made available now for all handicapped children.

And again interpolating, Mr. President, I think that considerations not only of compassion but of sheer, hard dollars and cents should move us to support this amendment.

Continuing the quotation:

> The inability of the States to provide for more than 40% of these handicapped children and the higher cost of education for the severely handicapped places a critical responsibility on the federal government to share costs with states and local communities and be the catalytic agent which stimulates activity for the handicapped. The committee feels a strong responsibility to see that these individuals receive the educational services they need, and it is satisfied that the bureau of education for the handicapped is the agency which should provide and coordinate these services. Every handicapped child has a right to an education, and legislation which provides specific research funds, support of graduate training programs, demonstrations, exemplary projects, and grants-in-aid to the states to develop their own priorities in improving educational services to handicapped children is vitally important.

On April 9, 1974, Judge John Raine, Jr., in the circuit court for Baltimore County, Md., decreed in the case of the Maryland Association for retarded children against Maryland—a class action suit on behalf of all retarded children to require the State to provide a free public education for all—that "it is the established policy of the State of Maryland to provide a free education to all persons between the ages of 5 and 20 years, and this includes children with handicaps, and particularly mentally retarded children, regardless of how severely and profoundly retarded they may be." In my introductory remarks on this amendment; which are contained in the Monday, May 13 RECORD, I cited a number of facts about the situation in Maryland which led the court to rule as it did. But as I pointed out at that time, the set of conditions found in Maryland are replicated throughout this country in most States. For example:

Numbers of children with variety of handicaps must find education outside the public schools because there are no appropriate public school programs made available for them;

Children who are deemed to be too retarded or handicapped for admission to public school programs for the moderately retarded are frequently referred to as "severely" and "profoundly" retarded . . .";

Private day schools are not available for most severely and profoundly retarded children. Accordingly, the principal alternatives open to most such children are day care or institutionalization.

Mr. President, I know from firsthand experience that there are a number of dedicated teachers and administrators of programs for handicapped children in Maryland who have labored diligently over the years with little recognition and without critically needed financial support in behalf of handicapped children. Most recently, a week ago today, in fact, I visited with the principals, teachers, and students at the Concord School for Handicapped Children in Montgomery County, Md. I was deeply impressed and moved by the work being performed at that school. My one regret is that millions of other handicapped children in America are not receiving the same services as those children at the Concord school.

The national dimensions of the problem are gripping. According to the U.S. Office of Education, there are an estimated 7 million handicapped children in America. Of these 7 million, 6 million are school-aged and 1 million are preschoolers. Unfortunately, just about half of the school-aged handicapped children are receiving the special education services they need, and virtually none of the 1 million preschoolers are being served. I know that in my State of Maryland, only 60 percent of our handicapped children are receiving the required educational services. Moreover, figures reported in Compact, a publication of the education commission of the States, indicate that 35 States were providing less service than Maryland; 13 States were providing more service; 2 other States were providing an equal percentage; 12 States were reported as providing less than 30 percent of their children with services; 11 States provided between 30 percent and 40 percent, and 14 fell within the 50 to 60 percent range.

So it is clear that my State of Maryland does not stand alone. Across this Nation, however, increasingly active parents, lawyers, and even educators are going to court to seek relief from the exclusion and inappropriate education of handicapped children. And, I would point out, the courts are increasingly substantiating the right of handicapped children to an appropriate education with full rights of notice of due process in relation to their selection, placement, and retention in education programs. Mr. President, at this point I shall read a letter I received last week from one of the attorneys who represented the Maryland Association of Retarded Citizens in the Maryland case. Mr. Ralph J. Moore, a Bethesda, Md., attorney, succinctly sets forth the case for my amendment. The letter reads, and I quote:

DEAR SENATOR MATHIAS:

I understand that you have offered an amendment to the bill to renew the elementary and Secondary Education Act, to provide a substantial increase in the funding for the provisions in the act dealing with the education of handicapped children. As these children have suffered from great neglect in the past, such funding is urgently needed, and therefore I hope your amendment is approved by the Senate and becomes part of the law.

I am one of the attorneys representing the Maryland Association for Retarded Citizens and other plaintiffs in right-to-education cases now pending in State and Federal courts in Maryland, in which the State court recently ruled that all handicapped children are entitled to free educational programs. The plaintiffs in these actions include children with visual handicaps, hearing impairments, cerebral palsy, all degrees of mental retardation, emotional handicaps and combinations of disabilities affecting learning. In one way or another, as a result of inadequate funding and tardy recognition that all children should receive appropriate education, these plaintiffs, and many other children like them, have been denied free educational programs suited to their needs.

The situation in Maryland is paralleled in many other States. It has given rise to a great many lawsuits and legislative proposals to establish the right of *all* children to appropriate education, regardless of the character or severity of any handicaps they may have. This activity has produced a revolution in attitudes toward the educational rights of retarded and otherwise handicapped children. However, recognition that each child is entitled to education will mean little if adequate funding is not available to insure that programs are suitable.

Therefore, I hope your amendment to the ESEA is approved, and know that many other parents of handicapped children in Maryland share my view.

Mr. President, under the leadership of the distinguished chairman of the Subcommittee on the Handicapped, Senator RANDOLPH, with the strong personal support of the Senator from Vermont, Mr. STAFFORD, the Federal effort in behalf of handicapped children has resulted in a steady growth in educational opportunities for thousands of young children. I know that the chairman of the full committee, Senator WILLIAMS, and the ranking Republican, Senator JAVITS, stand in the forefront in the continuing struggle to provide long overdue justice of the million of handicapped young Americans. And without question, the Nation owes them a deep debt of gratitude for their special, strenuous efforts.

The ACTING PRESIDENT pro tempore. The Senator's 10 minutes have expired.

Mr. MATHIAS. Mr. President, would the Senator from West Virginia like to proceed at this time?

Mr. RANDOLPH. Mr. President, I think the explanation by the able Senator from Maryland (Mr. MATHIAS) might take a considerable time. I have explained my reason for leaving the Chamber on account of being chairman of a committee hearing, but I would want to accommodate myself to my colleague, if he would give us some thought as to the time required for further explanation of the amendment.

Mr. MATHIAS. I might take 2 more minutes to explain the mechanics of the amendment, and then defer to our distinguished chairman.

Sadly, however—and I know that each of those gentlemen will agree with me—America stands far short of the goal of providing equality of educational opportunity for her handicapped children. Millions are still not being adequately served; either because they are too young or too old for public schools; or because they have been excluded from public schools; or they drop out of school on their own or are withdrawn by their parents out of sheer frustration with the educational system.

Education is the right of all children. The principle of education for all is based on the philosophical premise of democracy that each person is valuable in his or her own right and should be afforded an equal opportunity to develop to full potential. Unquestionably, progress has been made for some children in some communities, but in the main, we have failed a significant portion of the handicapped children.

I hasten to point out that it would be unfair and untrue to contend that our State and local education programs are neglecting handicapped children. During the school year 1972–73, for instance, State and local expenditures and education of the handicapped amounted to an estimated $2.4 billion. During that same period, the Federal share—which includes funds spent under the Education of Handicapped Act, ESEA titles I and III, Headstart, vocational education, the Higher Education Act, Federal schools for the deaf, research, and instructional support—reached $315 million or only 12 percent of the total annual special education expenditures of $2.7 billion. Some experts contend that the 12-percent figure is misleading since it includes moneys spent for research, teacher training, and special projects—not just classroom services.

But the sad fact is that, large though those amounts may be, where the handicapped are concerned, these funds are simply insufficient to meet the needs, particularly in the face of the increasing legal requirements of service to all handicapped children. A closer examination

of the 1972–73 expenditures reveals that the Federal special education expenditures represented only 5 percent of the total Federal education budget. We must, in the name of justice and decency, do more.

I note, with great interest, the recognition of this fact on the part of the Department of Health, Education, and Welfare. During recent testimony before a committee of the other body, Mr. Charles M. Cooke, Jr., HEW Deputy Assistant Secretary for Education Legislation, stated:

The Nation is becoming more sensitive to the Educational Needs of the Handicapped. Rapidly changing community attitudes about the State's responsibility to provide adequate services to educate the Handicapped—as indicated by the great number of States which have passed laws mandating such services in the past few years and the growing number of court cases on the rights of the handicapped to an education—are sure signs of this increased concern.

Mr. President, the principal effect of my amendment will be the continuation of the present dominant role of the States and local educational agencies in education with the Federal role being that of building the capacity of our educational system to address the special needs of the handicapped. The fact that the overwhelming majority of the States now have laws on the books mandating the provision of special education services to all handicapped children underscores the preeminent role of the States in this area, notwithstanding the fact that many are unable to put their money where their laws are.

Mr. President, my amendment will do the following:

In the spirit of section 3 of S. 1539, which "declares it to be the policy of the United States of America that every citizen is entitled to an education * * *" and I stress "entitled," my amendment changes part B of the Education of the Handicapped Act to state that the maximum amount of the grant to which a State shall be entitled under part B shall be equal to the number of children in average daily attendance within the public schools as determined by the Commissioner of the Office of Education in the most recent fiscal year for which satisfactory data are available, multiplied by 15.

The approach to be followed in my amendment supports the developing trend toward normalization, and mainstreaming, and will underscore the interlocking nature of special education with regular education. Additionally, my amendment avoids the danger of providing an incentive for schools to indulge in the extremely discriminatory, degrading, and negative practice of labeling children as "mentally retarded" or "emotionally disturbed" in order to obtain more Federal dollars, since the formula in my amendment is based on regular school attendance rather than the number of handicapped enrolled. Mr. President, the importance of avoiding discriminatory labeling, which my amendment accomplishes, cannot be stressed too strongly.

As one noted educator pointed out in his testimony on education for the handicapped legislation before a House committee recently:

Many parents, especially minority group members, would resist the discriminatory labeling of their children.

He went on to point out the danger that:

Hard-to-teach minority children in the rural and urban slums of America (under mandatory labeling requirements) are far more likely to be labeled mentally retarded than white children in suburbs.

My amendment's funding formula will insure that unfair categorization does not take place; that benefits can be provided for all handicapped children without penalties for minority and poor children.

Moreover, accurate calculations can be made with respect to the cost of part B because the formula will be calculated on a per pupil basis, as illustrated by the chart I introduced in the RECORD on Monday.

Additionally, school enrollment projections through 1980 indicate a gradual decline in total population figures. This means, therefore, that there would be a corresponding gradual but natural reduction in the Federal financial role which State and local programs should be able to gradually assume.

This amendment supports the Education of the Handicapped Act with respect to its focus on the initiation, expansion, and improvement of programs for the handicapped at the preschool, elementary, and secondary levels, to provide full educational opportunity to all handicapped children

Mr. President, since my proposal amends the Education of the Handicapped Act, States will still be required:

First, to assure that the funds provided under my amendment must be used to meet the special needs of handicapped children;

Second, assure the participation of handicapped children enrolled in private elementary and secondary schools;

Third, guarantee that the control and administration of funds and title to property will rest with a public agency;

Fourth, provide assurance that these funds are used to supplement and, when possible, to increase the level of State, local and private funds, but that in no case may Federal funds be used to supplant funds from non-Federal sources;

Fifth, assure that procedures have been established for at least annual evaluation of the effectiveness of the programs;

Sixth, provide that sole responsibility for administering or supervising the State's plan will rest with the State educational agency;

Seventh, provide for the making of reports that the commissioner may require and the maintenance of accessible records;

Eighth, guarantee that fiscal control and fund accounting procedures will be adopted;

Ninth, provide that funds available under this part will not be available to handicapped children who are eligible for assistance under title I of ESEA;

Tenth, assure that there are procedures for acquiring and disseminating information to teachers and administrators about programs for the handicapped; and

Eleventh, include a statement in their State plans which insures that all education programs for the handicapped in the State will be coordinated by the persons in charge of special education programs for handicapped children in the State educational agency.

Additionally, the requirements for public disclosure of the State plan by the State educational agency, with notice and opportunity for hearings and judicial review of actions taken by the commission of education regarding the State plans are untouched by my amendment.

I would also point out that the amendments added to the Education of the Handicapped Act by the committee will take on added significance if my amendment is adopted. With my amendment, States will truly be able to "provide full educational opportunity to all handicapped children," as the committee amendment suggests.

My amendment will enable States to identify, locate, evaluate, as well as establish realistic and meaningful goals and timetables for providing full training and educational opportunities for all handicapped children—particularly those presently excluded from schools—as outlined in the committee amendments to the bill before us today.

Mr. President, I commend the committee for adopting the amendment establishing the goal of full educational opportunity for all handicapped children. Reaching that goal, however, will be as difficult as abolishing poverty, or cleaning up the air we breathe, or solving the crisis in energy that we face, unless and until we begin to provide the means for reaching those great goals. Our failure to provide the "means" literally promises a denial of justice to handicapped children this year. Why must the Congress withhold desperately needed financial support? Why should the Congress stand idly by while court action is heaped upon court action? Why should we leave it up to the judicial branch to affirm the Constitution? The committee report states flatly: "Every handicapped child has a right to an education." My amendment, if adopted, will affirm that right.

I recognize that there is considerable interest in another bill for handicapped children now pending in a subcommittee of the Labor and Public Welfare Committee. That bill, S. 6, must be reviewed as the total vehicle for insuring the rights of handicapped children. My amendment is neither in competition with that bill, nor is it designed to supplant the need for such legislation. The Mathias amendment is offered as a means of meeting a growing emergency and as a necessary first step in the eventual construction of a vehicle which will truly bring about the necessary reforms and improvements in the educational system with regards to handicapped children.

Mr. President, I would add a brief observation about the cost of my amendment. The issue is the cost of my amendment compared to what? There is little doubt that my amendment will enable the 50 States to initiate and expand serv-

ices to handicapped children on a scale sought after by parents and educators for many years. The first article of the American faith holds that all men and women should have an equal chance to make as much of themselves as they can, to go as far as their innate abilities and energies and interests can take them. Every American, we have believed, should be the arbiter of his or her own fate and the architect of his or her own future—people should be free to find and fulfill themselves. Undergirding our commitment to equity and equal opportunity, we tell ourselves, is the fundamental belief that every person in our society has an intrinsic value. My amendment grows out of that belief. Failure to provide these funds may mean that somebody's child will be consigned to a life of perpetual dependency. And we shall pay for that. Failure to make this investment, this year, only means that we shall continue to pay billions annually for dependency related programs. Make this investment today, and they will show a profit—not only in terms of citizens tomorrow who will earn income and pay taxes, but also in the fulfillment of human potential. Mr. President, to provide a normal child with an enriched and meaningful life and to deny this to an exceptional child is inconsistent with the values of our society.

When historians in the future write about the prebicentennial period in America, I hope that they will describe this era as a time when the Congress of the United States acted to bring justice and equal educational opportunities in a meaningful way to 7 million deserving children.

The ACTING PRESIDENT pro tempore. The time of the Senator from Maryland has expired.

Mr. MATHIAS. Mr. President, at this point I defer to the distinguished Senator from West Virginia.

The ACTING PRESIDENT pro tempore. How much time does the Senator from West Virginia yield himself?

Mr. RANDOLPH. Mr. President, the time is divided, as I understand it. Is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. RANDOLPH. Mr. President, I yield myself such time as I may require.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

Mr. RANDOLPH. Mr. President, I commend the able Senator from Maryland on focusing the attention of the Chamber, at the beginning of this final day of the consideration of the pending legislation, on the improvement of educational programs in the primary and secondary school systems of the United States. I think that members of the Committee on Labor and Public Welfare, presided over by the knowledgeable Senator from New Jersey (Mr. WILLIAMS) and with the assistance of the equally knowledgeable ranking minority member of the committee, the distinguished Senator from New York (Mr. JAVITS), have been constant in their application to the problems that come before the committee.

In a new sense, because of a situation which has to do with certain court cases, notably in the State of Maryland, I would take this opportunity to embrace in my commendation, as chairman of the Subcommittee on Handicapped of the parent committee, the diligent Senator from Vermont (Mr. STAFFORD) and all the members of our subcommittee.

I return to my first statement, to which the Senator from Maryland has called our attention in focusing that attention on the need for adequate educational facilities for projects and programs for handicapped children in this country.

During the past 2 years there have been 36 court cases in 24 States on the right to education for all handicapped children. When we were considering this matter 14 months ago, most of these court cases were just being decided. So that is a new element I emphasize, which makes it very understandable that the problem be met constructively here today.

I think it is important to point out that earlier, in the Senate bill, on the subject of education for the handicapped, we had worked on this measure independently. However, when we could not get the support—and this is not a criticism—of the House on separate legislation for the handicapped, we included in the pending measure, S. 1539, the program for education of the handicapped as title VI. That is the title to which the amendment of the Senator from Maryland will address itself.

I am only relating this background, as it were, to bring us to the present moment and to reinforce what the Senator from Maryland has said. Faced with the condition before us at this time, and understanding the problem as it comes to the Senator from Maryland because of the impact in his State and which he now brings to the Senate, I think it will be helpful as we work our way through the process in the next few minutes, to relate the events which have occurred.

As I have said there have been 36 court cases in 24 States on the right to education for all handicapped children; 38 court cases in 25 States on the right of these children to due process; and eight court cases in six States on the right of treatment for all children who need it. In those cases which have been decided, judgments have been rendered—as they should be—in favor of the handicapped child.

Several States, like our State of West Virginia, have passed laws requiring appropriate education for all handicapped children.

Understanding parents, dedicated special educators and advocates have turned to judicial and legislative bodies for an affirmation of the constitutional rights of handicapped children.

As a result of these activities, new demands have been placed on the States for their limited funds for education. I know, for example, that in our State of West Virginia, I have had a telegram from Daniel B. Taylor, State superintendent of schools, in which he points out the need for more funds and affirms his support for the approach of the Senator from Maryland, mentioning him properly by name. I ask unanimous consent that the telegram be printed in the RECORD at this point.

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

CHARLESTON, W. VA., *May 13, 1974.*

Senator JENNINGS RANDOLPH,
Capitol Hill, D.C.:

Senator Mathias plans to offer an amendment to S–1539 on Monday, May 20, 1974, to provide additional funds for handicapped children. There is a need for more funds for the handicapped in our State. Hope you can lend your support.

DANIEL B. TAYLOR,
State Supt. of Schools.

Mr. RANDOLPH. There is a great need to assist the States if, as decreed, in most cases, the States must begin immediately to provide educational services to those handicapped children who have been heretofore excluded from, or deprived of such services.

With the additional funds authorized by this amendment we can assist the States in meeting the fiscal burden at this time, through the unique Federal-State relationship already established by the administration of the present program in the Education of the Handicapped Act, the funds will be made available for handicapped children not presently being served.

It is my sincere hope that in the very near future the Federal role in providing education to handicapped children will be more clearly defined. I think this will come about as a result of the action that will be taken in this Chamber upon the pending amendment or amendments thereto. It will also come about when S. 6, which has been discussed by the Senator from Maryland, the Education for All Handicapped Children Act, comes to fruition.

Mr. President, I am grateful for the privilege of discussing this matter. And for the opportunity of emphasizing as it should be emphasized that we have a large segment of our society which is embraced within the term handicapped children, and those children must not be left on the sidelines. They must be in the mainstream of the educational process, through training, through facilities, through projects, and through programs—yes, Mr. President, hopefully not only informative but inspiring programs—which will help this group, to become constructive, worthwhile citizens.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. PELL. Mr. President, I yield the Senator from New Jersey 5 minutes.

The ACTING PRESIDENT pro tempore. The Senator from New Jersey is recognized for 5 minutes.

Mr. WILLIAMS. Mr. President, what is the time situation?

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island has 23 minutes remaining. The Senator from Maryland has 19 minutes.

Mr. WILLIAMS. Mr. President, I am extremely pleased that the Senator from Maryland has provided this opportunity to bring before the Senate and all of our colleagues a problem which has been of deep concern for a long time. It was in

response to this concern that I introduced S. 6, the Education for All Handicapped Children Act, in the beginning of this Congress. It has been precisely for this reason that the Subcommittee on the Handicapped, chaired with such broad understanding, compassion, and great ability by the Senator from West Virginia, a subcommittee of the Labor and Public Welfare Committee has held 8 days of hearings on this legislation in many parts of the country.

I said at the outset in introducing S. 5, and I repeat it now with even firmer conviction, that we must recognize our responsibility to provide education for all children which meets their unique needs. The denial of the right to education and to equal opportunity within this Nation for handicapped children—whether it be outright exclusion from school, the failure to provide an education which meets the needs of a single handicapped child, or the refusal to recognize the handicapped child's right to grow—is a travesty of justice and a denial of equal protection of the law.

Certainly this whole thought was magnificently stated by the Senator from West Virginia, in response to this particular need that is so widespread in our country.

The facts cited in the Senator from Maryland's remarks are unfortunately too true. The adequacy of educational services to handicapped children not only vary from State to State, and within a State, but they vary by the type of disability among children within those States. And despite the fact that almost all States have enacted mandatory legislation providing educational services for handicapped children, the actual implementation of that legislation falls far short of the words of those statutes. Full implementation of these laws is most often hampered by lack of funds. But adding to these problems is lack of trained personnel, adequate facilities, and appropriate programs for children already in school.

I believe, Mr. President, that a simple legislative mandate, with greatly increased funds alone will not solve these problems. Testimony from the committee's hearings on S. 5, letters from parents and from advocates for these programs all support the fact that without clear protection for the rights of handicapped children and a clear commitment on the part of the States to carry out this policy, this legislation remains only a paper mandate.

Throwing money at this problem will not meet all of the needs handicapped children and their parents face in finding educational programs. We must insure to parents and their children that they have behind them a policy that handicapped children have a right to education, and that educational agencies have a responsibility to provide a free and appropriate education for each individual child. It would be a derogation of our duty as Senators and as a deliberative body to promise funds without also the assurance that these funds will in fact reach their destination: The children. We must insure that these funds in fact protect the rights of handicapped children to be educated together with their peers, and not be educated in a seperate educational system. And we have a responsibility to insure that these funds will be targeted on areas of need within the State, and that they are delivered to the States only after a commitment to a right to education policy. Mr. President, we must have those guarantees or we will be back here some years from now saying precisely the same things to each other.

S. 6, the bill before my committee, was developed with these problems in mind. Recognizing the expense that is involved in educating handicapped children, the bill does provide funding of 75 percent of excess costs to the States to assist in providing this education. But it also requires the States to have a right to education policy. It will only pay for those children who in fact are in school, and are receiving educational services. It provides that handicapped children will be educated with their peers, and that they will be provided an individualized program drawn up to suit their needs. The bill also provides that parents have a right of access to records, to an impartial hearing and to an independent evaluation of their child.

I believe that this legislation is the right way to insure that we deliver on our promise to handicapped children. The Senator from Maryland and I have discussed S. 6, which has been cosponsored by 26 of my colleagues here in the Senate. As I have discussed with the Senator from Maryland, the committee has set a timetable for this legislation, and will be closing the hearing record in early June and intends to move this legislation to the Senate floor by the end of July. It is in light of this timetable, and in light of the testimony we have taken on S. 6 that I comment on the amendment that has been proposed by the Senator from Maryland. The committee has spent a good deal of time in hearings discussing the provisions of S. 6 with handicapped individuals, with parents, with Governors, State legislators and State departments of education. While there can be no question that the States can utilize any additional money possible to assist in providing services, the testimony from parents who have fought this battle over and over again lead me to one conclusion: We must provide more than funds if we are to insure to these parents that they will not continue to be faced by administrators saying: We are providing all that we must under the law.

I must say that I have been very encouraged by the support for the Mathias amendment and for the need for action. I say this because I also believe that we must move. I know that Maryland has been faced in the last month with a State court decision that has ordered the State to provide education for all handicapped children. I know that the State of Pennsylvania and the District of Columbia have been faced with similar suits. But, Mr. President, I also know that many States have had a policy of the right to education which has not been implemented, and I know, Mr. President, that there are many other States who have not provided a right to education for handicapped children, and that it may take many more years of court suits to reach the time when all States in fact provide a right to education. Money alone will not change that situation. It is for children within those States who are far behind the State of Maryland and the State of Pennsylvania and the District of Columbia that I say the policy of the Congress of the United States must be clear. We must act in a way that will protect the rights of handicapped children.

S. 6 and companion legislation in the House is designed for that very goal, and I say to my colleagues today that we will move on that legislation in the next 2 months.

I do know, however, Mr. President, that a number of States are under order right now to provide full and appropriate educational services to all handicapped children.

While I have many serious questions about the Senator's amendment, I will support that amendment as an emergency measure for a single year only. As I have discussed with the Senator from Maryland, providing more than $600 million without an adequate distribution formula for targeting funds within the State, and with no clear assurances that these funds will reach the target population troubles me a great deal. I understand that my colleague from Vermont (Mr. STAFFORD) will propose an amendment to the Senator's amendment incorporating many of the procedural protections which we insisted be included when S. 6 was first drafted. I am happy to join the Senator from Vermont in this amendment. I believe that these protections will help to insure that the funds will in fact be spent in a way which will protect the rights of handicapped children to an appropriate education.

Those protections include that the State must provide procedures to insure that: First, all handicapped children would be educated with their peers who are not handicapped, and that separate classes, or other removal of the child from the regular educational environment would only occur if the nature or severity of the handicap is such that education in the regular environment cannot be achieved satisfactorily.

Second, that procedures are established to protect the rights of handicapped children and their parents or guardian in decisions relating to identification, evaluation and education placement of handicapped children. Such procedures must include prior notice, the opportunity for an impartial hearing, the opportunity to obtain an independent educational evaluation of the child, and procedures to protect the rights of the child when the parents or guardian are unknown, unavailable, or the child is the ward of the State.

Finally, the State must establish procedures to assure that testing and evaluation procedures and materials for the purposes of classification and placement of handicapped children will be selected

and administered so as not to be racially or culturally discriminatory.

Mr. President, I believe that these are minimal guarantees that are necessary for the distribution of funds under the Mathias proposal.

Mr. President, I reiterate my statement that this emergency or interim funding is welcome and accepted. The timetable for movement of S. 6 out of committee has been set, and my colleagues will have the opportunity to vote on that comprehensive legislation within this year. With the enactment of S. 6, we will be able to take pride and no longer have to rely on interim measures to meet this tragic problem.

Mr. President, I yield the floor.

Mr. STAFFORD. Mr. President, I have an unprinted amendment to the Mathias amendment at the desk. I realize that it cannot be considered without unanimous consent. At this time, I ask unanimous consent that my amendment to the Mathias amendment may be considered at this time.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from Vermont? The Chair hears none, and it is so ordered.

The clerk will state the amendment.

The legislative clerk read as follows:

On page 5, between lines 2 and 3, insert the following:

"(d) Sec. 613(a) of such is further amended by (1) striking out the word 'and' at the end of paragraph (10), (2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof a semicolon, and (3) by adding at the end thereof the following two paragraphs:

"(12)(A) establish a goal of providing the opportunity to free appropriate public education to all handicapped children, and (B) provide for a procedure to assure that funds expended under this part are used to accomplish the goal set forth in (A) of this paragraph and priority in the utilization of funds under this part will be given to handicapped children who are not receiving education; and

"(13) provide procedures for insuring that handicapped children and their parents or guardians are guaranteed procedural safeguards in decisions regarding identification, evaluation and educational placement of handicapped children including, but not limited to (A)(i) prior notice to parents or guardian of the child when the local or State educational agency proposes to change the educational placement of the child, (ii) an opportunity for the parents or guardian to obtain an impartial due process hearing, examine all relevant records with respect to the classification or educational placement of the child, and obtain an independent educational evaluation of the child, (iii) procedures to protect the rights of the child when the parents or guardian are not known, unavailable or the child is a ward of the State, including the assignment of an individual (not to be an employee of the State or local educational agency involved in the education or care of children), to act as a surrogate for the parents or guardian, and (iv) provision to insure that the decisions rendered in the impartial due process hearing required by this paragraph shall be binding on all parties subject only to appropriate administrative or judicial appeal; and (B) procedures to insure that, to the maximum extent apppropriate, handicapped children, including children in public or private institutions or other care facilities, are educated with children who are not handicapped, and that special classes, separate schooling, or other removal of handicapped children from the regular education environment occurs only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily; and (C) procedures to insure that testing and evaluation materials and procedures utilized for the purposes of classification and placement of handicapped children will be selected and administered so as not to be racially or culturally discriminatory.".

On page 1, line 2, strike out the word "Section", and insert in lieu thereof the following: "Effective for Fiscal Year 1975 only, section".

On page 4, line 4, strike out the word "Section," and insert in lieu thereof the following: "Effective for Fiscal Year 1975 only, section".

On page 4, line 23, strike out the word "Section", and insert in lieu thereof the following: "Effective for Fiscal Year 1975 only, section".

On page 5, between lines 2 and 3, insert the following:

"(d)(1) Section 611(a) of the Education of the Handicapped Act is amended by inserting before the period the following: "in order to provide full educational opportunity to all handicapped children".

"(2) Subsection (b) of section 611 of the Education of the Handicapped Act is amended to read as follows:

"(b) For the purpose of making grants under this part, there are authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1976, $110,000,000 for the fiscal year ending June 30, 1977, and $120,000,000 for the fiscal year ending June 30, 1978.".

"(3) The amendment made by subsection (d) shall become effective and shall be deemed to have been enacted on July 1, 1975.

Mr. STAFFORD. Mr. President, how much time is there available on this side?

The ACTING PRESIDENT pro tempore. Twenty minutes on the amendment with 10 minutes per side. The Senator from Vermont has 10 minutes.

Mr. STAFFORD. I thank the Presiding Officer.

Mr. President, I offer this amendment to the amendment of the distinguished Senator from Maryland (Mr. MATHIAS) on behalf of myself, the distinguished Senator from West Virginia (Mr. RANDOLPH), and the distinguished Senator from New Jersey (Mr. WILLIAMS).

If I understand the Senator from Maryland correctly, his amendment is aimed at the most laudable objective of insuring the right to an education for all handicapped children. However, the distinguished Senator and I have discussed the need for further guarantees being attached to his amendment, the better to achieve the overall objective of his proposal.

Very briefly, my amendment would do the following:

First, require that all of the States shall establish a goal of an appropriate public education to all of their handicapped children and procedures for the accomplishment of this goal.

Second, provide specific due process guarantees for the children served and their parents in all matters relevant to identification, evaluation, and placement.

Third, provide assurances that priority in the use of funds made available under the Mathias provision will be afforded those children not yet served.

Fourth, prohibit the classification of children to promote racial or cultural discrimination.

Fifth, require that all handicapped children be educated in the least restrictive environment.

Sixth, limit the period covered by the amendment of the distinguished Senator from Maryland to 1 year.

Mr. President, throughout the Nation the State legislatures are passing legislation mandating the education of all handicapped children, responding to the truly alarming fact that over 50 percent of the Nation's handicapped children do not yet have available to them an appropriate public education. Another characteristic of the trend in State legislation is the inclusion of very precise provisions designed to insure the due process rights of handicapped children in all matters relevant to identification, classification, labeling, and evaluation for purposes of education programing.

Moreover, in a number of court cases brought around the country aimed at ending the exclusion or inappropriate education of handicapped children—my distinguished cosponsors commented on this matter earlier—the courts have handed down decisions, based largely upon the equal protection clause, ordering that all handicapped children be brought into the public education system and further ordering very specific guarantees in matters of due process. I refer my colleagues to *Mills* v. *the D. of C. Board of Education*, 348 F. Supp. 866 (D.D.C. 1972) and *Pennsylvania Association for Retarded Children* v. *Commonwealth of Pennsylvania*, 344 F. Supp. 1257 (E.D. Pa. 1971) and 343 F. Supp. 279 (E.D. Pa. 1972).

Finally, I cite the fact that the Civil Rights Division of the U.S. Department of Justice is becoming increasingly involved in matters relevant to the protection of the rights of handicapped children.

Mr. President, State legislatures, the Nation's courts, parents, and advocates are not only concerned that more moneys be made available for the special education of these highly vulnerable young Americans. We are concerned that all children be educated and not just some, that money coming from public treasuries be in fact used for these children and be used properly to promote their education, that children not be improperly labeled within the educational contexts, that parents, and, where appropriate, the children themselves, have right to participation when crucial educational decisions affecting their entire lives are made; we are concerned that these children not be locked into a rigid educational placement when it has become inappropriate, and we are deeply concerned that labeling not be used as a tool of racial or cultural discrimination. We are concerned that children with handicapping conditions be educated in the most normal possible and least restrictive setting, for how else will they adapt to the world beyond the educational environment, and how else will the nonhandicapped adapt to them?

My amendment, therefore, simply attaches guarantees to Mr. MATHIAS' amendment which conform to the court decrees, conform to the actions in the State legislatures, conform to the positions being taken by parents and advo-

cates, and conform to the position being taken by many of us in both Houses of the Congress on this matter.

Mr. President, I urge the adoption of my amendment. It has been discussed with the chairman of the Education Subcommittee, the chairman of the Handicapped Subcommittee, and the chairman of the full Committee on Labor and Public Welfare. We hope that the Senator from Maryland will accept the amendment.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. MATHIAS. Mr. President, I am very happy to accept this amendment. I have discussed it with the Senator from Vermont, the Senator from New Jersey, and the Senator from New York. I believe it is an improvement to the original amendment, and I commend it to the favorable judgment of the Senate.

Mr. STAFFORD. I thank the Senator from Maryland.

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

Mr. STAFFORD. I yield.

Mr. JAVITS. Mr. President, I congratulate my colleagues on this concurrence in a feasible plan with respect to this amendment. I am particularly gratified, as the author of a measure called the bill of rights for the mentally retarded. I like very much the amendment of Senator STAFFORD, which uses as its body the amendment of Senator MATHIAS, because it does proceed along those lines and specifies, in the field of education, the concept of the rights of the mentally retarded, this being the direction of the courts, as we now know from the decisions of the Supreme Court.

It is most admirable work by all parties, and I congratulate them. I urge the Senate to accept the amendment, as amended.

Indeed, I hope that a rollcall vote will not be necessary, as there seems to be no opposition whatever to this plan of procedure.

Mr. STAFFORD. I thank the distinguished Senator for his remarks.

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

The ACTING PRESIDENT pro tempore. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Vermont to the amendment of the Senator from Maryland.

Mr. STAFFORD's amendment to Mr. MATHIAS' amendment was agreed to.

The ACTING PRESIDENT pro tempore. The question now recurs on the amendment of the Senator from Maryland (Mr. MATHIAS). Who yields time?

Mr. MATHIAS. Mr. President, I believe that the distinguished Senator from New Jersey (Mr. WILLIAMS) and the distinguished Senator from Vermont, in their discussion of this amendment, have said it all. What we are attempting to do is to make good on a promise to the children of America that handicapped children have the same right of education as all others.

EDUCATION FOR THE HANDICAPPED

Mr. HUMPHREY. Mr. President, I support the amendment to S. 1539, offered by Senator MATHIAS. What this amendment proposes is an interim solution on an emergency basis to the needs of the handicapped children in this country. It is not a panacea. It is not a substitute for thoroughly-worked-out legislation over the long term of the kind represented by S. 6, of which I am a cosponsor. It is a short-term solution for an immediate need.

The funds available at present for teaching handicapped children are deplorably low. As a result we lack the trained teachers, the appropriately designed programs, and the physical facilities necessary to offer them an opportunity to learn to participate more fully in American society. This failing has been clearly recognized in recent court decisions—including two in the State of Minnesota—which have ordered the States to provide equal opportunity to those who are handicapped, and assessed the present efforts of the States as denying these children the rights of an equal education.

I should note that Minnesota was evaluated by a Rand Corp. study as one of the leading States in its efforts for the handicapped.

The fact remains, however, that our entire national effort has been deficient.

What this measure provides is a shot in the arm to bring State levels up to what the courts have demanded of them. Since it is a national problem, I believe it requires a national response. It should no longer be a matter for each State to struggle to resolve in response to court decisions.

Over the past few years Federal authorizations for financial assistance for education the handicapped have been barely adequate, and the appropriations have been abysmal—usually amounting to only about 17 to 18 percent of the authorizations.

The education amendments of 1974, S. 1539, seem to request that since appropriations have generally been inexcusably low, we should reduce the authorizations. This is entirely the wrong approach. In light of the numerous court cases, it is also entirely impractical. What we need is to indicate the clear intention of the Senate that the amount of money provided to educate our handicapped children be increased, and that the challenge of educating the handicapped should be taken seriously. This requires a major increase in both the authorization and the appropriation.

Mr. President, I would like to reiterate one or two of the points which Senator MATHIAS has made about this amendment.

There is no danger that States will simply "redefine" their handicapped in order to increas their allocation of Federal money, because the amount of money each State receives is determined on the basis of their entire student population. These funds cannot be used to supplant State funds for educating the handicapped, because there is already a maintenance of effort requirement in the law this would amend. Further, there is a definition of "handicapped" in the legislation being amended, so that these funds cannot be used as a general grant of aid to the States for educational purposes.

I would like to stress that this bill is not a substitute for S. 6, the Education for All Handicapped Children Act, which I fully support. S. 6 provides for far larger an authorization than does this amendment. S. 6 requires that all handicapped children be served, and encourages deinstitutionalization and efforts to place handicapped children in as normal an environment as possible. It will also include a provision dealing with the excess cost of teaching handicapped children.

All of these things are extremely important and valuable, and I am in full agreement with the need to bring S. 6 to the floor and pass it. But many of these measures are also extremely complex, and require a considerable amount of time to work out in adequate detail. There may well be some difficulties in bringing this measure to the floor in time for final action this year. And I do not feel we can wait any longer to initiate a serious effort to educate the handicapped. We have already waited too long. The courts are now confirming that we have waited too long, and this, at least, should impel us to act now.

We have learned a great deal about how to help the handicapped in recent years. We know more about how to teach them, more about the kinds of facilities they need, more about the nature of their handicaps—whether mental or physical—and how to help them overcome or make the best of their handicaps. But the special training required for teachers, the special tests required to discover and evaluate particular handicaps, and the often complex facilities required for the needs of the handicapped are all costly. We need to provide funds now for the coming year.

State planning groups are not going to totally ignore the provisions of further pending legislation which will provide their future funding. This amendment provides funds for only 1 year. But it gives the States a chance to get their programs started. The expansion, development, and perfection of these programs can come next year. But the time for procrastination is past. We do not need more postponements.

We are proposing this amendment in order to support a principle about which I feel strongly. All of our children, including those afflicted with any impairment to their physical and mental abilities, have an equal right to share in the best education, and the best quality of life, which this country can make possible for them. Handicapped children, if given the proper education, and equality of treatment in all other respects, can and do become productive, self-supporting and well-adjusted citizens. The cost of rehabilitation is more than repaid in the savings when the handicapped are motivated to leave institutions and become self-supporting and productive citizens. Their own lives are brighter, and all society benefits from their contributions.

I ask that my colleagues keep these principles and benefits in mind, and support this amendment.

Mr. MATHIAS. Mr. President, the widespread support for guaranteeing the

right of handicapped children to be educated is evidenced by many communications from action organizations and from thoughtful persons. Because such support for my amendment 1305 is additional reason for its enactment into law, I submit some examples of them for the RECORD. Each letter and telegram constitutes an eloquent endorsement of the amendment.

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

MARYLAND ASSOCIATION FOR RETARDED CITIZENS, INC.,
May 16, 1974.

Senator CHARLES MCC. MATHIAS, JR.,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MATHIAS: I urge that you make every effort to increase funds available for special education in the Elementary and Secondary Education Act. The handicapped students in Maryland, who have never been afforded equal education opportunities, need such support.

Thank you for your interest and assistance.

Sincerely yours,

CARLYLE B. STORM,
President.

MONTGOMERY COUNTY COALITION FOR THE HANDICAPPED,
Rockville, Md., May 13, 1974.

Senator CHARLES MCC. MATHIAS, JR.,
Russell Senate Office Building,
Washington, D.C.:

Our Coalition representing seventeen organizations fully supports your amendment to provide fifteen dollars per registered elementary and secondary child, this money to be used for Special Education.

Sincerely,

HAROLD BLANK,
Coordinator.

2000 FIRST MARYLAND BUILDING,
Baltimore, Md., May 15, 1974.

Re: Amendments to Elementary and Secondary Education Act.

Hon. CHARLES MCC. MATHIAS,
U.S. Senate Office Building, Washington, D.C.

DEAR SENATOR MATHIAS: I was pleased to learn recently of your sponsorship of amendments to the Elementary and Secondary Education Act. My understanding is that your proposal would increase the authorization for appropriations for the Special Education provisions of the Act.

My wholehearted support for your proposal arises largely, I must admit, from the fact that I am the father of a severely retarded little girl who was a plaintiff in the *MARC* educational suit in this State and who died during the trial of that case. Her death, however, does not diminish my strong belief in the need and the right of such children to an educational program suited to their needs.

As co-counsel in *MARC vs. Maryland, et al,* I became familiar with the nearly unanimous expert opinion that, with appropriate educational programs, nearly all retarded children can achieve self-sufficiency, and all such children can achieve at least some degree of improvement.

Your proposal, while calling for the expenditure of additional dollars now, will permit many more children to contribute to our economy as wage earners and taxpayers. More importantly, in our society, I would hope, it will help many children to live their lives with dignity and free of shame.

I remain eager, both as a concerned citizen and as one personally involved with mental retardation, to assist you in any way possible in your attempt to help these children.

Yours very truly,

ALBERT S. BARR, III.

10 LIGHT STREET,
Baltimore, Md., May 14, 1974.

Re: Amendments to Extension of Elementary and Secondary Education Act—Increased Aid for Special Education

Hon. J. GLENN BEALL, JR.,
U.S. Senate, U.S. Senate Office Building, Washington, D.C.

Hon. CHARLES MCC. MATHIAS,
U.S. Senate, U.S. Senate Office Building, Washington, D.C.

GENTLEMEN: I understand that Mac is in the process of offering an amendment to the Bill to extend the Elementary and Secondary Education Act to provide increased authorization for appropriations for that part of the Bill which deals with special education and aid for education of the handicapped.

I am writing to express my most vigorous support for this increased appropriation and to ask that Senator Bell join Senator Mathias in exerting every effort to assure passage of this increased appropriation authorization.

With a number of other parents of retarded children, I have, over the last two years, participated in litigation against State and County educational authorities in Maryland seeking to obtain judicial declarations of right to equal access to publicly funded educational programs for the retarded in Maryland. In the course of that experience, it has become crystal clear that the "technology" is available, that the means of educating and training competent teachers are available, and that the will is available to deal with the educational problems of the handicapped and retarded, but the money is critically lacking at all levels. I am completely convinced that unless the Congress can act to increase appropriations, much of the success which was won in the case of *MARC, et al vs. Maryland, et al,* will be severely diluted by a critical shortage of funds for the Maryland State Board of Education. We have a large number of competent people in the Maryland State Department of Education and at the local level, however, but they obviously cannot act without sufficient funds.

Frankly, gentlemen, I believe that our society's neglect of the educational needs of the handicapped has gone on far too many years, and I ask each of you to exert every effort toward passage of the amendment.

If there is anything further that I can do, as a citizen and father of a retarded son, please let me know.

Very truly yours,

J. SNOWDEN STANLEY, JR.

BALTIMORE, MD.,
May 14, 1974.

Hon. CHARLES MCC. MATHIAS, JR.,
U.S. Senate,
Old Senate Office Building,
Washington, D.C.:

Delighted you have introduced legislation to help support special education funding financing of this program as single most critical need of education in Maryland today.

JAMES A. SENSENVAUGH,
Superintendent of Schools.

ROCKVILLE, MD., *May 13, 1974.*

Hon. CHARLES MCC. MATHIAS, JR.,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MATHIAS: I am writing to you about the Elementary and Secondary Education Act, Title IV, to which I understand you are introducing an amendment to authorize funds for children in special education. I have worked with special education children for a number of years, and believe there is an urgent need for funds to educate these "special" children, who have been inadequately dealt with for so long, who have such pressing needs, and whose needs are not now being satisfactorily met.

I commend your introduction of the amendment, and hope you will continue to work toward meeting the needs of these youngsters.

Very truly yours,

MARILYN GREENSPAN.

BOARD OF EDUCATION OF ALLEGANY COUNTY,
Cumberland, Md., May 2, 1974.

Hon. CHARLES MCC. MATHIAS, JR.,
Old Senate Office Building,
Washington, D.C.

MY DEAR SENATOR MATHIAS: I understand that you and other members of the Senate Education Subcommittee may be considering supplementary provisions for Bill S. 1539. If additions are made to the bill, I ask you to consider the pressing need for federal financial participation in providing classroom services to handicapped children. The State of Maryland is committed under the newly passed senate Bill 649 to provide educational services when appropriate to all handicapped children from birth to age twenty. Such an obligation will place a huge financial burden on this state and particularly on the less affluent counties.

Under existing aid from the state and federal government, many counties, including Allegany, have not been able to provide all of the special education services that are needed.

In your present study, I would appreciate your considering the feasibility of the federal government's providing an across-the-board sum of fifteen dollars for each pupil based on school enrollment in order to allow special services to reach more handicapped children.

Thank you for your continuing support of public education.

Very truly yours,

WAYNE W. HILL,
Superintendent of Schools.

BALTIMORE CITY PUBLIC SCHOOLS,
Baltimore, Md., May 3, 1974.

Hon. CHARLES MCC. MATHIAS, JR.,
U.S. Senate, Old Senate Office Building, Washington, D.C.

DEAR SENATOR MATHIAS: This letter is a follow-up to the telephone call to your office made on May 1, 1974, in support of a certain amendment to S. 1539.

Specifically, the amendment would provide aid for handicapped children equal to $15 times the total school system enrollment. Additionally, such funds would be restricted to expenditures for programs for the handicapped.

We reaffirm our support for this amendment.

Sincerely yours,

ROLAND N. PATTERSON,
Superintendent.

BOARD OF EDUCATION OF WICOMICO COUNTY,
Salisbury, Md., May 1, 1974.

Hon. CHARLES MCC. MATHIAS, JR.,
U.S. Senate, Old Senate Office Building, Washington, D.C.

DEAR SENATOR MATHIAS: I would like to indicate support for the amendment to Senate Bill 1539 regarding Federal aid for the handicapped. It is my understanding that this would provide $15.00 times school enrollment for use with handicapped programs.

With the emphasis and push by Court decisions and legislative amendments, this would be most helpful.

Your consideration of this matter would be deeply appreciated.

Respectfully yours,

ROYD A. MAHAFFEY,
County Superintendent.

BOARD OF EDUCATION OF FREDERICK COUNTY,
Frederick, Md., May 1, 1974.

Hon. CHARLES McC. MATHIAS, JR.,
U.S. Senate, Old Senate Office Building, Washington, D.C.

DEAR SENATOR MATHIAS: This letter is written in support of the amendment to Senate Bill 1539—Federal Aid for the Handicapped. Enactment of this legislation would provide federal aid toward programs offered to youngsters with disabilities. I am sure you are aware that Frederick County has a tremendous investment in special facilities for the handicapped and has programs throughout the system. Because of the needs of the children classes are small; therefore the per pupil cost is quite high.

I am not too familiar with the details of SB 1539, but I do know that if additional funds are made available for special programs we could use local money to expand these programs and/or provide other kinds of instruction.

Your help in promoting this legislation will be appreciated.

Best personal regards!

Sincerely yours,
JOHN L. CARNOCHAN, Jr.,
Superintendent.

THE HOWARD COUNTY PUBLIC SCHOOL SYTEM,
Clarksville, Md., April 30, 1974.

Hon. CHARLES McC. MATHIAS, JR.,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR MATHIAS: We have been following with interest the progress of the Education Amendments Act of 1974 through the Congress. The version now before the Senate (S. 1539) is the current focal point of that interest.

I am writing this letter with particular attention to education of handicapped children. As you know, significant progress has been made in recent years in this area. Much remains to be done if the State and the local school systems are to approach fulfillment of their obligations to handicapped children. Because of the specialized services and facilities required, it is necessary to sharply increase the ratio of adults to pupils in these learning programs. Obviously, costs have increased significantly in relation to those required for the regular school programs.

Thus, the proposed amendment to S. 1539 which we understand would yield $15 per child in the total enrollment of the local school systems would indeed be a boon to further progress in this field. We would appreciate greatly your support for such an amendment.

Very best wishes!

Sincerely yours,
THOMAS W. PYLES,
Assistant Superintendent, Administration and Finance.

CHEVY CHASE, MD.,
MAY 12, 1974.

Senator CHARLES MATHIAS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MATHIAS: It is our understanding that you are planning to propose an amendment to S1539, the Elementary and Secondary Education Act, that would substantially increase the amount of Federal aid for special education programs in public schools across the nation.

We wish to advise you that as parents of a handicapped child we support your initiative and interest in this area. We believe Federal aid for special education must be increased to meet the pressing need, and this increase should be carried out as soon as possible. An expansion of Federal aid is especially necessary for Maryland, which must widen its public school services for the handicapped this coming fall in response to the recent court suit by the Maryland Association for Retarded Citizens and to the passage last year of the Special Education Act in the state legislature.

Our only caveat in this matter is that we would ask your assurance that your amendment would not jeopardize the ultimate passage of S6, with its far more massive program of Federal aid for special education.

Sincerely,
Mr. and Mrs. ROBERT E. STEARNS

BOARD OF EDUCATION OF CAROLINE COUNTY,
Denton, Md., May 1, 1974.

Hon. CHARLES McC. MATHIAS, Jr.,
Senate Office Building,
Annapolis, Md.

DEAR SIR: Your support of the amendment which provides $15.00 per student enrolled in a school system on Senate Bill No. 1539 Aide to the Handicapped will be greatly appreciated.

It is imperative that we have federal support if we are to do what should be done for our handicapped students.

Thank you!

Very truly yours,
WILBUR S. HOOPENGARDNER,
Superintendent of Schools.

BALTIMORE, MD., *May 14, 1974.*

Hon. CHARLES McC. MATHIAS JR.,
Old Senate Office Bldg.,
Washington, D.C.

Your proposed amendment to S. 1539 to provide seven hundred million dollars for the education of handicapped children addresses itself to a critical state need. You have my full support for early passage.

JEROME FRAMPTON,
President, Maryland State Board of Education.

CUMBERLAND, MD., *May 14, 1974.*

Hon. CHARLES MATHIAS,
Senate Office Building,
Washington, D.C.:

SENATOR MATHIAS: Your support and proposed legislation for handicapped children appreciated, Federal aid for handicapped vital to Allegheny County Maryland, board of education endorsed your legislation and encourages your continued interest and support.

WAYNE W. HILL,
Superintendent of Schools, Board of Education of Allegheny County.

OAKLAND, MD., *May 13, 1974.*

CHAS. McC. MATHIAS, JR.,
Senate Office Building,
Capitol Hill, D.C.

DEAR SENATOR MATHIAS: We support your efforts to amend SB1539 to increase per pupil aid to the handicapped. Our plans include about doubling in programming in next three years with forty additional severely retarded students in FY–1975.

Thanks,

Dr. WM. H. BUSTER,
Supt. of Schools, Garrett Co. Md.

CAMBRIDGE, MD., *May 13, 1974.*

Hon. CHARLES McC. MATHIAS, Jr.
Old Senate Office Building,
Capitol Hill, D.C.

DEAR SENATOR MATHIAS: Thank you for introducing SB1539 Dorchester County also supports your efforts to have this bill amended. We feel that this amendment would provide for additional services to the students of the county. As you know the MARC suit and proposed Maryland State Department of Education special education by-law will require additional funds to provide much needed programs for handicapped children. Your support of these programs is greatly appreciated.

Best personal wishes.

JOSEPH L. SCHILLING,
Superintendent of Schools.

ELKTON, MD., *May 13, 1974.*

Hon. CHARLES McC. MATHIAS, JR.,
Old Senate Office Building,
Capitol Hill, D.C.

DEAR SENATOR MATHIAS: Your past support of legislation and programs in the area of education has been greatly appreciated. Your current amendment to Senate bill 1539 would contribute immeasurably in helping the Cecil Co. Public Schools meet the handicapped learners.

The results of the recent court trial as well as new legislation in Md. dictates that our special education programs be increased. The needs of handicapped learners mandate a meaningful education program for all. We wholeheartedly support your interest and endeavors in this area.

WALTER J. FINN,
Superintendent of Schools.

DENTON, MD., *May 13, 1974.*

Senator McC. MATHIAS, Jr.,
U.S. Senate,
Old Senate Office Building,
Capitol Hill, D.C.:

Appreciate initiation of amendment to SB1539 raising support for handicapped children from 65 million to 700 million. Small counties such as Caroline County are always pushed in trying to carry out bylaws and those programs which do so much good for less than able students. We urge your continued support.

FRED G. USILTON,
Assistant Superintendent, Board of Education, Caroline County.

LEXINGTON PARK, MD., *May 13, 1974.*

Hon. CHARLES MATHIAS, Jr.,
Capitol Hill, D.C.

DEAR SENATOR MATHIAS: the Board of Education of Saint Marys County is deeply appreciative of your support of the amendment to the Senate Bill No. 1539 which will increase Maryland's Funding for Handicapped Children. These additional Federal funds if made available would enable us to substantially improve our basic special educational programing and would help us meet the legal requirements being established by the MARC Court suit.

Respectfully submitted,
ROBERT E. KING, JR.,
Superintendent of Schools.

UPPER MARLBORO, MD., *May 13, 1974.*

Senator CHARLES MATHIAS, Jr.,
Old Senate Office Building,
Capitol Hill, D.C.:

In the recent decade the State of Maryland has been in the forefront of educational programs for its handicapped children. Recent legislation passed in 1973 Legislature (106–D of article 77 public schools laws of Maryland) provides that all children 0 to 20 shall have the advantage of programs of education regardless of the nature and severity of their handicaps.

Your bill to provide special Federal funds for the handicapped is essential for the maintenance of high quality programs for handicapped children in the Prince Georges County schools. Congressional support for aid to the handicapped has been less than the local needs require. Bills such as yours are an encouraging sign and we are most honored that a Maryland legislator is taking the leadership.

With kindest regards,
CARL W. HASSEL,
Superintendent of Schools.

COLUMBIA, MD.,
May 13, 1974.

Senator CHARLES McC. MATHIAS, JR.,
Capitol Hill, D.C.:

Understand your amendment to S. 1539, title 6, part B, due introduction Monday with midweek vote. Should fill a need. Especially important in Howard County with pressures of continuing growth. Our special education program now 1600 pupils of 22,000 total enrollment. Waiting lists some areas as numbers increase. Grateful for your understanding and assistance in this difficult learning area.

M. THOMAS GOEDEKE,
Superintendent, Howard County Department of Education.

LAPLATA, MD.,
May 13, 1974.

Senator McC. MATHIAS,
Capitol Hill, D.C.:

Thank you for amending part B, title 6, Aid to Handicapped Children. Your introduction of this bill will be of tremendous educational value to the handicapped children of Charles County. The State of Maryland just enacted a law mandating that full educational services be provided for handicapped children. Recent court cases also mandate these services. Charles County is struggling to finance the needs of existing services and this legislation you are introducing will not only help with the existing but will allow the development of new programs to better meet the needs of handicapped children in our county.

JESSE L. STARKEY,
Supt. of Charles County Schools.

FREDERICK, MD.,
May 14, 1974.

Hon. CHARLES McC. MATHIAS, JR.,
Senate Office Bldg.,
Capitol Hill, D.C.:

Thank you for your understanding and concern for the handicapped child. State and local resources allocated to Frederick County Public Schools have not been adequate to meet the needs of the handicapped child. With the introduction of your amendment to title 6, part B, funding an additional allocation of resources for the handicapped, Frederick County will be better able to: serve the multi and physically handicapped needs, provide programs for students K–12 who have emotional or behavioral adjustment problems, and provide an early intervention program for students who have handicapping conditions.

JOHN E. TRITT,
Director, Administrative Services, Board of Education.

WASHINGTON, D.C., *May 14, 1974.*

Senator CHARLES MATHIAS,
Capitol Hill, D.C.:

We support your efforts to improve public education for handicapped children.

LAWRENCE LEVINSON,
President, Md. Society of Autistic Children.

SILVER SPRING, MD., *May 14, 1974.*

Senator C. MATHIAS,
Capitol Hill, D.C.:

Heartily endorse your efforts for increased funds for special education.

J. FALATTO,
President, Cerebral Palsy Assn., Montgomery County.

ABERDEEN, MD., *May 13, 1974.*

Hon. CHARLES MATHIAS,
Senate Office Building,
Capitol Hill, D.C.:

Your introduction of amendment on handicapped children is very much appreciated. Handicapped children in this school system needed additional special services which we are unable to provide due to limited fiscal resources. Your provisions of $15 per pupil will do much to assist us with this problem.

A. A. ROBERTY,
Superintendent of Schools, Board of Education of Harford County.

WESTMINSTER, MD., *May 13, 1974.*

Senator CHARLES MATHIAS,
Capitol Hill, D.C.:

Appreciation for your amendment, S. 1539. Handicapped Carroll County supports amendment providing increased basic funding allowing implementation MARC decision and Maryland bylaws.

GEORGE E. THOMAS,
Superintendent of Schools.

CHESTERTOWN, MD., *May 13, 1974.*

Senator CHARLES MATHIAS,
Senate Office Building,
Capitol Hill, D.C.:

Appreciate your sponsorship of special education amendment S. 1539 funding provided. Would be major assistance for Kent County in providing for handicapped children.

Dr. RICHARD HOLLER,
Superintendent of Schools.

PRINCE FREDERICK, MD., *May 13, 1974.*

Senator CHARLES MATHIAS,
Capitol Hill, D.C.:

Thanks for amendment to Senate bill 1539. This is necessary to carry out the mandate for education of all handicapped children.

RALPH E. WACHTER,
Calvert County Schools.

ANNAPOLIS, MD., *May 13, 1974.*

Senator CHARLES MATHIAS,
Capitol Hill, D.C.

DEAR SENATOR MATHIAS: Thank you for responding to our urgent need for assistance in funding programs for handicapped children. Your amendment to Senate bill 1539 could mean as much as $1.2 million aid to the approximately 3,000 youngsters in the public schools of Anne Arundel County who have been identified to be in need of special educational services.

EDWARD J. ANDERSON,
Superintendent.

Mr. KENNEDY. Mr. President, I rise in support of Mr. MATHIAS' amendment to the Elementary and Secondary Education Act Amendments of 1974, which would provide $632 million in emergency, stop-gap funds to meet the needs of handicapped children. Aid would go primarily to those States in which a commitment has been made to provide fully equivalent free, public education to handicapped children.

There are two major reasons why immediate action should be taken on this amendment:

First, there have been several recent court rulings as a result of class action suits on behalf of handicapped groups ordering that States take whatever action may be necessary to provide free public education to all handicapped children. In addition, in several States, such as Massachusetts, laws have been passed calling for the implementation of programs to offer all handicapped children an opportunity for a full and comprehensive education.

Second, in addition to the short time left before schools must act to provide enhanced educational programs for handicapped children, Mr. MATHIAS' amendment is an assurance to States which have made a commitment to much broader educational opportunities for handicapped children that the Federal Government stands ready to assist in that endeavor. And because of Government assurance, the bill may also act as an incentive for other States which have not already implemented similar programs.

However, although I strongly endorse the Mathias amendment, none of us should look to this amendment as a substitute for S. 6, which is a far more comprehensive and far-reaching education package on behalf of handicapped children introduced by Mr. WILLIAMS. I know that both Mr. WILLIAMS and Mr. RANDOLPH have worked closely with Mr. MATHIAS to see that this amendment complements S. 6.

The Education for All Handicapped Children Act, of which I am a cosponsor, provides more rehabilitational and educational opportunities to handicapped children than any other legislation. Too often, handicaps are not defined for funding purposes and this leads to one group receiving the bulk of funds while other groups are left with virtually no funds at all to carry out their programs. For example, in the 1971–72 school year, while 57 percent of all trainable mentally retarded children in this country received educational opportunities, only 14 percent of all hard of hearing children were provided for and S. 6 sees to it that all handicaps are included in the funding process.

Another very important aspect of S. 6 is its assurance of the protection of the rights of handicapped children and this will insure that children are not mislabeled or otherwise placed in programs which would not fulfill their particular needs through poor testing, misinterpretation of the handicap or exclusion from any program as untreatable.

Finally, what is foremost in the minds of those of us who support S. 6 is that it be enacted into law in its entirety in the very near future. However, the immediate need is to insure funds now so that the States can meet the requirements of court orders and State laws by the coming school year. And, unfortunately, it does not appear that S. 6 can be passed in time.

It is because of the emergency which exists now that we must support the Mathias amendment, not because it is a substitute for S. 6. If this legislation had been introduced with the intention of taking the place of S. 6, I would not be able to support it. However, many assurances have been given to the contrary—that this is strictly to meet the emergency needs of the States before the next school year begins.

Therefore, I am glad to give my support to this amendment.

Mr. BEALL. Mr. President, I am pleased to cosponsor and support this amendment with Senator MATHIAS. This amendment would provide Federal aid for classroom services and therapies for the education of handicapped children. This aid would be in the amount of $700 million to be distributed nationally by $15 per enrolled pupil based on total enrollment.

Certainly no group has been discrim-

inated against more in their efforts to obtain an education and the extent and delivery of these services has been far from adequate. In fact, in 1972, according to Dr. Edwin Martin of the Bureau of Education of the Handicapped, it was estimated that less than 3 million of the 7 million handicapped children are receiving adequate services and one-half a million are receiving no services at all.

Compared to the average cost of education for a "normal" youngster, the cost for education of the handicapped child is expensive. In testimony before the House Education Subcommittee this year on H.R. 70, legislation that would create a Federal aid program for handicapped children, Maryland officials stated that the State should spend another $35 million to give a good education to the 40 percent of the handicapped children who do not get one now. In fact, at this time Maryland fails to meet the needs of an estimated 110,000 children, 12½ percent of the school-age population.

However, the percentage of handicapped children in Maryland receiving special education services should increase significantly, particularly in view of the recent ruling by Baltimore County Judge John E. Raine, Jr., in which he stated that all retarded and handicapped children in Maryland are entitled to an education at public expense. This suit further places the responsibility on the State department of education and State mental retardation administration to educate the mentally retarded and points up the State's obligation to find the funds to do this. In addition, the State now must establish standards for educating retarded children and begin enforcing them by September 1975.

While there is comprehensive legislation that could, if enacted, aid Maryland and the other States, I believe that in view of this highly significant court decision, as well as legislation passed by the State in this area, that it is imperative that we enact this amendment, as an interim 1-year measure, so that we can assist all States in reaching these important goals which have been established.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD a statement in support of the Mathias amendment by the distinguished Senator from New Mexico (Mr. MONTOYA).

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

STATEMENT BY SENATOR MONTOYA

I am pleased to join the distinguished Senator from Maryland, Mr. Mathias, and others in co-sponsoring this amendment which ensures that the concept of equal educational opportunity which we all espouse is extended to the often neglected handicapped children of America.

The Senator from Maryland is to be commended for bringing to the attention of the Senate the dire need to assist the various states who are striving to comply with court decrees compelling state education departments to provide the seven million handicapped children of this country with the opportunity of an equal education.

Mr. President, the debate here today has highlighted the lack of adequate facilities, equipment and teachers needed if the 40 percent of the handicapped children not now receiving special education are to be served. I know that a serious effort is being made by many states to provide a meaningful education for handicapped students, but because this effort is falling short I believe that it is incumbent on the federal government to supplement the efforts of these states.

Mr. President, many times before state and federal ventures have been successful in alleviating major problems which have beset this country. The amendment of the Senator from Maryland provides us with an excellent opportunity for a state-federal venture aimed at improving and expanding education programs for the handicapped so as to provide them with a truly equal educational opportunity.

I urge the adoption of this amendment.

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

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

Mr. JAVITS. Mr. President, I ask unanimous consent that after action is taken on the Mathias amendment, there may be a quorum call, without the time being charged to either side.

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

The question is on agreeing to the amendment of the Senator from Maryland, as amended.

The amendment, as amended, was agreed to.

Mr. MATHIAS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER (Mr. STAFFORD). Without objection, it is so ordered.

AMENDMENT NO. 1345

Mr. METCALF. Mr. President, I ask unanimous consent that, notwithstanding the previous order, I may be permitted to call up at this time my amendment No. 1345.

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

The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. METCALF. 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 206, line 15, strike out "60" and insert in lieu thereof "65".

On page 206, line 21, strike out "54" and insert "63".

Mr. METCALF. Mr. President, on Thursday I placed in the RECORD an explanation of the amendment. The amendment is merely a change that was necessitated by the so-called McGovern amendment and other amendments so that we can have equity up and down the line. The amendment would merely change the formula so that other class A or category A children would be treated equitably under the McGovern amendment, as well as the way the Committee on Appropriations is acting today.

I have discussed the amendment with the managers of the bill on the majority side and the minority side. I am informed they are prepared to accept the amendment.

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

Mr. METCALF. I am delighted to yield.

Mr. JAVITS. Mr. President, I am advised that this amendment is acceptable to the manager of the bill on the majority side, the Senator from Rhode Island (Mr. PELL), to the chairman of the committee (Mr. WILLIAMS), and that it is acceptable to the administration. For all those reasons I urge the adoption of the amendment by the Senate.

Mr. METCALF. Mr. President, as I have stated, there is a complete explanation of the amendment in the RECORD of last Thursday. Inasmuch as the amendment is acceptable on all sides I ask that the amendment be agreed to.

The PRESIDING OFFICER (Mr. WILLIAMS). Is all time yielded back?

Mr. METCALF. I yield back the remainder of my time.

Mr. JAVITS. 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. JAVITS. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum without the time being charged to either side.

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

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

The PRESIDING OFFICER (Mr. PELL). Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I have an amendment at the desk, and I ask unanimous consent that it be stated and that this procedure not in any way affect the designated order of procedure.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I ask that the amendment be stated.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk read the amendment, as follows:

On page 125, line 22, strike out "and limited" and all that follows down through the end of line 23 and insert in lieu thereof a period.

Mr. WILLIAMS. Mr. President, I am offering an amendment which would de-

lete language on page 125 relating to our national policy with respect to equality of educational opportunity. The language proposed to be deleted relates to limitations on ability to learn and desire to learn. It is feared by some that this language would be unfair to handicapped children who do have severe limitations. Therefore, in order to clear up any ambiguity, I am proposing that this language be stricken from the bill.

Mr. JAVITS. Mr. President, it is essentially a technical amendment, but one which is necessary to the bill, and I hope it will be accepted.

Mr. WILLIAMS. Mr. President, I yield back my time.

Mr. JAVITS. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on the amendment having been yielded back, the question is on agreeing to the amendment of the Senator from New Jersey (Mr. WILLIAMS).

The amendment was agreed to.

Mr. JAVITS. Mr. President, I ask unanimous consent that there may be a quorum call without the time being charged.

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

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. WILLIAMS). Without objection, it is so ordered.

The Senate will receive a message from the President of the United States.

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. METCALF) laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed the bill (S. 2957) relating to the activities of the Overseas Private Investment Corporation with amendments in which it requests the concurrence of the Senate.

ORDER FOR RECOGNITION OF SENATOR BARTLETT TOMORROW AND SENATOR PROXMIRE WEDNESDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, Mr. BARTLETT be recognized for not to exceed 15 minutes, and that Mr. PROXMIRE be recognized for not to exceed 15 minutes the first thing after the two leaders have been recognized on Wednesday.

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

EDUCATION AMENDMENTS OF 1974

The Senate continued with the consideration of the bill (S. 1539) to amend and extend certain acts, relating to elementary and secondary education programs and for other purposes.

The PRESIDING OFFICER. What is the pleasure of the Senate?

Mr. PELL. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time be equally divided, and be taken from the time on the bill.

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. PELL. Mr. President, I ask unanimous consent to take up certain technical amendments out of order at this time.

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

Mr. PELL. Mr. President, I send to the desk certain technical amendments, and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendments will be stated.

The assistant legislative clerk proceeded to read the amendments.

Mr. PELL's amendments are as follows:

On page 186, line 14, strike out "1977" and insert in lieu thereof "1978".

On page 190, lines 21 and 22, strike out "this subsection, the Commissioner shall determine" and insert in lieu thereof "clause (2) of the preceding sentence with respect to a local educational agency for any fiscal year, the Commissioner shall include".

On page 224, line 10, strike out "(A)" and insert in lieu thereof "(B)".

On page 242, line 21, strike out the end quotation mark and the period the second time it appears.

On page 257, line 8, strike out "and 409" and insert in lieu thereof "409, and 410".

On page 334, between lines 4 and 5, insert the following:

(b) The amendments made by this section shall be effective with respect to payments made on and after October 1, 1973.

Mr. PELL. Mr. President, these amendments change section numbers, reflect the inclusion of Indian youngsters in impacted aid, and insert missing effective dates. They have been suggested by the legislative counsel, and have been cleared with the minority.

The PRESIDING OFFICER. The question is on agreeing to the amendments of the Senator from Rhode Island.

Mr. DOMINICK. Mr. President, we have no objection. These are worthwhile amendments.

The PRESIDING OFFICER. Without objection, the amendments are agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. PELL. Mr. President, I ask unanimous consent that the amendment of the Senator from Florida (Mr. CHILES), which is No. 7 on the whip notice, be called up out of order at this time.

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

AMENDMENT NO. 1344

Mr. CHILES. Mr. President, I call up my amendment No. 1344 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

At the end of the bill, add the following new title:

"TITLE IX—NEIGHBORHOOD SCHOOLS AND PRIZE SCHOOLS PROGRAM

"PART A—NEIGHBORHOOD SCHOOLS PROGRAM

"SHORT TITLE

"SEC. 901. That this part may be cited as the "Neighborhood School Act of 1974.'

"DECLARATION OF POLICY

"SEC. 902. (a) It is the policy of the United States to encourage the concept of the neighborhood school so that students are assigned to a public elementary or secondary school solely on the basis of residence within the geographic zone which that school serves.

"(b) It is further the policy of the United States that no student may be denied attendance at the neighborhood school serving the geographic zone in which he resides on the basis of race, creed, color, religion, or national origin.

"MINORITY GROUP TRANSFER AUTHORIZED

"SEC. 903. (a) It is also provided that any student has the right to transfer and be provided transportation out of the neighborhood public elementary or secondary school serving the geographic zone in which he resides if such a student is a member of a minority group and that minority group constitutes at least 50 per centum of the students enrolled in that school.

"(b) For the purpose of this section—

"(1) 'minority group' means any individuals who are Negro, American Indian, Spanish-surnamed American, Portuguese, or Oriental and, as determined by the Secretary pursuant to regulations, combinations of any such individuals;

"(2) 'Spanish-surnamed American' means an individual of Mexican, Puerto Rican, Cuban, or Spanish origin or ancestry.

"AUTHORIZATION AND LIMITATION

"SEC. 904. (a) Federal funds shall be made available under the Elementary and Secondary Education Act of 1965 or any other provision of law to pay the cost of the assignment or transportation of students in accordance with the provisions contained in section 903(a) of the Act.

"(b) Nothwithstanding any other provision of law no officer or employee of any department or agency of the Federal Government shall order or require the assignment or transportation of students inconsistent with the policy set forth in this part.

"PART B—PRIZE SCHOOLS PROGRAM

"SHORT TITLE

"SEC. 931. This part may be cited as the 'Elementary and Secondary Education Systems Act of 1974'.

"STATEMENT OF PURPOSE

"SEC. 932. It is the purpose of this part to strengthen the concept of the neighborhood school through a program of financial assistance for use in meeting the special needs of educationally disadvantaged children in such schools and for establishing such schools as educational and cultural centers for a better community.

"DURATION OF ASSISTANCE

"SEC. 933. The Commissioner shall, in accordance with the provisions of this part, make payments to State educational agencies for grants to local educational agencies for the period beginning July 1, 1973, and ending June 30, 1978.

"BASIC GRANTS AMOUNT AND ELIGIBILITY

"SEC. 934. (a) There is authorized to be appropriated for each fiscal year for the purpose of this subsection an amount equal to not more than 3 per centum of the amount appropriated for such year for payments to States under section 938, other than payments under such section to jurisdictions excluded from the term 'State', by this subsection. The Commissioner shall allot the amount appropriated pursuant to this subsection among the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands, according to their respective need for such payments. The grants which a local educational agency shall be eligible to receive pursuant to this subsection shall be allotted as the Commissioner determines will best carry out the purposes of this part.

"(b)(1) In any case in which the Commissioner determines that saisfactory data are available, the maximum grant which a local educational agency shall be eligible to receive under this part for any fiscal year shall be an amount equal to the Federal percentage (established pursuant to subsection (d)) multiplied by the average per pupil expenditure in that State or, if greater in the United States, and multiplied by the number of children enrolled in the neighborhood schools of such agency who are age five to seventeen years, inclusive.

"(2) In any other case, the maximum grant for any other local educational agency in a State shall be determined on the basis of the aggregate maximum amount of such grants for all such agencies in any county in which the school district in which the particular agency is located which aggregate maximum amount shall be equal to the Federal percentage of such per pupil expenditure multiplied by the number of children enrolled in such neighborhood schools and shall be allocated among those agencies upon such equitable basis as may be determined by the State educational agency in accordance with basic criteria of the Commissioner.

"(c) For the purpose of this subsection and section 935, the term 'neighborhood schools' means any public elementary or secondary school in which—

"(1) not less than 75 per centum of the children enrolled in such school are assigned to that school on the basis of residence within a specified geographic area which that school serves and not more than 25 per centum are assigned to such school on the basis of voluntary request by the parents or guardians of such children or by reason of an order of a court of competent jurisdiction; and

"(2)(A) not less than 40 per centum of the children enrolled in such school are (i) in families having an annual income of less than the low-income factor, (ii) in families receiving an annual income in excess of the low-income factor from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act, or (iii) living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted for the purpose of a grant to a State agency, or being supported in foster homes with public funds; or

"(B) not less than 40 per centum of the children enrolled in such school are members of a minority group.

"(d) For the purpose of this section, the 'Federal percentage' is 65 per centum and the 'low-income factor' is $4,000 for the fiscal year ending June 30, 1974, and shall be increased by the Commissioner to an amount in excess of $4,000 reflecting an increase in the cost of living factor as determined by the Commissioner after consulting with the Secretary of Labor.

"(e) For the purposes of this section, the Commissioner shall determine the number of children aged five to seventeen, inclusive, of families having an annual income of less than the low-income factor (as established pursuant to subsection (d)) on the basis of the most recent satisfactory data available from the Department of Commerce. At any time such data for a county are available in the Department of Commerce, such data shall be used in making calculations under this section. The Secretary of Health, Education, and Welfare shall determine the number of children of such ages from families receiving an annual income in excess of the low-income factor from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act, and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of January of the preceding fiscal year or, to the extent that such data are now available to him before April 1 of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to him at the time of such determination. When requested by the Commissioner, the Secretary of Commerce shall make a special estimate of the number of children of such ages who are from families having an annual income less than the low-income factor in each county or school district, and the Commissioner is authorized to pay (either in advance or by way of reimbursement) to the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information. For purposes of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

"(f) For the purpose of this section, 'the average per pupil expenditure' in a State, or in the United States, shall be the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made (or, if satisfactory data for that year are not available at the time of computation, then during the earliest preceding fiscal year for which satisfactory data are available), of all local educational agencies in the States, or in the United States (which for the purposes of this subsection means the fifty States and the District of Columbia), as the case may be, plus any direct current expenditures by the State for operation of such agencies (without regard to the sources of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provide free public education during such preceding year.

"(g) For the purpose of this section, the term 'State' does not include the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

"USES OF FUNDS

"SEC. 935. Funds available for grants under this part shall be used only in neighborhood schools for programs and projects designed to meet the special educational needs of educationally deprived children and new or innovative school and community educational and recreational programs designed to strengthen community involvement in a more effective use of the neighborhood schools including—

"(1) remedial and other services to meet the special needs of children attending the neighborhood schools, but especially the educationally disadvantaged children;

"(2) the provision for additonal professional or other staff personnel with a special emphasis on recruiting parents and other local community members to assist in achieving the educational goals of such schools;

"(3) comprehensive guidance, counseling, and other personal services for educationally disadvantaged children;

"(4) development and employment of new instructional techniques which appear likely to succeed in meeting the needs of such children;

"(5) career education programs using neighborhood people both in and outside the school whenever found in the interest of the educational goals of such schools;

"(6) innovative school-community educational and recreational programs designed to stimulate further community interest and involvement with the education process;

"(7) provision for using the school for tutoring for remedial students, after normal school hours, and for furnishing such professional and other community staff as will contribute to the success of such an effort;

"(8) provisions for professional staff home consultations with the parents and students, where feasible and desirable;

"(9) special administrative activities such as rescheduling teachers or students, and furnishing information on programs of such schools to parents and other members of the community served by that school; and

"(10) appropriate planning and evaluation programs.

"APPLICATIONS

"SEC. 936. (a) A local educational agency may receive grants under this part for any fiscal year only upon application approved by the appropriate State educational agency, upon its determination consistent with such basic criteria as the Commissioner may establish—

"(1) that programs and activities for which assistance is sought will be administered by or under the direct supervision of the applicant;

"(2) that such assistance will be expended only in neighborhood schools and describe with particularity the programs and activities for which such assistance is sought;

"(3) that policies and procedures will be established to assure the Federal funds made available under this title for any fiscal year (A) will not be commingled with State funds, and (B) will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be available for the purposes described in section 935, and in no case supplant such funds;

"(4) that effective procedures will be adopted for evaluating at least annually the effectiveness of programs and activities assisted under this title;

"(5) reasonable reports will be furnished in such form and containing such information as the Commissioner may reasonably require and such records will be kept and access furnished thereto as the Commissioner may

find necessary to assure the correctness and verification of such reports.

"(b) The State educational agency shall not finally disapprove, in whole or in part, any application for funds under this part without first affording the local educational agency submitting the application reasonable notice and opportunity for a hearing.

"ASSURANCES FROM THE STATE

"SEC. 937. (a) Any State desiring to participate under this part shall submit through the State educational agency to the Commissioner an application, in such detail and accompanied by such information as the Commissioner deems necessary, which provides satisfactory assurance—

"(1) that payments under this part will be used only for programs and activities in neighborhood schools which have been approved by the State educational agency pursuant to section 6 and which meet the applicable requirements of that section and that such agency will, in all other respects comply with the provisions of this title;

"(2) that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursements of, and accounting for, Federal funds paid to the State (including such funds paid by the State to local educational agencies) under this part; and

"(3) that the State educational agency will make to the Commissioner (A) periodic reports (includnig the results of objective measurements required by section 6(a)(4) evaluating the effectiveness of payments under this Act and of particular programs assisted under it, and (B) such other reports as may be reasonably necessary to enable the Commissioner to perform his duties under this Act (including such reports as he may require to determine the amounts which the local educational agencies of that State are eligible to receive for any fiscal year), and assurance that such agency will keep such records and afford such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

"(b) The Commissioner shall approve an application which meets the requirements specified in subsection (a), and he shall not finally disapprove an application except after reasonable notice and opportunity for a hearing to the State educational agency.

"PAYMENTS

"SEC. 938. (a)(1) The Commissioner shall, subject to the provisions of section 939, pay to each State, in advance or otherwise, the amount which that State and the local educational agencies of that State are eligible to receive under this part. Such payment shall take into account the extent, if any, to which any previous payment to such State educational agency under this part (whether or not in the same fiscal year) was greater or less than the amount which should have been paid to that agency.

"(2) From the funds paid to it pursuant to paragraph (1), each State education agency shall distribute to each local educational agency of that State which has submitted an application approved pursuant to section 936 the amount for which such application has been approved, except that this amount shall not exceed the maximum amount determined for that agency pursuant to section 934.

"(b) The Commissioner is authorized to pay to each State amounts equal to the amounts expended by it for the proper and efficient performance of its duties under this part (including technical assistance for the measurements and evaluations), except that the total of such payments in any fiscal year shall not exceed—

"(1) 1 per centum of the total maximum grants for State and local educational agencies of the State as determined for that year; or

"(2) $150,000 or $25,000 in the case of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands,

whichever is the greater.

"(c)(1) No payments shall be made under this part for any fiscal year to a State which has taken into consideration payments under this part in determining the eligibility of any local educational agency in the 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.

"(2) No payments shall be made under this part 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 not less than such combined fiscal effort for that purpose for the second preceding fiscal year.

"ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS

"SEC. 939. If the sums appropriated for any fiscal year for making payments provided in this part are not sufficient to pay in full the total amount which all local educational agencies are eligible to receive under this part for such year, allocations shall be made to local agencies on the basis of computations in accordance with section 4(b) as ratably reduced. In case additional funds become available for making payments under this part for that year, such reduced amounts shall be increased on the same basis that they were reduced. In order to permit the most effective use of all appropriations made to carry out this part, the Commissioner may set dates by which (1) State educational agencies must certify him the amounts for which the applications of educational agencies have been or will be approved by the State. If the maximum grant a local educational agency would receive (after any ratable reduction which may have been required under the first sentence of this section) is more than an amount which the State educational agency determines, in accordance with regulations prescribed by the Commissioner, such agency will use, the excess amount shall be made available first to educational agencies in that State. Determinations of the educational agencies to which such excess amounts shall be made available shall be made by the State educational agency in furtherance of the purposes of this part in accordance with criteria prescribed by the Commissioner which are designed to assure that such excess amounts will be made available to other eligible educational agencies with the greatest need. In the event excess amounts remain after carrying out the preceding two sentences of this section, such excess amounts shall be distributed among the other States as the Commissioner shall prescribe for use by local educational agencies in such States for the purposes of this Act in such manner as the respective State educational agencies shall prescribe.

"WITHHOLDING

"SEC. 940. Whenever the Commissioner, after giving reasonable notice and opportunity for hearing to a grant recipient under this part, finds—

"(1) that the program or activity for which such grant was made has been so changed that it no longer complies with the provisions of this Act; or

"(2) that in the operation of the program or activity there is failure to comply substantially with any such provision,

the Commissioner shall notify such recipient of his findings and no further payments may be made to such recipient by the Commissioner until he is satisfied that such noncompliance has been, or will promptly be, corrected. The Commissioner may authorize the continuance of payments with respect to any programs or activities pursuant to this Act which are being carried out by such recipient and which are not involved in the noncompliance.

"JUDICIAL REVIEW

"SEC. 941. (a) If any State or local educational agency is dissatisfied with the Commissioners' final action with respect to the approval of its application submitted under section 937, or with his final action under section 930, 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 for which such agency is located a petition for review of that action. A copy of that petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner shall file promptly in the court the record of proceedings on which he based his action, as provided for 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 file in 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) Upon the filing of such petition, 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.

"PROHIBITIONS AND LIMITATIONS

"SEC. 942. Nothing contained in this part shall be construed to authorize the making of any payment under this part for the construction of facilities as a place of worship or religious instruction.

"ADMINISTRATION

"SEC. 943. Unless otherwise specifically inconsistent with the provisions of this part the provisions of the General Education Program Act shall apply to the program authorized by this title.

"DEFINITIONS

"SEC. 944. As used in this part—

"(1) the term 'minority group' means persons who are Negro, American Indian, Spanish surnamed American, Portuguese, or Oriental; and

"(2) the term 'Spanish surnamed American' means persons of Mexican, Puerto Rican, Cuban, or Spanish origin or ancestor.".

On page 124, in the table of contents, after title VIII add the following:

TITLE IX—NEIGHBORHOOD SCHOOLS AND PRIZE SCHOOLS PROGRAM

"PART A—NEIGHBORHOOD SCHOOLS PROGRAM

"Sec. 901. Short title.
"Sec. 902. Declaration of policy.
"Sec. 903. Minority group transfer authorized.
"Sec. 904. Authorization and limitation.

"PART B—PRIZE SCHOOLS PROGRAM

"Sec. 931. Short title.
"Sec. 932. Statement of purpose.
"Sec. 933. Duration of assistance.
"Sec. 934. Basic grants amount and eligibility.
"Sec. 935. Use of funds.
"Sec. 936. Applications.
"Sec. 937. Assurances from the State.
"Sec. 938. Payments.
"Sec. 939. Adjustments where necessitated by appropriations.

"Sec. 940. Withholding.
"Sec. 941. Judicial review.
"Sec. 942. Prohibitions and limitations.
"Sec. 943. Administration.
"Sec. 944. Definitions.".

Mr. CHILES. Mr. President, I am calling up my amendment to S. 1539 which would add an additional title to the education bill, title IX.

I have raised this proposal in the past and I believe there is increasing support for it at this time. Basically the amendment has three main parts:

First, it declares it the policy of the United States to encourage the concept of the neighborhood school so that students are assigned to a public elementary or secondary school solely on the basis of residence within the geographic zone which that school serves.

Second, it provides that any student has the right to transfer and be provided transportation out of the neighborhood public elementary or secondary school serving the geographic zone in which he resides if the student is a member of a minority group and that minority group constitutes at least 50 percent of the students enrolled in the school.

Third, the "prize school program."

We have been debating various busing amendments these past few days in an effort to accomplish a goal I believe we all share—that is to provide equal educational opportunity for all our children. I am convinced we can best do this by improving and enriching our present facilities and programs, strengthening the concept of the neighborhood school through a program of financial assistance for use in meeting the special needs of educationally disadvantaged children, and establishing educational and cultural centers for a better community. And this is exactly what my prize schools program would do.

My amendment is a financial assist to help protect the concept of neighborhood schools. I cannot support a neighborhood school system if the kind of education that neighborhood schools offers is far below standard. If we are going to protect this traditional concept of our public education system, we must improve it. We must be able to offer these children in these areas a real choice—my amendment would allow students the right to transfer and be provided transportation out of their neighborhood school if they are members of a minority race and that race constitutes a majority in the neighborhood school. But no student would be denied school on the basis of race, color, religion, or national origin.

The assistance this bill offers would be used in meeting the special needs of educationally disadvantaged children. This disadvantaged school is further defined as one where not less than 40 percent of the children are in families with an annual income less than $4,000. My amendment would provide that schools considered disadvantaged would receive a Federal payment equal to the amount of 65 percent of the average per pupil expenditure in the State or in the United States, whichever is higher, times the enrollment of students in the particular school. These special funds are to be used only in disadvantaged schools, only for programs and projects designed to meet the special educational needs of educationally deprived children and for new or innovative school and community educational recreational programs. The program builds upon the assumption that money poured into schools has some relationship between the two. Disadvantaged children attend disadvantaged schools where there is often neither sufficient funds for equipment and facilities and little or no funds for recreational and cultural "extras," which help turn the school into a "prize" school that has the possibility of serving as a true center for the community—a vehicle for drawing people together, because they are pround of what they have, rather than something to be ashamed of and something that divides the community

One of my primary reasons for introducing this amendment to provide for a means of strengthening community involvement in a more effective use of the neighborhood schools. Particularly in disadvantaged neighborhoods, school facilities are in use a mere 6 or 7 hours a day. The buildings, as well as equipment in the school—if it is properly equipped—remain dormant for much of the day—in fact, much of the year. Schools are unused at night or on weekends, basketball courts remain dark and unused at night: Library doors are closed—the money my bill provides is especially directed toward remedial and other services to meet the special needs of the educationally disadvantaged children. It would allow the hiring of additional professional or other staff personnel with special emphasis on recruiting parents and other local community members to assist in achieving the educational goals of such schools.

Funds provided in my bill would be available for comprehensive guidance, counseling, and other personal services for educationally disadvantaged children, development and employment of new instructional techniques, career education programs, and school-community educational recreational programs designed to stimulate further community interest and involvement with the education process. It would also include provisions for professional staff home consultations with parents and students where necessary, special administrative activities, and evaluation programs.

Funds provided through this proposal would be expended only in disadvantaged schools for the programs and activities for which such assistance is sought. I have tried to build in provisions to assure that such funds will not be mixed with State funds and will be used as intended—that is, to increase the level of money available for the purposes I have described. The Commissioner of Education would be authorized to see that a good evaluation is made annually to assure the effectiveness of programs and activities encouraged through the program. The Commissioner could terminate further payments if he finds that the program or activity for which the grant was made has been changed as to no longer comply with the act's provisions.

Mr. President, we are faced today with a situation in which many children choose to attend a school a good distance from home, because the level of instruction, the quality of education offered at his neighborhood school is low.

The amendment I am calling up today is designed to meet the child's needs where they are. The parent and child and teacher could remain closer to each other, the child would not have to spend so much time getting to and from school; leaving more time for his homework and extracurricular activities; and most of all, children would be allowed to attend their neighborhood school if they chose to. That choice would be made more real, more practical by the upgrading of that disadvantaged neighborhood school.

Briefly, Mr. President, I believe my amendment is a practical, just, and efficient method for obtaining the best possible educational opportunity for all of our children.

I hope my colleagues will join me in supporting this kind of approach.

Mr PELL. Mr. President, I have had the opportunity to study the amendment of the Senator from Florida. I cannot cavil with this amendment in that it is an imaginative approach to quality education. However, while nobody can argue with the intent, the cost, in light of the appropriations history, on title I and other education law is just unreal. Let us put some money into title I so that we can really say that we have given them a chance to work, and then we can provide additional funds.

I do not like to be on record as voting against more money for education, but I believe that this type of amendment would be misleading, and I believe I could not support it at this time.

I would be more than willing to have a hearing on this matter within the time limits of a possible impeachment trial or Senate emergency and would give the Senator from Florida that assurance if that met with his approval, but if he presses the amendment to a vote, I could not support it.

I should like to get the reaction of my colleagues, from the minority side of the committee.

Mr. JAVITS. Mr. President, I agree with the Senator. I will certainly join in giving a hearing to this matter. Another point I should like to make—and I am sure the Senator is aware of it—is that the unanimous-consent agreement for today is subject to a provision that it will not be in order to offer further busing amendments. This seems to me, at least in part, to provide for transportation. Because of the notice given to all Members respecting busing amendments, and so forth, I would not, naturally, wish to make any point of order against it, but I think, in view of the fact that it is something which is what I could not carry right now anyhow, I would be constrained to do that as one of the managers of the bill on this side.

But I hope very much that the Senator may find it congenial, as we are known in the Senate for keeping our word on hearings and taking it very seriously and trying to work with Members when they have an interesting concept, of trying to do something with it. We have a good standing with the Senate on

that sore. I hope very much therefore that the Senator may see fit to accept the manager's suggestion.

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

Mr. PELL. I yield.

Mr. DOMINICK. I thank the distinguished Senator from Rhode Island for yielding.

As a strong proponent of the neighborhood school system, I can well understand what the Senator from Florida is trying to do. But do I correctly understand that this would cost approximately $2.5 billion?

Mr. CHILES. I think that if the specific formula set forth in the amendment is followed, the price tag would be up to $2.5 billion. The Senator is correct.

Mr. DOMINICK. I do not see how we can add $2.5 billion to a bill which already has an enormous amount of money in it and expect to get by without it being vetoed, perhaps not for this reason but for a combination of a whole series of reasons.

I would much rather see us go forward and try to get some expression of what kind of appropriation might be obtained for a proposal of this kind and with districts, if any, are really going to need this kind of funding.

There are neighborhood school districts in our various States now which are well able to take care of the necessary amount of money from their local people, in order to be able to fund a quality type of education; and even though they might fit within this distinction, they still would be eligible for a grant. That seems to me sort of unnecessary.

So I would go along with the distinguished chairman and the ranking minority member of the committee, hoping that we could have hearings later, and try to get a much better feel for this proposal and the need for it in selected areas.

It is similar to some extent, if I may say so, to former Senator Murphy's original proposal to try to concentrate funds in areas where we have a great proportion of low-income kids or disadvantaged kids. For that reason—although that is not in the bill at the moment, I understand that that kind of proposal is going to be raised again later today—I would think that the Senator from Florida would be well advised to take the commitment that we are going to have hearings as soon as reasonably possible on this concept.

Mr. CHILES. I thank the Senator from Colorado, the Senator from Rhode Island, and the Senator from New York for their remarks.

When we start talking about the price tag on this proposal, I think the Senator from Colorado would agree with me that if we can find a way to preserve the neighborhood school system at the same time we provide an equal educational opportunity for every child, so that we do not have some kind of separate but unequal school system, or if we do not even have a separate school system—if we could find a fair way to do that, the American people would rather pay the cost of that than any other title I or title III. We see that in the tremendous discombobulation people have been through in the whole question of the neighborhood schools and busing.

The attempt of this amendment is to get around to saying whether you are or are not going to bus. Busing is a tool that could be used for education. It is not the cure-all. It has not provided quality education, as we see, where it has been used; but it has been used by the courts to provide equal education, in the belief that that was the only way to bring it about, because we were not taking care of the disadvantaged students. They were not given the right equipment. They were not given the best teachers. They were continually allowed to run down.

The thrust of this amendment is take the opposite tack—that we are going to try to make a prize school out of the disadvantaged school.

I do not know what the Senator's experience has been in Colorado, but in my State, in many areas, we closed the disadvantaged school. It was easier to close that school than to bus white children into the black neighborhood. So we not only closed the school when we did that; we closed the community center. We allowed the neighborhood to deteriorate much further. That school, dilapidated as it was, served in many instances as more than a school. It was also the community center.

The thrust of this amendment would be to turn that school into a prize community center, so that they would have not only a very good school, with a lower teacher ratio, the best teachers, and the best equipment, but also, the school would be open for community projects and could be something from which the neighborhood could build.

I believe that is the best tax dollar we could spend. I think many mothers are going to say, when they see that kind of school in the white neighborhood, "Why can't my child go to that school? I want my kid to go to that school."

That is the thrust of what the Senator from Florida is attempting to do, and I am delighted with the expression that hearings can be held on the concept. There is no magic in the number of dollars; there is no magic in the language of the bill. I think there is something to be gained in trying to say that there are ways other than whether we are going to fight in the area of busing or not busing, to try to take care of children and allow them to get an education in their neighborhood. That is such a basic concept with white and black parents, that they want their children to be able to have a quality education where they live, where they can participate, and where they can have something to say, that I think this concept should be one of the highest priorities for the committee. On the basis of the assurances that have been received, I will withdraw my amendment.

Mr. DOMINICK. Before the Senator does that, will he yield to me?

Mr. CHILES. I yield.

Mr. DOMINICK. I sympathize completely with the objective of the Senator from Florida. I do not think any of us here would not want our constituents to have the right to have their kids go to the neighborhood school, provided there was equal education. The question is, How do we get equal education?

In Oklahoma, for example, they have put in a voluntary busing scheme which has worked very well. I am not sure that Oklahoma in this particular area—either Oklahoma City or Tulsa—needs more money. In other words, the system is working very well now in that area. In our area, it is not working well, and we have a very difficult busing situation facing us this fall which, as I have said before, may create so much antagonism that many people will simply take their children out of school.

So I am sympathetic with the Senator's objective. I hope we can have hearings on this matter which will get us down to the situation of what type of schools and in what locality we need this kind of Federal assistance.

Mr. CHILES. I thank the Senator from Colorado. Mr. President, I withdraw my amendment.

Mr. PELL. I thank the Senator from Florida very much, indeed.

Mr. JAVITS. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum, without the time being charged to either side.

Mr. ROBERT C. BYRD. Mr. President, we are going to be in a real time crunch today. I reserve the right to object.

I ask unanimous consent that the time remaining to Mr. CHILES on his amendment be reserved to my control.

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

Mr. ROBERT C. BYRD. Now, if the Senator would like to put in a quorum call and charge it against that time, he may do it.

Mr. JAVITS. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum, with the time to be charged to that reserved to the assistant majority leader.

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

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. HASKELL). Without objection, it is so ordered.

Under the previous order, the Senator from Massachusetts (Mr. KENNEDY) is recognized to call up an amendment on behalf of himself and the Senator from New York (Mr. JAVITS), and the Senator from Michigan (Mr. HART), on which there is to be an hour and a half debate, with 1 hour of that time controlled by the Senator from Arkansas (Mr. MCCLELLAN) and 30 minutes to be controlled by the Senator from Massachusetts (Mr. KENNEDY).

Mr. JAVITS. Mr. President, may the RECORD show that an additional cosponsor is the Senator from Massachusetts (Mr. BROOKE)?

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

Mr. PELL. Mr. President, I ask unanimous consent that I be added as a cosponsor of the amendment.

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

Mr. KENNEDY. Mr. President, I yield myself such time as I may use.

The PRESIDING OFFICER. Would the Senator call up his amendment?

Mr. KENNEDY. I call up the amendment. I send an amendment to the desk on behalf of myself, the Senator from Massachusetts (Mr. BROOKE), the Senator from Michigan (Mr HART), the Senator from New York (Mr. JAVITS) and a bipartisan group of the following 23 other cosponsors:

Mr. MATHIAS, Mr. SCHWEIKER, Mr. BUCKLEY, Mr. CASE, Mr. BEALL, Mr. MCINTYRE, Mr. KENNEDY, Mr. EAGLETON.

Mr. WILLIAMS, Mr. CLARK, Mr. HATHAWAY, Mr. PELL, Mr. NELSON, Mr. BAYH, Mr. HUMPHREY, Mr. ABOUREZK.

Mr. METZENBAUM, Mr. CRANSTON, Mr. MAGNUSON, Mr. MCGOVERN, Mr. TUNNEY, Mr. JACKSON, and Mr. MCGEE.

I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk proceeded to read the amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 131, at the end of line 15, insert the following:

"(2)(A) Such title I is amended by inserting after part B the following:

"'PART C—SPECIAL GRANTS

"'ELIGIBILITY AND MAXIMUM AMOUNT OF SPECIAL GRANTS

"'SEC. 131. (a) Each local educational agency in a State which is eligible for a grant under this title for any fiscal year shall be entitled to an additional grant for that fiscal year if it meets the requirements of subsection (b). The amount of such grant shall be determined in accordance with subsection (c).

"'(b)(1) A local educational agency shall be entitled to a grant under this part for any fiscal year if the school district of such agency is located in a county in which—

"'(A) the number of children described in paragraph (2) for such year amounts to at least 200 per centum of the average number of such children in all counties in the State in which such agency is located for that fiscal year; or

"'(B) the number of children so described in the such county for such year is 10,000 and amounts to 5 per centum of the total number of children in such county.

"'(2) For the purposes of paragraph (1), the children counted with respect to a local educational agency shall be these children in the such county who are—

"'(A) in families having an annual income of $3,000 or less; or

"'(B) in families receiving an annual income in excess of $3,000 from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; or

"'(C) living in institutions for neglected or delinquent children or being supported in foster homes with public funds.

In determining the number of children under clause (C) in the preceding sentence, children in institutions operated by the United States and children counted for the purpose of a grant to a State agency under section 104 shall not be included.

"'(3) (A) Determinations with respect to numbers of children in any county under paragraph (2) shall be made by the Commissioner on the basis of the most recent satisfactory data available to him.

"'(B)(i) The number of children determined with respect to one or more counties shall be allocated, for the purposes of paragraph (2) among the local educational agencies with school districts located in such county or counties by the Commissioner.

"'(ii) In any case where—

"'(I) two or more local educational agencies serve, in whole or in part, the same geographical area; or

"'(II) a local educational agency provides free public education for a substantial number of children who reside in the school district of another local educational agency,

the Commissioner may allocate the number of children determined under this subsection among such agenices in such a manner as will best achieve the purposes of this subsection.

"'(C)(i) For the purposes of paragraph (2), the Commissioner shall determine the number of children from families have an annual income of $3,000 or less of the basis of the most recent satisfactory data available from the Department of Commerce. At any time such data for a county are available in the Department of Commerce, such data shall be used in making calculations under this subsection.

"'(ii) For the purposes of this subsection, the Secretary of Health, Education, and Welfare shall determine the number of children from families receiving an annual income in excess of $3,000 from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act and the number of children living in institutions for neglected or delinquent children or being supported in foster homes with public funds, on the basis of caseload data for the month of January of the preceding fiscal year, or to the extent that such data are not available to him before April 1 of the calendar year in which the determination is made, then on the basis of the most recent data available to him at the time of such determination. For the purposes of this subsection, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

"'(c) The amount of the grant to which a local educational agency shall be entitled for any fiscal year shall be—

"'(A) the number of children determined with respect to such agency under subsection (b); multiplied by—

"'(B) 50 per centum of the average per pupil expenditure of all the local educational agencies in the State in which such agency is located.

"'(d) Notwithstanding any other provision of this section, no entitlement payments for any fiscal year under this part to the local educational agencies in a single State shall exceed 15 per centum of the aggregate entitlement payments of all local educational agencies in that year.

"'(e)(1) The aggregate of the amounts to which local educational agencies are entitled under this part for any fiscal year shall not exceed $75,000,000. If, for any fiscal year, such amounts, without the limitation in the preceding sentence, exceed $75,000,000, each of the entitlements created under this part shall be reduced ratably until such amounts do not exceed such limitation.

"'(2) For the purpose of making entitlement payments under this part there are authorized to be appropriated not in excess of $75,000,000 for the fiscal year ending June 30, 1974, and for each of the four succeeding fiscal years.

"'(f) for the purposes of this section, the term—

"'(1) "State" means the fifty States and the District of Columbia; and

"'(2) "children" includes all children aged five through seventeen, inclusive.'."

Redesignate the succeeding subparagraphs of paragraph (2) accordingly.

On page 154, between lines 11 and 12, insert the following:

"(4) Redesignate part C (as redesignated by paragraph (2) of this subsection), and all references thereto as part D."

Redesignate the succeeding paragraphs of this subsection accordingly.

On page 120, in the Table of Contents, after item "(a)(1)" in title I, insert the following:

"(2) Amendment relating to Special Grants.".

Redesignate the succeeding items in section 101 (a) of the Table of Contents accordingly.

Mr. KENNEDY. Mr. President, the amendment I am proposing at this time for myself, Senator BROOKE, Senator HART, Senator JAVITS, and a bipartisan group of 10 other Senators attempts to balance the action taken here last week with regard to title I.

This amendment does not in any way affect the formula allocation of title I funds as determined by this body with the adoption of the McClellan amendment. No State will receive a dime less than it would as the bill currently has been amended by the amendment of the Senator from Arkansas.

However, this amendment is an effort to prevent the elimination of special grants of assistance to those urban rural schools serving high concentrations of children from low-income families.

Essentially, this amendment would reinstate part C of the title I program as reported by the committee in S. 1539 with two major exceptions:

First, the program would be funded through a separate $75 million authorization and thus will not detract in any way from the title I allocations adopted a week ago.

Second, no State may receive more than 15 percent of the total funds appropriated.

Thus, the amendment recognizes the greater educational costs resulting from the concentration of disadvantaged children in school districts and seeks to meet that particular need. It is basically a reinstatement of the so-called Murphy amendment which was adopted in 1970.

As a result of the actions taken here last week, it has an added benefit. Many States were disadvantaged by the McClellan amendment, with the possibility of losing up to 15 percent of their title I funds from a year ago. All of those States will receive some additional funds as a result of this amendment which alleviate in part their situation. In addition, many States which on the whole benefited from the shift to the McClellan amendment have counties and school districts within those counties which actually lost money. Virtually all of those districts and counties also will benefit as a result of the adoption of this amendment.

I am having distributed a brief fact sheet to every desk which includes a chart showing the total additional funds

which would be directed to the various States if this amendment were adopted.

I would emphasize that the negative effect of the adoption of the McClellan amendment was its impact on counties where there is a high concentration of low-income youngsters and where the costs of instruction and cost of living are highest. This amendment essentially directs assistance to those areas.

Obviously, it is a vital program from the point of view of Massachusetts but particularly of our largest cities which are those facing the greatest challenge in meeting the educational needs of their students. Similar situations face most other large cities. In fact, of the 100 largest cities, 35 not only lost money compared with the committee bill following adoption of the McClellan amendment but they actually will receive less funds next year than they do this year.

Those schools with a high concentration of low-income families clearly have a more difficult time in providing additional materials, resources and attention to enable disadvantage children to obtain an adequate education.

These schools in Massachusetts and in other States, and the list I might add includes many densely populated counties in all sections of the country—South, Midwest, and West as well as the East.

The underlying equity of this amendment is its recognition that it costs more to live and more to educate children in certain areas than in others. In a Department of Labor study comparing living expenses, it was found that Boston was 22 percent more expensive than Atlanta, 28 percent more expensive than Dallas, 18 percent more expensive than Orlando, Fla., 23 percent more expensive than Denver, Colo., and even 7 percent more expensive than New York City. It is not merely the high cost of food, but the highest cost of shelter, which includes major heating costs as well as higher rent.

To insure that it is clear to all that I am not talking about just one part of the country, let me emphasize that in Kentucky, Bell, Floyd, Harlan, Jefferson, and and Pike Counties all lost funds under the McClellan amendment. Those counties would receive nearly $375,000 under our amendment. Five other counties would receive an additional $150,000 as well.

North Carolina, where 10 counties lost money under the McClellan amendment, all 10 would receive funds under our amendment and three others would as well. North Carolina would receive $933,495 under this amendment.

Or Mississippi which benefited as a whole under the McClellan amendment had two counties which lost funds as a result of the impact of that amendment—Holms and Sunflower. Under our amendment, both counties would receive additional funds, and the State as a whole would receive an additional $516,568.

Thus, no State would have a cent taken away from its allotment under the title I formula adopted last week. However, States and particularly those counties within State which have highest concentrations of low-income children would benefit from our amendment.

In addition to the separate authorization provided by this amendment, it differs in another important respect from the provision reported by the committee. This amendment would limit any State to 15 percent of the total amount appropriated. Only one State, New York, is affected, and the additional moneys are added to the overall sum available for distribution to the other States.

I believe that this amendment, particularly in view of the action taken by the Senate a week ago, is not only reasonable and equitable but it is in the interests of providing quality education to the disadvantaged. There simply is incontrovertible educational evident that it is more difficult, requiring more resources and more money to educate large concentrations of disadvantaged children. This amendment recognizes this fact and seeks to respond.

I urge its adoption.

I ask unanimous consent that a chart showing the breakdown of funds each State would receive and a list of countries within each State which would benefit be printed in the RECORD.

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

State allocations under amended part C—Special grants for urban and rural schools serving high concentrations of children from low-income families—Title I, ESEA

State:	*Amount*
Alabama	$619,959
Alaska	163,195
Arizona	525,785
Arkansas	392,430
California	11,250,000
Colorado	769,986
Connecticut	1,521,882
Florida	1,848,380
Georgia	781,038
Hawaii	397,933
Idaho	115,560
Illinois	6,252,789
Indiana	845,805
Iowa	449,045
Kansas	502,081
Kentucky	554,975
Louisiana	1,161,913
Maine	129,819
Maryland	1,465,973
Massachusetts	2,678,868
Michigan	4,671,128
Minnesota	1,080,239
Mississippi	516,568
Missouri	979,587
Montana	138,896
Nebraska	277,308
Nevada	109,747
New Hampshire	121,206
New Jersey	4,477,658
New Mexico	278,862
New York	11,250,000
North Carolina	933,495
North Dakota	71,020
Ohio	2,394,526
Oklahoma	412,549
Oregon	570,222
Pennsylvania	4,359,459
Rhode Island	404,232
South Carolina	533,934
South Dakota	118,936
Tennessee	647,614
Texas	2,933,201
Utah	304,517
Vermont	41,651
Virginia	1,119,862
Washington	1,280,190
West Virginia	378,820
Wisconsin	$1,004,624
Wyoming	57,850
District of Columbia	1,104,660
Total	75,000,000

Alabama: Dallas, Jefferson, Mobile, Montgomery.

Alaska: Anchorage, Bethel, Wade Hampton.

Arizona: Maricopa, Pima.

Arkansas: Crittenden, Jefferson, Mississippi, Phillips, Pulaski, St. Francis.

California: Alameda, Contra Costa, Fresno, Kern, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Francisco, San Joaquin, Santa Clara, Tulare, Ventura.

Colorado: Adams, Arapahoe, Denver, El Paso, Jefferson, Pueblo, Weld.

Connecticut: Fairfield, Hartford, New Haven.

Delaware.

District of Columbia.

Florida: Broward, Dade, Duval, Escambia, Hillsborough, Orange, Palm Beach, Pinellas, Polk.

Georgia: Bibb, Burke, Chatham, Cobb, De Kalb, Dougherty, Fulton, Lowndes, Muscogee, Richmond.

Hawaii: Honolulu.

Idaho: Ada, Bannock, Bingham, Bonneville, Canyon, Kootenai, Twin Falls.

Illinois: Cook, St. Clair.

Indiana: Allen, Delaware, Lake, Madison, Marion, St. Joseph, Vanderburgh, Vigo.

Iowa: Black Hawk, Dubuque, Linn, Polk, Pottawattamie, Scott, Wapello, Woodbury.

Kansas: Johnson, Montgomery, Saline, Sedgwick, Shawnee Wyandotte.

Kentucky: Bell, Christian, Clay, Fayette, Floyd, Harlan, Jefferson, Kenton, Knox, Pike.

Louisiana: Caddo, East Baton Rouge, Jefferson, Orleans, St. Landry.

Maine: Aroostook, Cumberland.

Maryland: Prince Georges, Baltimore City.

Massachusetts: Bristal, Essex, Hampden, Middlesex, Suffolk, Worcester.

Michigan: Genesee, Kent, Macomb, Oakland, Saginaw, Wayne.

Minnesota: Anoka, Hennepin, Ramsey, St. Louis, Stearns.

Mississippi: Bolivar, Coahoma, Harrison, Hinds, Holmes, Leflore, Sunflower, Washington.

Missouri: Butler, Dunklin, Greene, Jackson, New Madrid, Pemiscot, St. Louis, St. Louis City.

Montana: Big Horn, Cascade, Flathead, Glacier, Missoula, Silver Bow, Yellowstone.

Nebraska: Cedar, Douglas, Hall, Knox, Lancaster, Sarpy, Scotts Bluff.

Nevada: Clark, Washoe.

New Hampshire: Hillsborough, Rockingham.

New Jersey: Camden, Essex, Hudson, Mercer, Middlesex, Monmouth, Passaic, Union.

New Mexico: Bernalillo, McKinley, San Juan.

New York: Bronx, Erie, Kings, Monroe, Nassau, New York, Onondaga, Queens, Suffolk, Westchester.

North Carolina: Columbus, Cumberland, Durham, Edgecombe, Forsyth, Guilford, Halifax, Mecklenburg, Nash, Pitt, Robeson, Wake, Wayne.

North Dakota: Burleigh, Cass, Grand Forks, Rolette.

Ohio: Cuyahoga, Franklin, Hamilton, Lucas, Mahoning, Montgomery, Summit.

Oklahoma: Comanche, Muskogee, Oklahoma, Tulsa.

Oregon: Clackamas, Lane, Marion, Multnomah.

Pennsylvania: Allegheny, Delaware, Philadelphia.

Rhode Island: Providence.

South Carolina: Charleston, Florence, Greenville, Orangeburg, Richland, Sumter.

South Dakota: Brown, Charles Mix, Minnehaha, Pennington, Shannon, Todd.

Tennessee: Davidson, Hamilton, Knox, Shelby.

Texas: Bell, Bexar, Cameron, Dallas, El Paso, Galveston, Harris, Hidalgo, Jefferson, Lubbock, McLennan, Nueces, Roberts, Tarrant, Travis, Webb.

Utah: Salt Lake, San Juan, Utah, Weber.

Vermont: Chittenden.

Virginia: Fairfax, Pittsylvania, Chesapeake City, Hampton City, Newport News City, Norfolk City, Portsmouth City, Richmond City, Roanoke City, Virginia Beach City.

Washington: King, Pierce, Snohomish, Spokane, Yakima.

West Virginia: Cabell, Fayette, Kanawha, Logan, McDowell, Mingo, Raleigh.

Wisconsin: Brown, Dane, Milwaukee, Racine.

Wyoming: Fremont, Laramie, Natrona.

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

Mr. KENNEDY. I yield to the Senator such time as he may require.

Mr. JAVITS. Mr. President, coming from one of the States which was very, very materially disadvantaged by the adoption of the McClellan formula last week, notwithstanding the unbelievable problems of poverty in my State, this is some small measure of justice which can be rendered in respect of a very serious diminution, which for my State runs over $30 million a year.

Of course, this is an effort to respond to what seemed to be the main argument made against part C, to wit, that one State, New York, received $25.9 million. In response a limitation has been put on, a limitation that no State may receive more than 15 percent as in other education bills. This seems to be a suitable ceiling.

I might point out in that regard, Mr. President, I think it is a very serious point—that in a number of States—eight States, to be exact, there is an unbelievable windfall in the McClellan formula in the sense that each of those States benefits by receiving far in excess of 150 percent over the allocation received before, and the formula is worked out so that it gets very lopsided on that score.

For example one State, the State of Florida, will get in fiscal year 1975 213 percent of its fiscal 1974 allocation. That is certainly an objective that the Senate ought to think about very seriously, and which will undoubtedly be very troublesome; $34 million is involved in the excess over 150 percent of the ceiling, and we have never fixed 150 percent here. The highest we have gone is 120 percent.

As to this particular matter, the easy comparison is New York. However, over the weekend there developed, as published in the Washington Star-News, a comparison with Washington, D.C., which is very significant in showing the impact of the denial which was represented by the wiping out of part C as accomplished by the McClellan amendment. Washington is an urban community. Indeed, the Senator from Massachusetts (Mr. BROOKE), an eloquent spokesman on these general issues, was born and bred here. It does not have representation in this body, but it has a great concentration of poor people. It has suffered a deficit under the McClellan formula of about $1.25 million. It would get, because of the concentration of poor in this community, about $1.1 million under the part C formula, a not insignificant benefit.

It is very interesting that the wealthy counties around Washington, like Montgomery County, Md., and Fairfax County, Va., gain appreciably under the McClellan amendment. They may not need it, but they gain, and the District of Columbia, which is hungry and dry for education for the poor, loses.

I might point out that a similar thing happens elsewhere in the following: Cook County, Chicago, Ill.; Lake County, Ind.; Polk County, Iowa; Jefferson County, Ky.; Hennepin County, Minn., which contains its big cities; interestingly enough Sunflower County, Miss.; Pemiscot County, Mo.; Robeson County, N.C.; Cleveland, Ohio; Philadelphia, Pa.; Pennington County, S. Dak.; Hampton City, Va.; Raleigh County, W. Va.; and so on.

This part C amendment will help somewhat to make up for these very serious deprivations. The ceiling affects two of the largest States, New York and California. Under this amendment, New York would get 40 percent less part C funds than it would get under the committee bill. I do not think anybody who wants to bear down on New York could do any worse, so far as we are concerned. Nonetheless, we feel that a very important principle is at stake and that we ought to proceed in this way. That is the reason why I cosponsored the amendment.

The last point I should like to make is this: The National Advisory Council of the Education of Disadvantaged Children speaks directly to this justification for special funds to deal with concentration in these urban and rural areas. These are its words, and I think they are very important. They were uttered when this provision was first enacted.

The success with these children (title I) in sum—

that is, the children in this amendment——

requires a concentration of services on a limited number of children.

The report from the Committee on Labor and Public Welfare in the 91st Congress, when we first enacted this particular part C approach, said:

In urban areas where large numbers of low-income families are concentrated in small neighborhoods and in rural areas where the lack of local resources have prevented schools from modernizing, educational deprivation is such a serious problem that a greater amount of money is needed to make opportunities available for these children to reach minimum achievement levels.

It went on to note that—

In the largest 15 cities in the nation the dropout rate varies from 46% to 21%. However, within those cities the dropout rate in schools serving large numbers of children from low income families is as high as 70%.

In 1969, the Senate was convinced that this was so. There was no "battle of the charts." There was an acknowledgement that this modest aspect of title I—about 4 percent of the appropriation—was needed. The situation has not changed today. Part C is still needed.

Perhaps it should be less modest than we ask, maybe it should not be a separate authorization but should "come off the top" as is now in the law. But that is not the question before us—we are only seeking here to keep part C from being omitted from the bill.

I might add that we are seeking it through this amendment, not some substitute supported by the foes of part C, who would smother it with sudden solicitude. Part C is one henhouse which needs no rescuing by the foxes.

I ask unanimous consent that the portions dealing with part C from Senate Report 91-634 be printed at this point in the RECORD.

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

SPECIAL GRANTS FOR URBAN AND RURAL SCHOOLS SERVING THE HIGHEST CONCENTRATIONS OF CHILDREN FROM LOW-INCOME FAMILIES

The committee heard testimony which indicated that the cost of providing compensatory education in school attendance areas with the highest concentrations of children from low-income families is much greater than providing such education where the concentrations are not as great. In urban areas where large numbers of low-income families are concentrated in small neighborhoods and in rural areas where the lack of local resources have prevented schools from modernizing, educational deprivation is such a serious problem that a greater amount of money is needed to make opportunities available for these children to reach minimum achievement levels.

Children from low income families begin school with a disadvantage. Standardized test scores given to first graders indicate that children from minority groups score on the average 15 percent lower than other children. These children, starting behind, fall still further and further behind as they progress through school. By the time they reach the sixth grade the average student from a minority group is two grades behind other students, and by the time he reaches the twelfth grade evidence indicates that he is four grades behind.

In the largest 15 cities in the nation the dropout rate varies from 46 percent to 21 percent. However within those cities the dropout rate in schools serving large numbers of children from low income families is as high as 70 percent.

The evidence from rural areas indicates that the need for special attention to schools serving children from low income families in rural areas is just as great as in the urban areas. The average level of education in rural areas is about 9 years of education whereas in urban areas it is 11 years. This average does not include computation of the average level of education for migrant children who seldom complete elementary school. Nearly twice as many urban children attend college as children from rural areas. There are still about 10,000 one room schools in this country, many of which are isolated from the mainstream of progress in improving the quality of education.

In order to deal with this situation, the committee recommends that additional grants be made available for services in schools with the highest concentrations of children from low-income families on the basis of the new entitlements in part C of title I. Part C entitlements become operative only to the extent that the appropriations for title I are in excess of $1,396,975,000, and then only with respect to 15 percent of that excess. Under the provisions of subsection (a) of section 131 two types of eligibility for special grants are created:

(1) The first type of eligibility (section 131(a)(1)) is based strictly on data relating to numbers of children from low-income fam-

ilies in the school district of a local educational agency. If (a) the percent of children from low-income families in the school district constitutes at least 20 percent of the total number of children in the school district, or (b) the number of children from low-income families in the school district of a local educational agency is at least 5,000, and that number constitutes at least 5 percent of the number of children in the school district, a local educational agency is eligible for an additional grant under part C of title I.

(2) The second type of eligibility (section 131(a)(2)) is in those cases where a local educational agency is not eligible under the eligibility standards under (1) above, but which is eligible for a basic grant under part A of title I. If the State educational agency of the State in which that local educational agency is located, determines, in accordance with standards and criteria established by the Commissioner of Education by regulation, that such local educational agency has an urgent need for financial assistance to meet special educational needs of educationally deprived children in its school district that local educational agency becomes eligible for an entitlement. The bill provides that this second type of eligibility is available only in instances where the local educational agency fails by a very small amount to meet the number of percentage requirement in (1) or there may be cases where sparsity of population, distance or other unusual circumstances create an especially urgent need for additional title I funds. In those cases the State may be authorized by the Commissioner to establish eligibility.

Subject to the 15 percent limitation, the amount of the additional grant to any local educational agency, under part C, in the case of eligibility established under paragraph (1) above, for fiscal year 1970, is equal to 30 percent of the grant which that local educational agency is eligible to receive under party A of title I. During any subsequent fiscal year, the maximum amount for which a local educational agency is eligible under part C is an amount equal to 40 percent of its entitlement under part A.

The total amount granted under part C may not be in excess of 15 percent of that part of any appropriation for title I which is in excess of $1,396,975,000. This limitation is provided for in two amendments to title I: (1) The second sentence of section 131(b)(1), and (2) of paragraph (3) of section 144. Intention of the Committee, with respect to those two provisions, is to limit the maximum entitlements under the paragraph (1) eligibilty to 15 percent of that part of the entitlements for all parts of title I which is in excess of $1,396,975,000 and to limit allocations of appropriations on the basis of part C eligibilty (including both paragraph (1) and paragraph (2) eligibilities) to 15 percent of any appropriation for title I which is in excess of that figure.

In the case of grants under paragraph (2) there is no specific amount set by the legislation, except that no local educational agency may receive more under paragraph (2) than it would have received if it had been eligible under paragraph W. It is expected that the Commissioner in drawing up criteria for part C will establish guidelines for deciding the amount of these additional grants. The bill limits the maximum amount which may be granted under the second type of eligibility to the amount the local educational agency would receive under the first type of eligibility. In no case will the the total amount granted for paragraph (2) eligibilty be in excess of 3 percent of the total amount granted under paragraph (1) for fiscal year 1970, or 5 percent of such amount in any subsequent fiscal year.

Section 132 of part C limits the use of the special grants to preschool and elementary school projects except in cases when a local educational agency can show that there is an especially urgent need for secondary school projects and that there is evidence that the use of the additional grant in secondary school projects would be at least as effective in meeting the special educational needs of educationally deprived children as it would be if the grant were used in elementary school projects.

The committee believes that title I funds should be focussed on the early years of education. This requirement in part C was adopted by the committee on the basis of growing evidence which indicates that the early years of education are of paramount importance in a child's development. Reports based on the experience of classroom teachers and other observers indicate that in general it is extremely difficult to reach the level of achievement at the secondary level if the quality of education at the elementary level has been poor.

Experience under other Federal programs, such as the Job Corps, attest to the difficulty and the great expense of remedial education compared to the expense of education to prevent the need for remedial education. The committee believes that a focus on educational deficiencies at the preschool and elementary years, the preventive approach, is more likely to be effective and less expensive than expenditures for compensatory education at the secondary level.

The bill also requires local educational agencies to concentrate the use of funds available under part C on areas within the school district having the highest concentration of children from low income families. The Commissioner is expected to develop criteria for implementing this requirement. One of the criticisms most frequently stated with regard to title I is that local educational agencies too often spread title I funds too thinly to get maximum results.

Commenting on the need for concentration of title I funds, the Fourth Annual Report of the National Advisory Council of the Education of Disadvantaged Children concluded: "Success with these children (Title I), in sum, requires a concentration of services on a limited number of children."

The Council urged the "adherence to the principles of concentrating funds where the need is the greatest so that a limited number of dollars can have a genuine impact rather than being dissipated in laudable but inconclusive evidence."

The bill also requires the submission of a detailed and objective plan for the use of funds under part C. Beginning with fiscal year 1971 local school districts must develop a comprehensive plan for meeting special educational needs of children to be served under part C. Included within the comprehensive plan must be detailed provisions setting forth specific objectives to be achieved under the program. Those provisions must assure effective use of all funds under title I and set forth the criteria and procedures, including objective measurements, of educational achievement, that will be used to evaluate, at least annually, the extent to which those objectives are met.

The committee notes that the Commissioner is given more explicit administrative direction authority under the new part C of title I than is explicit in the cast of part A of title I. This explicitness is not intended to be construed to limit the direction and approval authority which is implicit in sections 105, 106, and 107 of present law.

The committee wishes to make clear that the authority set forth in the proposed sections 132 and 141(a)(12) is intended to be a direction to administrators at all levels to look to specific educational needs of the educationally deprived children to be served and to plan and operate projects designed specifically to meet those needs. It is also noted that the Commissioner has considerable control of the distribution of part C funds within counties. It is expected that a special effort will be made to target part C funds on areas with the highest concentration of children from low-income families. In no case will funds available to a local educational agency under part A be supplanted by funds available to that agency under part C.

Section 131(c) excludes Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands from being entitled to grants under part C of title I. Moreover, the language of part C does not specifically include authority for payments to the Department of the Interior for projects to meet the needs of Indian children in schools operated by that Department. That exclusion and the omission are not intended to preclude the outlying areas and Indian children from participating under part C. It is intended that they be continued in the same manner as has been the case under part A, since they are unique and the provisions of subsection (a) of section (3) cannot appropriately be applied to them.

Under present law the outlying areas and the Department of Interior receive funds under special authorization of appropriations in the first sentence of section 103(a)(1)(A). The amount of that authorization is equal to not in excess of three percent of the amount paid to the States under section 107(a) (section 143, as redesignated) which will include payments based on entitlements under part C. Therefore it is expected that the Commissioner will determine the portion of the appropriation for such purposes which is attributable to payments to the States, and designate such portion to be granted under the special standards required for part C.

The committee notes that the third sentence of section 103(a)(1)(A) gives the Commissioner adequate authority to set standards and requirements for the use of title I funds in the outlying areas and by the Department of the Interior.

SPECIAL INCENTIVE GRANTS

I hope very much that the Senate will agree to the amendment.

Mr. McCLELLAN. Mr. President, has the Senator modified the amendment?

Mr. JAVITS. I will, when the Senator has concluded his remarks.

Mr. McCLELLAN. Mr. President, at the outset I should like to observe that it is not my purpose to do an injustice to any State or community. If we can find a better formula or a more equitable program for the distribution of its funds, that should be done.

When the bill was reported, a study indicated to me that it was not as equitable as it should be. Therefore, I undertook to amend it, together with the cosponsorship of 32 other Senators. We were successful in that effort. I think that what is involved today in the amendment now pending was a part of and was involved in the amendment that the Senate passed last Thursday by a vote of 56 to 36. However there are some modifications in this amendment to the original part C provisions of the bill.

I am hoping that another modification will be made.

I may say that in my judgment the basic formula in this amendment—in this provision of the bill—is not equitable. There should be a better formula, one that takes into account a broader scope and would reach and be of assistance to the education of a greater number of poor children than this one does.

Under this formula, as I pointed out a few days ago, there are counties in my State of Arkansas which have 43 percent of their families classified as poor. Their children are from poor families under this formula. Yet they do not get one dime of this money. In the original bill, all this money would come out of title I appropriations. This provision makes another authorization of $75 million, which would be a line item in addition to the regular provisions of the bill. Thus, the Appropriations Committee would have an opportunity to pass on this authorization individually and specifically as it makes appropriations.

I am hopeful that if this amendment should be agreed to and goes to conference, attention will be given to working out a better formula.

I have had some conferences, and it is my understanding that there will be a modification of the amendment. When the modification is made, it will be my position to oppose the amendment, because this formula, in my judgment, is not equitable even with the revision. I cannot vote for the amendment with this formula in; but when the modification is made, and I understand it will be made, I will withhold the offering of the substitute amendment which I am having prepared. It would revise this formula somewhat and would make a broader distribution of the $75 million involved in the authorization.

If the modification is made, then I expect to withhold the substitute amendment and let this matter go to conference. I might say that the amendment which I did offer as a substitute amendment would increase partially the benefits under this amendment, and extend it to some 35 States. In other words, 35 States would get more money than they would under the present amendment. That would be the effect of the substitute amendment.

But I realize that this amendment, if it is adopted, has to go to conference. There is nothing in the House bill about it. If the modification that I have suggested is made, I am going to vote against the amendment, but at the same time it does give the proponents of the amendment a chance; and I am not unalterably opposed to some adjustment in this field; I have just felt that this particular formula is not right, that a better formula can be devised, and greater equity could be done.

So, for the moment, I shall yield the floor, Mr. President, and withhold offering the amendment at this time.

Mr. PELL. Mr. President, I agree with the Senator from Arkansas that this has been a most complicated formula to work out in a fair manner for all the States. As the shepherd of this bill, I am more aware than most of the problems on this formula. We explained problems in the subcommittee, where with some pushing and pulling we tried to work out a formula. However the Senate as a whole was not satisfied with that formula, and worked its will.

I strongly support the amendment of the Senator from Massachusetts, the Senator from New York, the Senator from Minnesota, and several more of us is an excellent one. But I think that the modification suggested by the Senator from Arkansas, if it would assure his support—not his support, because he will vote against it, but more facile passage of the bill—would be a good one to accept.

Also, as we know, the good will of the Appropriations Committee will be necessary when the time comes to fund this as a line item. So my request to the principal sponsors of the amendment would be to modify it along the line suggested by the Senator from Arkansas.

Mr. KENNEDY. Mr. President, I yield myself such time as I may need.

Directing my remarks to the request of the chairman of the committee, I think it is important that the Senate understand that this is not a new program. This program has been in effect since 1970. As a matter of fact, it has been a program that did not have the 15 percent per State restriction on it. It has had the support of every Commissioner of Education since 1965. The present Commissioner of Education and Jimmy Allen and the previous Commissioners have approved it, and the various reports that have been completed have indicated that targeting funds to areas with the high concentration of low-income children can best meet the educational needs of disadvantaged children. The latest such recommendation has come in the 1974 report of the National Advisory Council of the Education of Disadvantaged Children.

So Congress, having in mind the interests of the young people, has tried to direct special grants to these areas of high concentration.

It has been followed with the recognition that if we are going to do something about educating children, we ought to put the money where the children are and where they are facing the most critical educational barriers, and that is what this amendment is directed toward doing.

We have modified the amendment to put on a 15-percent restriction on the amount any State may receive. I deplore that kind of modification, because once again, rather than putting the money where the need is, we find this rather arbitrary cutoff which works to the disadvantage of States that have large numbers of disadvantaged children who would be eligible to participate in the program.

So I was reluctant to put a 15-percent limitation on it in the first place. I think if we are really interested in doing something about the education of these disadvantaged children, we ought to face up to it and be willing to do it. As I pointed out in my earlier comments, this does not take away from the States which benefited from the McClellan amendment.

Now we have a suggestion that the limitation be made 12 percent under the formula.

This obviously affects two States, California and New York, most dramatically, and of course I would not willingly make that kind of an adjustment, and I regret very much having to direct this kind of proposal to the attention of the Senator from New York. It puts him in an extremely difficult position, recognizing that perhaps, by accepting a 12-percent limitation, the overall program may be approved which at least will meet the needs of a portion of his State's disadvantaged children. I, of course, would not be willing to modify the amendment without his understanding and support. As I say, it is with the greatest reluctance that we make this request.

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

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from New York?

Mr. KENNEDY. Yes; I yield the Senator from New York such time as he may require.

Mr. JAVITS. Mr. President, I have been very much depressed about this whole matter. I think it is not the Senate at its best when, in a matter of this character on education, the appeal is to the cupidity of every State. That is most regrettable. I argued that in respect of the basic formula, and feel it very strongly. This is another example of the same thing.

I wish that the Senator from Arkansas (Mr. McCLELLAN) did not feel he had to insist upon even this small amount of change, but he does. Considering the vote on the McClellan amendment, which was much more widely supported than I had anticipated; considering the amount involved; considering that this is one of the few provisions of the bill where some effort can be made to readjust this disparity, and that if it does not help us the way it should, it will help others to a modest extent; therefore, strictly understanding the realities of the situation and not at all in accord with justice—I do not think it represents justice on the part of the Senate at all to be legislating on the basis of who gets the most money out of the pot—but, as I say, based strictly on the realities, I will concur with the Senator from Massachusetts (Mr. KENNEDY) on the modification.

We have also talked with the Senator from California (Mr. CRANSTON), who is a member of our committee, and he feels the same way I do; with deep regret and a feeling of a real sense of injustice, but nonetheless with an appreciation of the realities, he concurs.

Mr. KENNEDY. Mr. President, I ask unanimous consent to modify my amendment to change the 15 percent to 12 percent.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment will be so modified.

Mr. KENNEDY. I am prepared to yield back the remainder of my time.

Mr. McCLELLAN. Mr. President, just one point. I believe that the Senator from Massachusetts made a statement to the effect that his was an old formula. I believe, as to this formula that is in this amendment, in this provision, part C, that this year is the first time this formula has been used. I think the Senator was in error in stating that it had been in effect several years.

Mr. KENNEDY. Mr. President, the Senator is correct if he is talking about raising the low income eligibility definition to $3,000, but I think I was correct in saying we have had a special impact program since 1970. I ask unanimous consent that sections of the debate in 1970 on this matter appear in the record.

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

Mr. MURPHY. Mr. President, as initially introduced, S. 2625 would have provided additional assistance to school districts where—

The number of disadvantaged title I children was double the national rate of low-income children; or

The number of title I children was 5,000 or more.

These tests were modified in committee so that to the urban test of 5,000 or more title I youngsters was added the requirement that the number had to constitute at least 5 percent of the total children in the school district.

The rural test—double the national average of title I youngsters—which would have been 31 percent, was changed so as to now require that the number of title I children is at least 20 percent of the total children in the school district. To take care of those cases where local educational agencies miss qualifying under the formula by a relatively small number of children, a total of 3 percent for the first year and 5 percent for the second and succeeding years of all sums made available under this program is set aside. The initial bill provided for 3 percent initially and 4 percent for succeeding years. An amendment by Senator PROUTY raises the 4 percent to 5 percent. Under this relief provision, a local educational agency which narrowly misses qualifying under the above formula may receive a grant under this part of the State educational agency determines in accordance with the standards and criteria established by the Commissioner of Education, that such local educational agency has an urgent need for financial assistance to meet the special educational needs of educationally deprived children.

I have written various requirements into this part C program; namely, that funds under this part will be used solely in preschool programs or elementary schools serving the highest concentration of children from low-income families. The rationale for this requirement was adopted by the committee as noted in the committee's discussion of this requirement:

"The Committee believes that Title I funds should be focused on the early years of education. This requirement in Part C was adopted by the Committee on the basis of growing evidence which indicates that the early years of education are of paramount importance in a child's development. Reports based on the experience of classroom teachers and other observers indicate that in general it is extremely difficult to reach the level of achievement at the secondary level if the quality of education at the elementary level has been poor.

"Experience under other federal programs, such as the Job Corps, attest to the difficulty and the great expense of remedial education compared to the expense of education to prevent the need for remedial education. The committee believes that a focus on educational deficiences at the pre-school and elementary years, the preventive approach, is more likely to be effective and less expensive than expenditures for compensatory education at the secondary level."

In addition, local educational agencies are required to use these additional funds in schools within the district having the greatest need. That is, in those schools having the highest concentration of children from low-income families. One of the criticisms voiced frequently regarding title I funds is that the district is spreading such funds too thinly to get maximum results. Commenting on the need for concentration of the title I funds, the fourth annual report of the National Advisory Council of the Education of Disadvantaged children concluded:

"Success with these children (Title I), in sum, requires a concentration of services on a limited number of children."

The Council urged the "adherence to the principles of concentrating funds where the need is the greatest so that a limited number of dollars can have a genuine impact rather than being dissipated in laudable but inconclusive evidence."

Similarly, Mr. President, California's title I evaluation report for 1967–68 says:

"Characteristic of the most successful programs was their concentration of services on a limited number of objectives and a limited number of specifically identified children."

The recent California title I evaluations report for 1968–69 says that the importance of concentrating services comes out louder and clearer from an examination of the individual school districts' reports. I quote:

"The most successful programs are those that concentrated services on a limited number of objectives and a limited number of specifically identified children. These projects focused on a few activities, adequately funded. However, there are still widespread cases of ineffective projects which attempted to carry out too many, often unrelated, activities with insufficient funds and scattered the activities over too many children so that the concentration of services was inadequate to improve student achievement level significantly."

I also believe it is important to point out the important requirements spelled out in section 141(a)(12). This requires school districts desiring to take advantage of the part C add-on to—after the first year—develop a comprehensive plan for meeting the specific educational needs of educationally deprived children. Included within the comprehensive plan must be provisions spelling out the specific objectives of the program, provisions assuring the effective use of all funds under title I, and provisions setting forth the criteria and procedures, including objective measures of educational achievements, that will be used to evaluate at least annually the extent to which the objectives of the plan are met.

Mr. President, these are similar to the requirements that are demanded of all dropout prevention programs in this country. I believe the dropout prevention program is demonstrating to the country that it is possible to have accountability in education. Each of the dropout projects must spell out its objectives. Each of the dropout projects is required to have an intensive inhouse evaluation. Each of the dropout projects is subjected to an "educational audit" by an outside organization to make certain that it achieves the objectives that it has established. It is this kind of practical hardheaded, no-nonsense approach that I hope will be employed in the new part C program.

While the new part C program as reported is not precisely as I would like, I do believe that it is a most significant new program which will bring additional and needed assistance to certain districts in dire need of assistance. While I believe that the formula as originally introduced was probably as good as any formula can be, a compromise was necessary, if the Urban and Rural Education Act were to be enacted. I was disappointed particularly with the 15-percent limitation adopted by the committee. When the committee enlarged the number of eligible districts by using the 20-percent rural test rather than double the national average, or 31 percent, as in the original measure, the effect was to expand the program. Thus, the adoption of the 15-percent limitation will probably preclude the funding of the full entitlement of eligible districts. This runs contrary to the thrust of the program.

That a crisis exists and that the Urban and Rural Education Act is needed can be seen by the fact that some school districts have been forced to consider closing school or reducing programs.

S. 2625 has been endorsed by educators and education organizations all over the country. Among the groups endorsing it were the National Education Association, the American Federation of Teachers, the National School Board Association, and the Research Council on the Great Cities Program for School Improvement.

In addition, Mr. President, letters urging enactment of the proposal were received from superintendents of schools from all across the country. I am particularly grateful for the strong support given the measure by educators and others from California, including Dr. Max Rafferty, superintendent of public instruction and director of education, Dr. Wilson Riles, director of California's Department of Compensatory Education, Superintendent Jack P. Crowther of Los Angeles, Superintendent Robert E. Jenkins of San Francisco, Acting Superintendent Spencer D. Benbow of Oakland, Assistant Superintendent Bluford F. Minor of San Diego, and Superintendent Ralph W. Hornbeck of Pasadena, and others.

Also, Mr. President, Secretary of Health, Education, and Welfare Robert Finch and Commissioner of Education Allen both eloquently pointed out the importance of dealing with the educational crisis. Secretary Finch told the Education Subcommittee:

"One of our greatest concerns is to find better ways to meet the educational crisis in the cities. School people and broad members across the country are frightened by what they are calling the "Youngstown's phenomenon"—the complete shutdown of their schools for lack of funds. Cities like Philadelphia, Chicago, Baltimore, Los Angeles and Detroit, to name a few, are facing severe financial crises. Some, like Baltimore, have made most strenuous efforts to obtain additional resources, and still finding their needs to be far beyond their capabilities. . . .

"The core cities contain the highest concentration of the poor and educationally deprived and are experiencing mounting difficulties in finding adequate resources to support their school system. Providing quality education for the disadvantaged children in our cities and in rural areas is apparent not only for the sake of poverty's children but also for the sake of all children of increasingly urbanized America. This problem is among the most important priorities in our search for improved ways to respond to the need of America's schools and school children."

Similar notes of urgency were sounded over and over again in testimony. I believe that a two-pronged attack on the educational deficiencies in both urban and rural America of the new part C program is most desirable. The chamber of commerce in a study, entitled, "Rural Poverty and Regional Progress in Urban Society," also advocated a twin approach. The report said:

"Better education for potential or incoming migrants both at the place of origin—the rural south—and the place of destination—the central city—is necessary to maximize human resources and reduce poverty nationally. An inferior education for impoverished children in rural and urban areas is economically costly to the nation. Education expands life's opportunities. In today's economy, education, jobs and material well-being are inextricably related. The better a man's education, the better his pay and the better his standard of living. To

maximize productive human reosurces, this nation must offer full and fair educational opportunities to all its residents."

The Nation is a mobile one. One-half of our population changes and one million youngsters cross State lines yearly. Educational deficiencies in one area, in one State, are not only a handicap for the particular State community, but they also produce problems for other areas. Our cities today offer ample evidence of this truth. I believe it is imperative that additional resources be provided to these urban and rural districts having large numbers or a high concentration of low-income children. The tax bases of all too many of our core cities and rural areas simply do not have the resources to launch the required effort to eliminate or reduce the gross educational inequities between regions and between impoverished urban and rural areas and affluent suburban communities.

Mr. President, I believe that the new part C program is a needed response to the education crisis that exists in school districts having large numbers or high percentages of educationally disadvantaged children, and I believe that the program is essential to the Nation's efforts to provide equal educational opportunities to all citizens. This will not be an easy job, but I am convinced that we can do it.

Mr. President, there has been great discussion in our newspapers and magazines, over our radio and television networks, on the educational crisis that exists. I believe that the Urban and Rural Education Act, which has been incorporated as a new part C to title I, is a needed response to these educational distress signals.

Mr. President, I would like to ask unanimous consent that the letters which I have received from educators and educational organizations supporting this measure be printed in the RECORD. This, of course, is in addition to the text of my statement of July 15, 1969, when I introduced S. 2625, the Urban and Rural Education Act of 1969.

Mr. McCLELLAN. The Senator is correct as the program, but not this formula.

Mr. KENNEDY. I think I am correct in saying that since 1970 we have had a special program for highly concentrated disadvantaged children. Now that has been effectively eliminated. So I think that I was correct in stating that we did have a program that was targeted for disadvantaged children, and that has been eliminated. The Senator is correct in saying that the previous formula had a base income of $2,000, and that has been raised to $3,000. To that extent, the formula has been altered and changed. I am glad to clarify that point for the RECORD. What I was stressing was that the targeted program for disadvantaged children has been in law since 1970. It has been eliminated so that we are attempting to reinstitute that.

Mr. President, I ask unanimous consent that an excerpt from the defining eligibility be provided for the RECORD.

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

COMMITTEE REPORT EXPLANATION

(P. 28 of Com. Rpt.)

PART C—SPECIAL GRANTS FOR URBAN AND RURAL SCHOOLS SERVING AREAS WITH THE HIGHEST CONCENTRATIONS OF CHILDREN FROM LOW-INCOME FAMILIES

Under existing law, grants for urban and rural school districts are available to local educational agencies with at least 5,000 poor children (provided the 5,000 is five percent of all school-age children in the district) or where at least 20 percent of the population aged 5–17 is educationally disadvantaged. Other districts may apply for these funds if the State educational agency, in concurrence with the Commissioner, believes there is an urgent need for additional monies. This category of grants is normally concentrated at the elementary level, although exceptions may be made under certain conditions. Grants of $60,686,125 were made in fiscal year 1973 under this part.

Part C has failed to meet its original expectations for a number of reasons. The poverty concentration level required or eligibility for the program it too low to offer a limited number of grants of substantial size. Instead, $10 and $15 grants are being made by the Office of Education, grants which probably cost a school district more than to apply for than they receive. In addition, the existing law requires the use of current-year data for allocations under this part. Therefore, no grants can be made to any school district unless the data from every school district has been received by the Office of Education. Delays in data submission occur, and the Office of Education annually races the expiration of the fiscal year to get grants made under part C before funds revert to the Treasury. The combination of late and little grants has made them of minimal use to school districts in developing concentrated compensatory education programs.

Existing law relates eligibility for part C to the number of children counted for eligibility under part A. The Committee's new formula counts all Orshansky poverty level children and all children on AFDC rolls. Use of these counts in part C would exacerbate its problems of diffusion rather than concentration of grants.

Therefore, the Committee adopted a new basis for eligibility for part C—those children counted by the Census from families with incomes below $3,000, plus those receiving AFDC payments in excess of that figure. This is a significantly lower figure than the number of children counted under the Committee formula for part A.

In order to assure substantially increased concentration of part C funds, the Committee bill limits eligibility to counties with twice the State average number of poor children and those enrolling at least 10,000 such children (when that number amounts to five percent of the total number of children). The amount of the grant is determined by multiplying the total number of such children in the county by 50 percent of the average per pupil expenditure in the States. In order to assure timely receipt of part C grants, the Committee bill provides for the use of data from the preceding fiscal year for the purpose of calculating grant amounts.

The result of the changes made by the Committee bill is to limit the number of part C grants so they will be most effective, while assuring that those districts receiving part C grants will receive amounts sufficient for them to make a significant educational difference. Recipients of part C funds under the Committee's revised criteria will be limited to urban areas enrolling large numbers of poor children and to those rural areas with extremely high concentrations of poverty. These were the areas this part was initially intended to benefit.

Mr. BROOKE. Mr. President, the amendment now pending before the Senate would restore a vital part of title I to the Elementary and Secondary Education Act. Part C concentrates funds in those rural and urban schools where there is the largest concentration of children from low-income families. The school districts receiving these funds are among some of the poorest in the Nation, yet educating children from low-income families is one of the most expensive tasks in elementary and secondary education.

Part C was deleted by the McClellan amendment as adopted. Part C, however, now differs from the provisions for part C as originally written in S. 1539 in two very important respects:

First, the authorization of $75 million for this authorization part is separate and distinct from the other parts of title I. It is drafted along the same lines as the Dominick amendment, already accepted by Mr. McCLELLAN, which restored part B of title I.

Second, no State may receive more than 12 percent of the total amount appropriated for part C. The result of this is that the funds which New York would receive under the provisions of S. 1539 are reduced and the funds which every other State receives are thereby raised.

The effect of this amendment is that every State would receive additional title I funds. These funds would be distinct from and in addition to the funds a State would receive under title I, part A and title I, part B. As a result of the adoption of the McClellan amendment, many local school districts lost funds—including many school districts within States which as a whole were advantaged by the McClellan amendment. The funds which would be distributed under part C will help in part to offset these losses.

Part C will also be even more necessary when it is realized that there will be a great dispersion of title I funds as a result of the new title I distribution formula. The new formula distributes title I funds according to the Orshansky poverty-level children. The change from the old formula will mean that the number of eligible children will increase from 5 million to 7.7 million. Part C concentrating money where the greatest number of low-income children are, is therefore needed as a complement to part A even more under the new title I formula than under the old.

Thus although part C is not one of the largest sections of this bill in terms of the amounts appropriated—accounting for only about 4 percent of all the title I authorization—it can be crucial in helping to determine the quality of education offered in urban and rural schools districts with high concentrations of low-income children.

I realize that there were very well justified criticisms of part C as it existed prior to the changes dictated by this amendment. Had these changes not been made, Congress would surely have been justified in discontinuing this program. Until now part C has fallen short of its promise because of wasteful small grants in amounts as low as $10 or $15, use of inadequate data and inadequate concentration on the poor children who are supposed to be served by part C.

These shortcomings in existing law, however, have now been corrected in the committee bill and in this amendment. The number of part C grants are limited and the effect is concentrated. Data and statistics will be the same as are used for other parts of the Elementary and Sec-

ondary Education Act. No longer will part C grants be too small in size or too late in coming to local education agencies to be of any real use.

There is no question that these funds are needed by the school districts in question. There is no question that the funds are to be distributed in an equitable manner. Every State would receive additional funds under this act—funds which would be concentrated in the areas of greatest need.

Part C would benefit a greater number of States than benefited under the Dominick amendment which was accepted last week. I would hope that the distinguished Senator from Arkansas will see fit to accept this amendment now that changes and reforms have been made and I hope that the Senate adopts this vitally needed measure.

Mr. MATHIAS. Mr. President, the amendment, offered by the distinguished Senators from Massachusetts, of which I am a cosponsor must be accepted if we are to insure the effectiveness of title I in those areas most heavily impacted with disadvantaged children. The purpose of title I has been, and continues to be under S. 1539:

> To provide financial assistance . . . to local educational agencies serving areas with concentrations of children from low-income families to expand and improve their educational programs by various means . . . which contribute particularly to meeting the special educational needs of educationally deprived children. (Title I, Sec. 101, Declaration of Policy)

Since title I was first enacted in 1965, the appropriations for the program have not been sufficient to meet the needs of all the eligible children. Despite title I's overall success in many areas, the ability of title I to carry out its mission has therefore been limited by inadequate funds.

It has been argued, and I agree, that if title I is to increase its effectiveness under these conditions, there must be a "critical massing" of funds in those local educational agencies with the greatest needs. This amendment would restore part C of title I as a separate program for the purpose of such concentration of funds in the hard pressed urban and rural areas of the country.

The amendment singles out as eligible those local school districts where the concentration of disadvantaged children numbers twice the percentage of the State average, or where they number 10,000, which is not less than 5 percent of all the children in the county. This will allow a flow of funds to these districts above and beyond the regular title I program to help defray the excessive costs of providing special services to great numbers of educationally disadvantaged children.

An important point to recognize in the structure of this amendment is that both the most rural and the most urban school districts will be eligible for assistance. Thus, the rural areas that tend to be the poorest would receive additional funds, and the urban areas that tend to be the most hard pressed with high costs and low-tax-base would also receive additional assistance. For example, in my own State, Baltimore City would receive over $1 million in additional funds for the purpose of title I.

In addition, I want to stress that the complaints made against part C as being "too little, too late" would no longer be justified under this new approach. The Senate committee has provided not only for higher concentration, but for the use of the previous year's data as well. These important changes will enable the Office of Education to get part C funds to the eligible school districts the same time they receive their grants under the bulk of title I.

In sum, I urge the adoption of this amendment as a necessary and vital complement to the title I program in achieving its goal of helping to provide truly equal educational opportunities in the elementary and secondary schools throughout the Nation.

Mr. BAYH. Mr. President, as a cosponsor of the Kennedy-Brooke amendment to create a new part C of title I of the Elementary and Secondary Education Act, I urge its adoption.

Earlier I cosponsored the McClellan amendment, which eliminated part C from the committee bill while revising the part A formula. At that time I was troubled by the impact of eliminating part C aid on counties which have high concentrations of children from low-income families. Eight counties in my own State of Indiana would have benefited from the committee's version of part C. But it seemed to me that the inequities in the distribution of these funds throughout the entire Nation would have been so great that I could not in good conscience support it as it stood.

Now, however, the amendment we are voting on today successfully disposes of those inequities. It insures that no State unfairly will receive part C funds far in excess of its proportional share of children from low-income families. Nor does it permit the absurd situation in which one of America's wealthiest counties would have received as much or more part C funds than half of all the States.

I am especially pleased by the separate authorization feature of the amendment. By establishing a separate $75 million fund for part C purposes, over and above other title I funding, we prevent the siphoning off of desperately needed aid from school districts which may have large numbers of poor children but do not meet the definitions for "concentrations" of poor. As a result, every State but one that was previously entitled to part C funds will receive an increase over what was contemplated in S. 1539, and no local education agency will receive less part A funding than it is now scheduled to receive under the McClellan amendment. In Indiana, the eight counties which qualify for part C funding will receive 118 percent of the amount they would have received under the original committee version.

This increase in part C funds for Indiana, from the original $717,009 to $845,805, does not come at the expense of the funds apportioned under part A. The following eight counties in Indiana will gain directly from passage of this amendment: Allen, Delaware, Lake, Madison, Marion, St. Joseph, Vandenburgh, and Vigo. While final figures for each county are not available, in every instance more part C funds will be available for these counties in fiscal 1975 than during fiscal 1974.

In my judgment, Mr. President, this revision of part C is a farsighted and statesmanlike way to deal with the very real problems which the original legislation attempted to address. The two revisions it makes in the part C provisions of S. 1539—separate authorization and limitation on the amount of funds that any one State can receive—complement the excellent provision in the committee version that mandates the Office of Education to use data from the preceding year for determining a county's eligibility, thus enabling the Office of Education to make awards early enough in the school year for the money to be of greatest possible assistance.

I congratulate the authors of this amendment and urge my colleagues to join me in supporting it.

Mr. KENNEDY. Mr. President, I am prepared to yield back the remainder of my time.

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

The PRESIDING OFFICER (Mr. HASKELL). All the time has been yielded back on this amendment.

The question is on agreeing to the amendment as modified of the Senator from Massachusetts (Mr. KENNEDY).

The amendment, as modified, was agreed to.

Mr. JAVITS. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

Mr. KENNEDY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from New Mexico (Mr. DOMENICI) is recognized to call up his amendment on which there is 15 minutes.

Mr. PELL. Mr. President, I ask unanimous consent that the order for recognition of Senators be changed and that the Senator from Illinois (Mr. PERCY) be recognized at this time for the purpose of calling up his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. Under the previous order, the Senator from Illinois (Mr. PERCY) is recognized to call up his amendment on which there is 20 minutes for debate.

AMENDMENT NO. 1340

Mr. PERCY. Mr. President, I call up my amendment, No. 1340, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 238, line 22, after the word "amount" insert "(i)".
>
> On page 238, line 24, insert the following: "and (ii) not less than 15 per centum shall be expended for programs or projects designed to meet the special educational needs of female children".
>
> On page 240, between lines 3 and 4, insert the following new section:

"(d) Notwithstanding any other provisions in this section, no funds may be used for any purpose described in subsection (c) of this section which contributes to sex discrimination.".

On page 241, line 21, before the semicolon insert a comma and the following: "and to the extent that such materials and services are free from sex bias".

On page 358, between lines 22 and 23, insert the following new section:

"WOMEN'S EQUAL EDUCATIONAL OPPORTUNITY PROGRAM

"SEC. 535. (a) The Congress finds that sex discrimination in education is detrimental to the welfare of the Nation since it limits the potential of all citizens and that women in particular are prevented by the existence of such practice from realizing their full potential. The Congress therefore finds that the welfare of the United States would be promoted by the elimination of sex discrimination from public education and by the use of federally supported education programs to assist in the development of improved educational opportunities for women insuring women equal educational opportunity.

"(b)(1) Section 203(a)(4) of the Elementary and Secondary Education Act of 1965 is amended by inserting after the word 'used' a comma and the following: 'including criteria designed to preclude sex bias,'.

"(2) Section 203(a) of such Act is amended—

"(A) by striking out the word 'and' at the end of clause (6);

"(B) by redesignating clause (7), and all references thereto, as clause (8); and

"(C) by inserting immediately after clause (6) the following new clause:

"'(7) provides assurances that Federal funds made available under this title for any fiscal year shall be used, on a priority basis and where possible, in the acquisition of non-sex-biased library resources, textbooks, and other instructional materials; and'.

"(3) Section 303(b)(3) of such Act is amended—

"(A) by striking out in subclause (J) the word 'and';

"(B) by redesignating subclause '(K)', and all references thereto, as subclause '(L)'; and

"(C) by inserting after subclause (J) the following new subclause:

"'(K) demonstration projects designed to promote new approaches to expand educational opportunities for women, including the provision of comprehensive physical education programs and sports activities for women; and'.

"(4) Section 306 of such Act is amended by inserting '(1)' immediately after the subsection designation '(b)' and by inserting after subsection (b) of such section the following new paragraph:

"'(2) Not less than 15 per centum of the funds granted pursuant to this section in any fiscal year shall be used for programs or projects designed to meet the special educational needs of female children.'.

"(5) Section 503 of such Act is amended—

"(A) by striking out the word and at the end of clause (11);

"(B) by striking out the period at the end of clause (12) and inserting in lieu thereof a semicolon and the word 'and'; and

"(C) by adding at the end thereof the following new clause:

"'(13) programs and other activities to promote equal educational opportunities for women, including public information activities to increase the awareness of educational personnel and the public concerning problems incident to sex discrimination and the elimination, reduction, or prevention of sex discrimination in education.'.

"(6) Section 505 of such Act is amended by adding at the end thereof the following new sentence: 'In using the 5 per centum of the funds appropriated pursuant to section 501 for any fiscal year, for grants to State educational agencies to pay part of the cost of experimental projects for developing State leadership, the Commissioner shall give priority consideration to projects designed to increase the proportion of women serving in leadership positions and to promote equal educational opportunities for women.'.

"(7) Section 521(a) of such Act is amended by inserting after the word 'districts' the following: '(giving priority consideration to such agencies interested in increasing the proportion of women serving in leadership positions and in promoting equal educational opportunities for women)'.

"(c)(1) Section 404(a)(1) of the General Education Provisions Act is amended by inserting before the semicolon a comma and the following: 'including activities designed to improve the status of women in post-secondary education';

"(2) Section 404(a) of such Act is amended—

"(A) by striking out the semicolon at the end of clause (6); and

"(B) by adding at the end thereof the following: 'including the creation of innovative administrative and educational practices that respond to the special needs of persons who have or have had responsibilities of caring for dependents;'.

"(3) Section 405(b)(2) of such Act is amended by inserting after the phrase 'including career education' a comma and the following: 'and programs designed to meet the needs of women,'.

"(d) Section 105(a)(3)(A) of the Higher Education Act of 1965 is amended by inserting after the word 'programs' a comma and the following: 'including programs designed to improve the status of women'.

"(e)(1) Section 121 of the Vocational Education Act of 1963 is amended—

"(A) by striking out the period at the end of the clause and inserting in lieu thereof a comma; and

"(B) by adding: 'and which are designed to encourage the training of students of both sexes for occupations dominated by the other sex.'.

"(2) Section 123(a)(6) of such Act is amended—

"(A) by inserting immediately after subclause (D) the following new subclause:

"'(E) due consideration will be given to the need to insure the training of students of both sexes for occupations traditionally dominated by the other sex,';

"(B) by redesignating subclauses '(E)', '(F)', and '(G)' as subclauses '(F)', '(G)', and '(H)', respectively; and

"(C) by striking out 'and (D)' in subclause (F) (as redesignated by paragraph (2)) and inserting in lieu thereof '(D), and (E)'.

"(3) Section 132 of such Act is amended—

"(A) by striking out the word 'and' at the end of clause (5);

"(B) by redesignating clause '(6)' as clause '(7)'; and

"(C) by inserting after clause (5) the following new clause:

"'(6) experimental, developmental, and pilot programs designed to encourage the participation of students of both sexes in fields traditionally dominated by the other sex and to insure the elimination of sex bias in vocational education; and'.

"(4) Section 143(a)(2) of such Act is amended by inserting after the word 'broaden' a comma and the following: 'including the elimination of barriers based on sex.'.

"(5) Section 161(b)(1) is amended—

"(A) by striking out subclause (E); and

"(B) by inserting in lieu thereof a new subclause:

"'(E) are designated for all persons, male and female, who may have use for skills relating to the establishment and the maintenance of the home, and'.

"(6)(A) Section 191(c)(1)(A) of such Act is amended by inserting after the word 'fields' the following: 'and for increasing awareness of the changing role of women in the world of work'.

"(B) Section 191(c)(2) of such Act is amended by inserting immediately before the world 'designed' the following: 'free of sex biases and'.".

On page 358, line 24, strike out "SEC. 535." and insert in lieu thereof "SEC. 536.".

On page 123, in the table of contents, redesignate item "Sec. 535." as item "Sec. 536." and insert in lieu thereof the following:

"Sec. 535. Women's equal educational opportunity program."

Mr. PERCY. Mr. President, I first introduced this amendment as the Women's Equal Educational Opportunity Act, S. 2959, in February of this year. Briefly, my amendment would modify existing educational statutes to expand the permissible uses of Federal grants to include those programs specifically directed at providing equal educational opportunities for women. In addition, it requires States applying for Federal funds to submit plans for programs and activities designed to eliminate sex biases in education.

It is quite appropriate that this amendment be brought up at this particular time. The Foreign Relations Committee is having at this moment a meeting with a delegation of parliamentarians from the Soviet Union, and one of those members is Mrs. Z. P. Pukhova. She is a member of the Presidium of the Supreme Soviet of the U.S.S.R., a key executive in the textile industry, and the general manager of one of the major textile factories in the Soviet Union in the city of Ivanova.

It is quite appropriate because we do not have a single woman member in this particular body. It is also appropriate because the Senate and House adopted, and it is now a matter of law, a provision in our foreign aid bill S. 2335 which gives emphasis and priority to programs which will be designed to increase the educational and vocational opportunities for women in countries abroad. Moreover, having passed the Equal Rights Amendment, although it has not yet been ratified by all the necessary States, it is time that in every single piece of legislation we put through the Senate and the House, we take a look at the legislation to see what we can do to remove the subtle and sometimes not so subtle discrimination that exists against women in this country, particularly where Federal programs are concerned.

I was, therefore, delighted to see S. 1539 includes a women's education equity provision. I commend the Senate Labor and Public Welfare Committee, its Education Subcommittee, Representative MINK, the original sponsor of the women's education equity bill, and, particularly, the senior Senator from Minnesota, sponsor of the provision in the Senate. The Senator from Minnesota has exhibited once again his continuing concern for human rights.

Mr. MONDALE. Mr. President. I thank the Senator from Illinois for his kind comments. I also appreciate the Sen-

ator's adding his support as cosponsor to the women's education equity provision. I am very much aware of the Senator's fine amendment.

Using a different but complementary approach, the Senator's amendment, like the women's education equity provision, would attack the problem of sex discrimination in education. While the women's education equity provision would create a new program to support a wide range of projects and activities designed to eliminate sex descrimination, the amendment of the Senator from Illinois would modify existing law to maximize the commitment of existing Federal programs and resources to insure equal opportunities for women in education.

Mr. PERCY. The Senator from Minnesota has properly interpreted my amendment. In the interest of eliminating sex discrimination from education, I had intended to add my amendment to S. 1539. However, I understand that conference on this bill will be lengthy and difficult. Since the House unfortunately did not see fit to incorporate the women's education equity provision in H.R. 69, the addition of my amendment to S. 1539 at this time might complicate and confuse discussion on this issue. I, therefore, call up my amendment at this time mainly to focus attention on the fact that sex discrimination in education is robbing more than half of the citizens of this country of their full potential.

Mr. MONDALE. I commend the Senator from Illinois for his consideration of the conferees. I am sure the other conferees appreciate it also. Late this year, the Education Subcommittee will be considering both the Vocational Education Act and the Higher Education Act. I can assure the Senator that I and my colleagues will do what we can to give the Senator's amendment every consideration at that time. I—and I am sure others on the subcommittee—would welcome the Senator's testimony on this amendment at that time. I look forward to working further with the Senator in furtherance of the removal of sex biases from education and will lend him whatever support I can.

Mr. President, I would like to call to the attention of my colleagues a provision of this bill which has significant implications for the many women who are victims of sex discrimination by our educational system.

This provision, known as the Women's Educational Equity Act, was adopted by the Subcommittee on Education and the full Labor and Public Welfare Committee as an amendment to the Elementary and Secondary Education Act. It is included in the bill before you as section 409 and also as a separate title in the event that the consolidation including section 409 is not fully acceptable to the conference committee on S. 1539.

The Women's Educational Equity Act was first introduced in the House of Representatives by Representative PATSY MINK. I introduced it in the Senate, and last fall I chaired two hearings of the Education Subcommittee on the bill. A broad coalition of education and women's organizations has indicated its support of the bill. Among those who testified in the Senate in its favor are the American Association of State Colleges and Universities, American Council on Education, American Federation of Teachers, American Personnel and Guidance Association, Association of American Colleges, Business and Professional Women's Clubs, Interstate Commissions on the Status of Women, National Council of Administrative Women in Education, National Council of Jewish Women, National Education Association, National Organization for Women, National Student Lobby, National Women's Political Caucus, Women's Educational Equity League, and the Women's Lobby.

The Women's Educational Equity Act is a logical and necessary extension of the enactment of title IX of the Education Amendments of 1972, which prohibited sex discrimination in education.

I am extremely distressed at the inexcusable delay of the Department of Health, Education, and Welfare in issuing guidelines and therefore providing for enforcement of title IX. A year and a half after the enactment of title IX, all HEW has to show us is the latest draft of the proposed regulations. I fully appreciate the complexities and the controversy involved in this matter. Yet with every day's delay we are telling another group of women that they have no recourse against the sex discrimination which stands between them and their right to develop as individuals to their fullest educational potential.

The widespread and immediate need for equity in our educational system was fully documented in the hearings before the subcommittee. Perhaps the most convincing documentation of all came from the November 1972 "Report of the Commissioner's Task Force on the Impact of Office of Education Programs on Women," and the response of HEW to this report. I ask unanimous consent that the portion of the Senate committee report on S. 1539 dealing with women's educational equity—and including references to the Commissioner's report—be printed in the RECORD.

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

SECTION 409—WOMEN'S EDUCATIONAL EQUITY

The purpose of the legislation is to encourage and support programs to eliminate sex discrimination in education.

Need for Women's Educational Equity Act

The November, 1972 "Report of the Commissioner's Task Force on the Impact of Office of Education Programs on Women" documents widespread sex discrimination in Federally supported education programs. According to this report:

"Chiefly because the agency has not been concerned about the use of funds to deny women equal opportunity, OE and NIE funds do directly support discriminatory practices of all kinds. In some cases these are sins of commission—unequal pay for equal work, for instance. In others, they are sins of omission—for example, the failure to recruit women actively in predominantly male training programs."

Federal funds have been used to develop "an extremely sex biased career guidance test as part of the career education effort of the National Institute of Education."

"An ERIC search for research materials on sex discrimination produced only 12 items, none containing any empirical results. Too much of our information on sex discrimination is piecemeal, anecdotal or out of date."

"Men overwhelmingly dominate the administration of Office of Education and National Institute of Education funded projects. Most recent data showed that there are no female directors in the 27 Educational Leadership projects funded under the Education Professions Development Act."

The Committee also received further evidence of the lack of input by women into Federal education policies. The Department of Health, Education, and Welfare told the Subcommittee on Education that the Advisory Committee on the Rights and Responsibilities of Women "advises the Secretary concerning policies, programs and other activities of the Department relating to the status of women.", and that the Advisory Council on Women's Educational Programs authorized by the bill was therefore unnecessary.

However, a member of that Council, Barbara G. Kilberg, testified on November 9 that the Council had never been consulted by Department officials about the position to be taken on the "Women's Educational Equity Act."

In January, the Committee received a copy of a communication from the Secretary's Committee to the Acting Assistant Secretary for Education stating that: "the Committee members (are) very concerned that the Department support every effort to eliminate sex discrimination in education . . . the Committee supports the provisions of the Women's Educational Equity Act of 1973 as a means of eliminating such discrimination."

The task force report and witnesses who testified before the Subcommittee also presented extensive evidence of sex discrimination in administration, operation, research, curriculum and other phases of education.

In the school year 1970–71, for example, 67 percent of all public school teachers were women. But women constituted only 31 percent of department heads, 15 percent of principals and 0.6 percent of superintendents. Only two chief State school officers are women. Only 4 percent of the directors of Title I programs under the Elementary and Secondary Education Act are women; and one out of 56 State vocational education directors is a woman. Harold Howe II, former U.S. Commissioner of Education, told the Subcommittee "Women are seriously underrepresented on school committees and boards and are thus denied access to power over public schools."

Mr. Howe also testified that "the materials used in schools for instruction, guidance and testing, perpetuate the image of women as limited in their options and as headed for subservient positions." Arvonne Fraser, president of the Women's Equity Action League, reported on a study of elementary school textbooks. According to this study, in these books: "girls are pictured quietly watching boys play, or in domestic activities like cooking, cleaning the house or sewing. Often girls are teased by boys for their stupidity when they make mistakes. Men are illustrated in a variety of occupations, 147 in all. Women are shown in only 26 occupations, most of them more extensions of household labor."

Witnesses testified to the inadequacy of research into the incidence, causes and implications of sex discrimination in education. Ann Scott of the National Organization for Women, noted that "there never has been a formalized program of research on women's educational status undertaken by the Federal Government . . . Such research needs to be done, particularly on the question of whether or not the educational facilities of this country are as available to women as to men, to girls as to boys."

Tennis star Billie Jean King told the Subcommittee that physical education opportunities and resources for girls and women

lag far behind those available to boys and men.

In addition, a number of witnesses expressed deep concern that guidelines for Title IX of the Education Amendments of 1972, which outlaws sex discrimination in education, have not yet been issued. They suggested that this indicates a lack of commitment on the part of HEW to their implementation.

The Committee concluded that a more vigorous and focused Federal role should be taken in eliminating the widespread sex discrimination in education; and that the Women's Educational Equity Act, by providing support for affirmative action programs, would enhance the prospects of full implementation of Title IX.

Mr. MONDALE. Mr. President, the committee included the Women's Educational Equity Act in S. 1539 because we know that our educational institutions and the persons who run them cannot be expected to change overnight; and cannot be expected to make significant changes without some guidelines and some financial support. The purpose of the educational equity provision is to provide a wide variety of concerned individuals, agencies, and institutions on all levels of education with the wherewithal to end sex discrimination.

Specifically, the bill authorizes the Commissioner to make grants and enter into contracts aimed at achieving educational equity through development of new educational materials; preservice and inservice training; research and development; guidance and counseling; programs for underemployed and unemployed women; and improvement of educational administration, and vocational, career and physical education programs.

The bill would also create, within the Office of Education, an Advisory Council on Women's Programs. The council would help to oversee the program and make recommendations for improvement of educational equity by HEW. Another important provision of the bill is the requirement that the Commissioner conduct a "national, comprehensive review of sex discrimination in education, to be submitted to the Council not later than a year after the date of enactment" of the legislation.

In conclusion, I would like to make clear that Congress has already established its position on the question of sex discrimination in education—and this type of discrimination is against the law. The Women's Educational Equity Act can help to make that policy—which is now only a statement of purpose—a reality.

Mr. PERCY. Mr. President, I very much appreciate the comments of the Senator from Minnesota (Mr. MONDALE) who has been a leader in this field. I also note with pleasure that the Senator from New York (Mr. JAVITS), the ranking minority member on the Committee on Labor and Public Welfare, has provided great leadership in this field.

I would like to ask him this question: Is it true that sex discrimination, in his judgment, continues in this country in the field of education? It is our obligation, particularly when Federal funds are involved, to root out discrimination and find ways whereby opportunities can be offered to women to advance their capabilities so that we may advance the strength of the Nation thereby.

Does the distinguished Senator feel that if this amendment is withdrawn at this time that it could be appropriately added either to the vocational education bill or the bill on higher education later so that it would not complicate the conference on this extraordinarily difficult bill that we have before us today?

Mr. JAVITS. Mr. President, I simply believe that this amendment should be given every appropriate consideration with regard to the other bill which will be pending before us and which we will be considering.

I am extremely sympathetic to the concept of outreach on the positive side and in dealing with sex discrimination. The law now forbids sex discrimination in the Civil Rights Act of 1964 and in title IX of Public Law 92–380, but it is a far cry from actually doing something about it except in a negative way, that is, through litigation, and so forth, and then it is corrected. We have had extraordinary success in cases, but it is a different thing to develop the makeup of compensatory techniques and procedures in support of the amendment for righting a situation which has gone on for decades insofar as women are concerned.

It is that which is the significant part of the Senator's amendment.

I can assure the Senator of my great sympathy with the objective and the fact that his practical ideas incorporated in his amendment will receive very thoughtful consideration, with the greatest sympathy for inclusion in the appropriate bills to which I have referred, if I can possibly influence our committee, and I believe I can.

Mr. PERCY. Mr. President, I deeply appreciate that reassurance from the senior Senator from New York. His influence is very great indeed, and his voice is a strong one that has always spoken out for equal rights—particularly when it is so consistent with our abilities and desires to develop to the fullest the human resources of this country.

If we do not fully develop the resources that the women of this country provide, it not only negates their opportunities in life, but it also negates the strength of the country.

I have had the great pleasure of meeting with representatives of women's groups, and I ask unanimous consent to have printed in the RECORD the names and associations of some of the women with whom I have met and who have provided inspiration and technical assistance to the Senator from Illinois in this field.

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

Olya Margolin, National Council of Jewish Women.

Jane McMichael, Women's Political Caucus.

Dr. Eleanor Dolan, National Council of Administrative Women in Education.

Ellen McCartney, American Association of University Women.

Judy Stafford, National Association of Business and Professional Women.

Arvonne Fraser, WEAL (Women's Equity Action League).

Margaret Dunkel, American Association of Colleges, Project on the Status of Women.

Nancy Schlossberg, American Council on Education.

Wendy Lowe, National Student Lobby.

Dr. Ann Scott, National Organization for Women.

Sandra Match, National Association of Social Workers.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. PERCY. Mr. President, will the Senator yield me 1 minute?

Mr. JAVITS. I yield 1 minute on the bill.

Mr. PERCY. I also wish to commend Ms. Ellen Hoffman of Senator MONDALE's staff who, together with Ms. Hannah McCormack and Ms. Julia Block of my staff, have provided assistance to me in this effort.

Mr. PERCY. Mr. President, with the assurance I have received, I withdraw my amendment. I thank the distinguished Senator from Minnesota and the distinguished senior Senator from New York for their cooperation and support.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. JAVITS. Mr. President, at the request of Senator DOMENICI, communicated to me through the minority staff in the Senate, I ask unanimous consent that the order for his amendment, which he advises us will not be called up, be vacated.

The PRESIDING OFFICER. Without objection, the order is vacated.

Mr. JAVITS. The reason is that we should not constantly revert to this amendment on our list.

AMENDMENT NO. 1301

The PRESIDING OFFICER. Under the previous order, the Senator from Virginia (Mr. WILLIAM L. SCOTT) is recognized to call up his amendment, on which there is a limit of 1 hour of debate.

Mr. WILLIAM L. SCOTT. Mr. President, I call up my amendment No. 1301.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. WILLIAM L. SCOTT. 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 new title:

"TITLE IX—CLARIFICATION OF FEDERAL JURISDICTION

"CLARIFICATION OF FEDERAL JURISDICTION WITH RESPECT TO PUBLIC SCHOOLS

"SEC. 901. Notwithstanding any other provisions of law, including any other provision of this Act or any Act amended by this Act, no court created by Act of Congress and having general jurisdiction, original or appellate, with respect to cases or controversies arising under the laws or Constitution of the United States, shall have any jurisdiction to hear or decide cases or controversies

involving the public elementary or secondary schools of a local or State educational agency. The jurisdiction terminated by this Act shall be vested in the course of the several States and, with respect to such cases and controversies arising in the District of Columbia or in any other territory or possession of the United States, in the Federal courts of an essentially local jurisdiction in such District, territory, or possession. In each such case or controversy, there is vested in the Supreme Court of the United States appellate jurisdiction by writ of certiorari to the highest State or territorial court exercising jurisdiction over such case or controversy.".

On page 124, in the table of contents after title VIII, insert the following new title:

"TITLE IX—CLARIFICATION OF FEDERAL JURISDICTION

"Sec. 901. Clarification of Federal jurisdiction with respect to public schools.".

Mr. WILLIAM L. SCOTT. Mr. President, I ask unanimous consent that my staff assistant, Mr. James Carty, be permitted the privilege of the floor during the discussion of this amendment.

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

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

Mr. WILLIAM L. SCOTT. I yield.

Mr. JAVITS. Mr. President, I would like to hear the Senator's description of his amendment, but I wish now to give notice on this, and I make the parliamentary inquiry as to whether the amendment comes under the terms of that part of the unanimous-consent agreement which reads "offer further busing amendments."

Mr. WILLIAM L. SCOTT. I assure the distinguished Senator from New York that I did make inquiry of the Parliamentarian with regard to this matter, informally, and was assured that it did not. If the Senator cares to raise the question at this time, that is his right.

Mr. JAVITS. I suggest to my colleague that I am not raising it. I only state I wish to reserve my right to raise it, after hearing a description of his amendment.

Mr. President, I ask that this 1 minute be charged to the opposition.

Mr. WILLIAM L. SCOTT. Mr. President, I ask unanimous consent that the name of the junior Senator from North Carolina (Mr. HELMS) be added as a cosponsor of this amendment.

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

Mr. WILLIAM L. SCOTT. Mr. President, a brief explanation of this amendment and a copy of it should be on the desk of each Senator. I would, however, like to offer some further explanation. The purpose of the amendment is to clarify or to transfer jurisdiction of all issues and controversies involving the public elementary and secondary schools from the Federal courts to the courts of general jurisdiction of the various States. Under the amendment, there would be the right of appeal to the highest courts of each State in the manner provided by State law and ultimately to the Supreme Court of the United States by writ of certiorari from the highest State or territorial court exercising jurisdiction over such case or controversy.

Mr. President, in considering this matter I believe we should reflect for a moment on the nature of our public school system. As I view it, public education is an outgrowth of the training children receive in the home. Each Member of this body desires quality education for children. All of us are interested in their welfare. We may have some differences of opinion about this, but I believe the schools are essentially local in nature. I feel they should be controlled generally by the localities.

There are numerous issues and controversies which might arise relating to public schools. The one that most people are concerned about today relates to the busing of children.

This is the question raised by the distinguished Senator from New York. But there are such things as employment contracts of teachers, labor disputes between school board and employees, what school an individual student should attend, allocation of funds, local, State and Federal; various tort actions or contract differences which might arise between school authorities, parents or teachers. It seems to me that decisions made on any subject involving the local school would be more palatable to the people of a given locality if made by judges they know. State courts are closer to the people because officials of courts of general jurisdiction within the State live among the people. They serve generally for a period of years subject to reappointment or reelection as contrasted by the life tenure enjoyed by the Federal judiciary. Federal judges and Federal courts may be many miles removed from the locality of an individual school where a cause of action arose. Of course, we realize that having decisions made at the State level on a number of the controversies which develop from time to time would be a reversal of the policy of recent years of having decisions determined at the Federal level.

Mr. President, the question could arise that State judges would not be as sensitive to the civil rights of students or teachers. Yet, under article 7 of our Federal Constitution, the supremacy clause provides:

This Constitution, and the laws of the United States . . . shall be the supreme law of the land; and the judges of every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding.

The same article provides that judicial officers both of the United States and of the several States shall be bound by oath or affirmation to support the Constitution, and of course they take the same oath to faithfully perform their duties and support the Constitution that we take as Members of this body. Without my amendment, cases which might be brought under the "Federal question" and "diversity" jurisdiction in Federal courts which do not involve the requisite jurisdictional amount must be brought in State courts.

Litigants, on their own, may bring cases in State courts which could be brought in Federal courts, excepting only a few classes of cases in which Congress has made Federal jurisdiction exclusive.

Mr. President, my amendment does not restrict the appellate jurisdiction of the Supreme Court, even though cases and controverseries involving the public schools would be decided initially by State courts. One issue over which the State courts would have initial jurisdiction is the question of busing which we have discussed to a considerable extent during consideration of this bill. Let me comment briefly on this issue. When people are considering the purchase of a home within which to raise their families, they consider the location of schools, churches, and shopping centers as well as the general neighborhood. Children make friends within this neighborhood, and it seems reasonable for them to attend school with their friends. We could say that when parents buy a home they purchase an environment within which to raise their families. When children are taken from this neighborhood into strange areas, emotional problems and hostilities may develop. Children also may be less alert in arriving at their destination and have less time during the day to devote to the learning process. It seems reasonable to concentrate on quality education for children rather than attempt to use them as pawns to solve social problems for which they have no degree of responsibility.

Mr. President, I see a number of Senators in the Chamber. I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. There is not a sufficient second.

Mr. WILLIAM L. SCOTT. Mr. President, I shall renew my request when we have a sufficient number of Senators in the Chamber.

Mr. President, I recall our colleague, the distinguished Senator from Massachusetts (Mr. BROOKE), expressed the fear that the antibusing legislation we were considering last week—

Would encourage the development of two nations within our country—one white and the other black.

The Richmond Times-Dispatch, one of Virginia's leading newspapers commented editorially on Saturday regarding Senator BROOKE's concern. It stated that—

While the Senator diagnoses the disease, he and his liberal colleagues fail to see that their medicine—more busing—is killing the patient. In cities like Richmond, unrealistic busing orders and racial quotas are feeding the cancer that is eroding the vitality of the central city.

The editorial indicates that unwarranted busing is bringing about a return to segregation by causing whites to move to the suburbs while blacks remain in the city. Mr. President, I ask unanimous consent that the entire editorial of Saturday, May 18, be printed in the RECORD.

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

BROOKE'S CONCERN

Just prior to the Senate's 47 to 46 rejection of strong anti-busing legislation Wednesday, Senator Edward W. Brooke, R-Mass., expressed the fear that such legislation "would encourage the development of two nations within our country—one white and the other black."

The concern of that distinguished senator ought to be shared by other thoughtful Americans. It is not healthy that so many of

the nation's urban areas are becoming divided into two camps: the poor, the elderly and the black in the core city; the affluent, the young and the white in the surrounding suburbs.

But while Senator Brooke diagnoses the disease, he and his liberal colleagues fail to see that their medicine—more busing—is killing the patient. In cities like Richmond, unrealistic busing orders and racial quotas are feeding the cancer that is eroding the vitality of the central city. The obsession with race in assigning pupils is driving from the city and its schools many of the families the city needs to retain in order to maintain a desirable racial and socio-economic diversity.

Schools that had begun desegregating under more moderate plans in the aftermath of the *Brown* decision 20 years ago have rapidly resegregated in recent years as a direct result of cross-city busing. Some buses in Richmond now haul children all the way across town to attend schools that are virtually the same in racial composition as their neighborhood schools. In just four years, Richmond has lost more than one-half of its white enrollment because of massive busing, and a system that was once fairly equally divided between the races is now on the road to being a one-race system.

By zeroing in too harshly on the public schools, which are but one segment of society, busing has increased the segregation existing in urban society generally. That is one good reason all Americans who favor racial harmony and cooperation, whatever their political ideology otherwise, ought to support steps to lessen punitive busing plans and to promote thereby genuine racial togetherness. Let enough senators experience the tragedy in their own cities, we suppose, and that one-vote anti-antibusing majority will be transformed into a lopsided antibusing vote one day.

Mr. WILLIAM L. SCOTT. Mr. President, as you know, the Constitution provides in addition to the Supreme Court, judicial power

> Shall be vested . . . in such inferior courts as the Congress may from time to time ordain and establish.

This is the concept included in my amendment and its intention is to clarify the jurisdiction of Federal courts with regard to cases and controversies involving the public schools. It provides that neither the Federal district courts nor the circuit courts of appeal shall have any jurisdiction to hear or decide cases and controversies involving the public schools, but that jurisdiction with respect to such cases and controversies shall be vested in the courts of general jurisdiction of the respective States with the right of appeal to the highest State courts and by certiorari to the Supreme Court of the United States; thereby retaining Federal supremacy.

Mr. President, there are many Supreme Court decisions that intend to retain integration but with a minimum of busing. The Swann case in North Carolina appears to be such a case. Many of our busing problems in Virginia were brought about by the trial courts, not the Supreme Court. These trial judges, with life tenure, appear to be so separated from the general population that they forget that ultimate power or sovereignty under our system resides in the people of the country. All polls show that people do not want busing of children for the purpose of bringing about a racial balance in the public schools.

The purpose of the amendment before us is to insure that cases dealing with such a vital local issue as neighborhood schools be heard by judges attuned to the problems and the needs of our communities.

A few days ago I had printed in the RECORD a brief memorandum prepared at my request by the Library of Congress on this point. It did cite authorities and support the constitutionality of my amendment.

In fact there is no doubt of the power of the Congress to enact such legislation, and not only to set up a Federal judicial system below the Supreme Court, but also to fix the jurisdiction of such courts.

The First Congress exercised the power granted by the Constitution when it enacted the Judiciary Act of 1789 (1 Stat. 73). However, it did not grant to the Federal courts the full judicial power of the United States. Jurisdictional amount requirements kept many litigants from Federal courts and sent them instead to State courts to adjudicate Federal claims. The 1789 act contained no grant of "Federal question" jurisdiction, so that suits arising, in the words of article III, section 2, "under this Constitution, the laws of the United States, and treaties * * *," except where otherwise specifically and narrowly provided for, were required to be brought in the State courts until 1876 (78 Stat. 479). A clause barring diversity jurisdiction, where diversity had been created by the assignment of choices in action, kept in State courts cases which the Constitution would have permitted Congress to assign to Federal courts.

My amendment is identical with a bill introduced more than a year ago, S. 287, and referred to the Committee on the Judiciary. It was discussed in a hearing held in February of this year by the Subcommittee on Constitutional Rights of the Judiciary Committee. It is my understanding that the chairman of that subcommittee, the distinguished senior Senator from North Carolina (Mr. ERVIN) who conducted the hearings, does support this amendment.

In a case involving the "assignee clause," the Supreme Court first announced the doctrine that Congress controlled much of its jurisdiction and all of that of the lower Federal courts. In the words of Mr. Justice Chase:

> The notion has frequently been entertained, that the Federal courts derive their judicial power immediately from the Constitution, but the political truth is, that the disposal of the judicial power, except in a few specified instances, belongs to Congress. If Congress has given the power to this court, we possess it, not otherwise; and if Congress has not given the power to us, or to any other court, it still remains at the legislative disposal. Besides, Congress is not bound, and it would, perhaps, be inexpedient to enlarge the jurisdiction of the Federal Courts to every subject, in every form, which the Constitution might warrant.

Turner v. *Bank of North America*, 4 Dall (4 U.S.) 8, 10 (1799). And in *Cary* v. *Curtis*, 3 How. (44 U.S.) 236, 245 (1845).

It was stated:

> The judicial power of the United States, although it has its origins in the Constitution is—except in enumerated instances, applicable exclusively to this court—dependent for its distribution and organization, and for the modes of its exercise, entirely upon the action of Congress, who possess the sole power of creating the tribunals—inferior to the Supreme Court—for the exercise of the judicial power, and of investing them with jurisdiction either limited, concurrent, or exclusive, and of withholding jurisdiction from them in the exact degrees and character which to Congress may seem proper for the public good.

For similar expressions, see, for instance, *Sheldon* v. *Sill*, 3 How. (49 U.S.) 441 (1850); *Plaquemines Tropical Fruit Co.* v. *Henderson*, 170 U.S. 511 (1898); *Kline* v. *Burke Const. Co.*, 260 U.S. 266 (1922); *Lockerty* v. *Phillips*, 319 U.S. 182 (1943); *South Carolina* v. *Katzenbach*, 383 U.S. 301, 331–332 (1966).

Mr. President, my presentation has emphasized the question of busing because this is a controversy of special interest today. Once again, public opinion polls indicate that the vast majority of the people of every section of the country are opposed to the busing of children to obtain a racial balance. They want their children to attend a neighborhood school, but I hasten to add, Mr. President, that the amendment does not mention the word busing at all. It transfers those cases and controversies now heard by Federal courts to the State courts and retains the present status of those now heard by State courts. Torts and contracts, controversies regarding funding, civil rights, labor disputes, all issues and controversies would be decided by judges sworn to uphold our Federal Constitution and laws as well as the Constitution and laws of their respective States—judges closer to the people, living among them, serving for terms rather than for life and retaining the ultimate right to petition the Supreme Court for certiorari preserving Federal supremacy. I believe, Mr. President, this would tend to alleviate some of the controversies which now tend to divide the Nation.

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

Mr. PELL. Mr. President, I yield myself such time as I may require.

This is a far-reaching and significant amendment. What it does, in essence, as the Senator from Virginia has pointed out, is to remove jurisdiction from the Federal courts to State courts not only in civil rights cases but also in many other types of cases involving our schools. To me this would not be an advisable process. I could not accept this amendment and would urge my colleagues to vote against it.

I yield the floor.

The PRESIDING OFFICER. Who yields time? Does any Senator yield time?

Mr. WILLIAM L. SCOTT. Mr. President, I have no requests for time. Unless some Senator cares to speak on the

amendment, I am willing to yield back my time if the floor manager agrees to yield back his time.

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

The PRESIDING OFFICER. Both sides yield back the remainder of their time. The question is on the amendment of the Senator from Virginia.

Mr. WILLIAM L. SCOTT. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. 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. MANSFIELD. Mr. President, would the Senator withhold his request for the yeas and nays?

Mr. WILLIAM L. SCOTT. Mr. President, I am glad to withhold my request, provided the leadership gives me assurance that we will have the yeas and nays.

Mr. MANSFIELD. Absolutely.

Mr. WILLIAM L. SCOTT. Mr. President, I withhold my request for the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield me a minute or two?

Mr. PELL. I yield.

Mr. ROBERT C. BYRD. May I say, in the presence of the distinguished Senator from Virginia, I am as opposed to forced busing to achieve an arbitrary racial balance as he is. I do not think it is required by the Constitution or by the 1954 decision. I do not think the Constitution requires that children be bused like guinea pigs for miles just to achieve an arbitrary racial balance. I do not think white parents or black parents want it. I think that such money could be better used for improving the educational facilities for all children and increasing teachers' salaries.

However, I am disturbed that this amendment is being brought up today because, in my judgment—in my own personal judgment—and in accordance with the agreement that was entered into a few days ago, no "so-called busing" amendments would be called up today, and this amendment could be construed as fitting into the category of amendments that were to be prohibited today, under the agreement.

Mr. WILLIAM L. SCOTT. Mr. President, will the Senator yield on the last point?

Mr. ROBERT C. BYRD. If I may continue briefly, I will then yield.

I have listened to the Senator's presentation of his amendment. I would say 90 percent of his eloquent arguments dealt with busing and integration and so on. He mentioned the Swann case. He talked about busing. As to the substance of what he said, I personally do not have any disagreement with it, but I do feel that this is a busing amendment regardless of how it is clothed, how it is prettied up with fancy words, and all of that, and I would imagine that the Parliamentarian would probably uphold it——

Mr. WILLIAM L. SCOTT. Mr. President——

Mr. ROBERT C. BYRD. If I may just continue.

Mr. WILLIAM L. SCOTT. All right.

Mr. ROBERT C. BYRD. I know the distinguished Senator has probably drawn his amendment so broadly as to make it impossible to sustain a point of order against it, but I must say that, as one who was somewhat instrumental in getting the agreement that was finally entered into, I am afraid that while this amendment in the letter of it may abide by the agreement, the spirit of the amendment is such that we are really contravening the agreement that was entered into by Senators, some of whom probably are not here today and who did not feel, based on the agreement, that there would be any such amendment called up.

I want to state that for the RECORD. I personally would have to support a point of order if it were raised against his amendment, even though I favor some parts of his amendment.

Now I yield to the distinguished Senator.

Mr. WILLIAM L. SCOTT. I appreciate the distinguished Senator's yielding.

I would remind the distinguished Senator, however, that we had a gathering slightly on the other side of the center aisle, in which I made the statement, in front of the distinguished majority whip and the distinguished majority leader, that I intended to bring up such an amendment as this and asked if I would be prevented from doing so. Both Senators assured me I would not be.

Going further, wanting to protect myself, I did confer informally with the Parliamentarian in advance so that I would not be prevented at this later date from bringing up this amendment. I was assured it was such a broad statement—the word "busing" is not mentioned——

Mr. ROBERT C. BYRD. I understand.

Mr. WILLIAM L. SCOTT. It relates to teachers' contracts, it relates to management and labor, it relates to tort actions that might be brought against school districts, it relates to all cases and controversies involving the public schools.

At this present moment we are more concerned about busing than any other case or controversy. That is why it comes to each of our minds today, whereas at another period of time it might not come to our minds.

If the distinguished Senator does have reservations, certainly he is within his rights to raise a question with the Parliamentarian as to whether it is proper to bring it up at this time.

Mr. ROBERT C. BYRD. I will not raise such a point. I am simply saying I am disturbed about such an amendment.

I wish to make a couple of points. No. 1, the Senator says he raised this question in my presence. I have absolutely no recollection of it. No. 2——

Mr. WILLIAM L. SCOTT. Well, the Senator——

Mr. ROBERT C. BYRD. If the Senator will permit, I am not disputing his word. He may be able to refresh my recollection. In any event, I had absolutely no knowledge of the basic content of this amendment. If I acquiesced in it, I did not have any knowledge that it would go to the heart of busing, or I would have been compelled on my honor at least to raise the question at that time.

Mr. WILLIAM L. SCOTT. If the distinguished Senator will think back, we were where the Senator from Kentucky (Mr. COOK) is standing at the present time. There were about six or eight Senators present at that time. This was before the original unanimous-consent request was made by the distinguished Senator. The distinguished majority leader was standing beside the distinguished majority whip——

Mr. ROBERT C. BYRD. The majority whip saw that little huddle of conversation going on over there, but it was a huddle quite a time before I joined it. I joined it later, but I had no recollection of any discussion of the content of the Senator's amendment. I would have no reason to say otherwise——

Mr. WILLIAM L. SCOTT. I do not question the integrity of the distinguished Senator, and I assume he does not question mine.

Mr. ROBERT C. BYRD. I do not in the least.

Mr. WILLIAM L. SCOTT. The fact is that it did occur, and I am not sure at what point the distinguished majority whip arrived at the group. I recall the distinguished majority leader saying "No, no, Bill," and saying I could do this. But more than the gentleman's agreement is the informal decision of our Parliamentarian, because, of course, I wanted to protect my right to bring it up at the proper time, but did not want to bring it up at the time the busing amendments were ordered if it was not necessary. That is why it was brought up at the time it was.

Mr. ROBERT C. BYRD. But I would not want the RECORD to imply for one moment that the Senator cleared the contents or the substance of this amendment with me. I knew nothing about it. I joined in the huddle at a later point.

I want the Senator to know that I did not agree that anything that would go to the heart of busing would be allowed to come in. I feel somewhat concerned, under the circumstances, because the Senator from Michigan (Mr. HART) is not here today. I am sure he would have been disturbed had he known what the thrust of this amendment would be.

But for the RECORD, I may say that I had no knowledge of the basic substance of this amendment. While the Parliamentarian may uphold it, I think, in spirit, at least, it contravenes the agreement that was entered into. But I do not place any blame on the able Senator from Virginia.

Mr. WILLIAM L. SCOTT. Mr. President, let me add the words I used in asking the group before the unanimous consent question came up. I said, "I have an

amendment which would transfer the jurisdiction of all issues in controversy from the Federal to the State courts. Would that be affected by this proposed agreement?"

I was assured that it would not be.

I remember distinctly that the distinguished majority leader nodded his head, and called me Bill, and said that it would not be affected. I thought the distinguished majority whip was present at that time. If he says he was not, I am sure he was not.

Mr. ROBERT C. BYRD. I cannot recall being present. I would have to say this for the majority leader. I do not think that either he or I would have, for that matter, realized at that time that the Senator's amendment goes to the heart of busing to such an extent as I now realize it does.

I am sure that the Senator has worded the amendment so broadly that the Parliamentarian will uphold it. I have no fault to find with the Senator whatsoever—not any. But I must say for the record that I am concerned, in view of our understanding that no busing amendments would be in order today.

I have said that I listened to the distinguished Senator explain his amendment, and 90 percent of what he has said has been about busing. I think that the spirit of the amendment is not entirely what some of our people thought we were going to entertain by way of amendments today.

Mr. WILLIAM L. SCOTT. Mr. President, if the distinguished Senator from West Virginia will yield for just one moment further, I may say that I can understand his position as the assistant leader on his side. I can understand that he at no time would want to mislead any Senators who look to him for guidance or leadership. On the other hand, I as an individual Senator must protect my own rights. It was for that reason that I did make the inquiry from the two sources I have just mentioned. I think each of us tries to do his job in the best way he knows how.

Mr. ROBERT C. BYRD. Mr. President, the Senator has done what he thought was right. He has acted within his rights. He has not been devious about it in any way. He has not attempted to pull the wool over anybody's eyes. Everything he has done has been on top of the table. I find no fault with him. I simply state that the amendment, at least, in my judgment, does not appear to be in accord with what various Senators thought was the agreement.

Mr. WILLIAM L. SCOTT. If I may have just 30 seconds more, I may say that I sent a "Dear Colleague" letter to every Member of the Senate on May 10. Another one is on the desk of every Senator today. So, as the distinguished Senator from West Virginia says, it was all above board.

Mr. ROBERT C. BYRD. It was above board, but if I may say, I do not read "Dear Colleague" letters.

The PRESIDING OFFICER. Who yields time?

Mr. COOK. Mr. President, I should like to make an inquiry of the Senator from Virginia. I have an amendment I have gone over with the manager of the bill, and he has indicated that he will accept it. I do not wish to infringe on the time of the Senator from Virginia, but I am wondering if he would mind if I were to call up my amendment and discuss it; then he might renew his motion at any time when there is no other business on the floor of the Senate.

Mr. WILLIAM L. SCOTT. I have yielded back my time. My only reservation was that we have a rollcall vote.

Mr. MANSFIELD. Mr. President, I wish to assure the Senator that there will be a rollcall vote.

Mr. President, I ask unanimous consent that the amendment to be offered by the distinguished Senator from Kentucky (Mr. COOK) be in order at this time.

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

The Senator from Kentucky is recognized.

Mr. COOK. Mr. President, I call up my amendment No. 1299 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. COOK. Mr. President, I ask unanimous consent that the further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 214, line 24, insert the following:

"EXTENSION OF AUTHORITY TO RESTORE SCHOOL BUILDINGS FOLLOWING A NATIONAL DISASTER

"SEC. 204. (a) Section 16(a) of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), is amended by inserting before the last sentence thereof the following new sentence: 'For the purpose of the preceding sentence, the phrase "cost of construction incident to the restoration or replacement of the school facilities" includes such additional amounts as the Commissioner may approve in order to assure that the facilities, as restored or replaced, will afford maximum protection against personal injuries resulting from a disaster.'."

On page 215, line 4, strike out "204" and insert in lieu thereof "205".

Mr. COOK. Mr. President, I shall take a short period to explain the intent of the amendment.

Last month, in the wake of the destruction wrought by tornadoes which hit Kentucky and 10 other States, I introduced proposed legislation aimed at strengthening one of the important components of our current Federal disaster relief effort—school reconstruction legislation.

The bill at that time, which is now embodied in this amendment, amends the language of Public Law 88–815, relating to the restoration or replacement of school facilities to provide that additional moneys might be spent in order to insure reasonable and adequate emergency protection in the case of future disasters.

The Commissioner of Education is given the authority to approve additional expenditures "in order to assure that the facilities, as restored or replaced, will afford maximum protection against personal injuries resulting from a disaster."

I have been advised that the administration is opposed to this amendment, purely and simply because of the phrase "protection against personal injuries."

If the Federal Government is going to be involved in any way in the allocation of funds for the construction of school facilities, then it must take into consideration what, in fact, can happen to the schools. Fortunately, apparently, although we had to go through the destruction, the good Lord was more aware of the need for protection of the children than the administration downtown because at least this event occurred after school hours. Consequently, many of the schools which were almost totally destroyed, did not have any children in them.

The amendment does not allocate any specific sums; it merely provides that the Commissioner shall take into consideration that in the event of a national disaster, causing a tremendous amount of damage to public schools, he may request additional Federal funds to rebuild the public schools, taking into consideration that the schools had been built on slabs, and that there is no protection against tornadoes or destruction of any kind, they are not furnished additional protection that is built into the side of an elevation differential, so that there can be a particular area of the school where children may really be brought together and kept at least in a higher degree of safety than they are in many schools. As they now sit out on top of a hill, with nothing around them, with no basement and no other type of protection whatsoever.

This is what we are aiming at. This is what we want the Commissioner to take into consideration. This is the aim of the amendment. I did want to specifically explain, because the senior Senator from New York is not here, that it is the position of the administration that they are opposed to this amendment because it calls for the Commissioner to take into consideration, in the construction of schools destroyed by a disaster, the maximum protection against personal injury to the students.

I urge that the amendment be agreed to, and yield the floor.

Mr. PELL. Mr. President, as I understand the amendment offered by the Senator from Kentucky, he would amend section 16 of Public Law 815, 81st Congress, which authorizes construction in disaster areas, to make additional services available together with the construction assistance when a disaster has either destroyed or seriously damaged a school facility.

I have no problem with the amendment of the Senator from Kentucky and will recommend that the Senate agree to the amendment.

However, I might point out that the Committee on Public Works has revised the disaster relief program and has made public schools eligible for participation in the disaster relief program. It may well be that the provision of that act may be of greater applicability than the disaster relief provisions in Public Law 815.

Mr. COOK. Mr. President, I do not disagree with the Senator from Rhode Island. I only wish to add the point that,

having taken into consideration the provisions in the disaster relief bill, it calls exclusively for funds for reconstruction. It does not take into consideration the safety of the children in that reconstruction. So, in the future, we face the rather technical aspect that one could ask for funds for reconstruction, but not for funds to add to, over and above the reconstruction of facilities or the consideration of facilities affording greater protection of the students.

That is what brought this on, and I am delighted to have the discussion with the Senator from Rhode Island relative to the disaster relief bill, and also delighted that he is in favor of the amendment.

Mr. PELL. Mr. President, I understand that the amendment has been cleared with the minority side. I recommend that the amendment be accepted, and yield back the remainder of my time.

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

The PRESIDING OFFICER (Mr. ABOUREZK). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Kentucky (Mr. COOK).

The amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on the amendment by the Senator from Virginia (Mr. WILLIAM L. SCOTT) not occur until the hour of 4:15 p.m. today, at which time the rollcall votes on amendments are to begin.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill is open to further amendment.

Mr. PELL. Mr. President, I suggest the absence of a quorum, with the time to be charged against the 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. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ABOUREZK). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from Tennessee (Mr. BROCK) be recognized at this time to call up his amendment without prejudice to the distinguished Senator from North Carolina (Mr. HELMS).

The PRESIDING OFFICER. Without objection, it is so ordered, and the Senator from Tennessee is recognized.

AMENDMENT NO. 1334

Mr. BROCK. Mr. President, I call up my amendment (No. 1334) and ask that it be stated.

The PRESIDING OFFICER. The amendment (No. 1334) and ask that it be stated.

The amendment will be stated.

The assistant legislative clerk read as follows:

On page 130, line 24, insert the following:

POLICY OF THE UNITED STATES WITH RESPECT TO CAREER EDUCATION PROGRAMS FOR DISADVANTAGED CHILDREN

SEC. 6. It is the intent of the Congress to encourage the use of title I funds for appropriate career education programs for disadvantaged children.

Mr. BROCK. Mr. President, I hasten to point out that this amendment does not direct anyone to do anything but is merely an intention on the part of Congress that career education be considered part and parcel of the total educational process.

I happen to believe that career education offers so much in terms of broadening the option range for students that we need to establish a clear record of congressional support.

Career education requires a concept that integrates academic learning experiences with occupational and vocational learning activities for the purpose of preparing individuals to enter, progress, and find satisfaction in chosen fields of endeavor.

It allows for assistance in making decisions on short-range and long-range vocational goals, whether or not the attainment of such goals requires more or less formal education, more or less experience and training, or more or less physical or mental skills on the part of the individual.

Career education permits the adjustment of goals, in that opportunities would be continually present to change the chosen field of work.

The purpose of the amendment is to emphasize the tremendous value of this kind of education both to the individual people affected and to the country itself as these individuals whose lives are made better by career education make their own contributions to America's strength.

This amendment expresses the sense of Congress that the States should strive to assure the continued vitality of career education.

Career education, in sum and substance, provides for an occupational awareness. It equips the individual to investigate, explore, and select the occupations and career fields which are most suitable for his own talent and interest.

It provides the instruction services necessary for the student to enter useful employment and to advance his own career.

It helps the student recognize the need to make a strong commitment to a career. It is important to show young people the relevance of their education.

It is also important to make them aware of available career alternatives. There is presently in too many colleges no relevance and no relationship between education and occupation. Young people are just not aware of the occupational opportunities available to them.

The purpose of education is to prepare young people for later life, but this is not being done at present. Career education would improve immeasurably the total education experience for the student.

It is something that should be supported. It is something that should be sponsored and should be encouraged by Congress. I would hope that the leadership on the committee would be prepared to lend their support to this amendment.

Mr. PELL. Mr. President, I have had a chance to look at the amendment. The thrust of its provisions is already, in effect, in the law; but, as the Senator from Tennessee believes, his amendment would give an added push to its administration and direction. It is a direction that needs to be gone into, and I would recommend that we accept the amendment of the Senator from Tennessee.

Mr. BROCK. I thank the Senator. I think the law is clear in its present attempt, but I also feel that the law is not being implemented as Congress intended it should be and that is why I would like to place a little more emphasis on it by this amendment.

I appreciate the Senator's report.

Mr. DOMINICK. Mr. President, I think the Senator from Tennessee has a good amendment. For a long time I have advocated that we have a computer bank for vocational type training which is needed in the country and which can then be passed on through the educational system so that we can do something about it, particularly with high school students, and make their education much more relevant to what they will be doing, whether they drop out or graduate.

Putting in this kind of amendment will give more emphasis to it. The amendment is a worthwhile one and I congratulate the Senator from Tennessee.

Mr. BROCK. I thank the Senator from Colorado very much.

Mr. JAVITS. Mr. President, the administration's position on this amendment is one of nonopposition. They are not opposed to it. The administration feels as follows, "There are more appropriate vehicles for placing emphasis on career education than title I."

Mr. President, I have no objection to the amendment's being accepted.

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

Mr. BROCK. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. NUNN). All time on the amendment has now been yielded back.

The question is on agreeing to the amendment of the Senator from Tennessee (Mr. BROCK) No. 1334.

The amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum with the time to be equally charged on the bill.

The PRESIDING OFFICER. The Clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from New York will state it.

Mr. JAVITS. At what point in the consideration of amendments reserved for a vote in accordance with the unanimous-consent request later this afternoon, will a motion to table be in order?

The PRESIDING OFFICER. Immediately prior to the vote.

Mr. JAVITS. I thank the Chair.

Mr. TOWER. Mr. President, I ask unanimous consent that during the con-

sideration of this measure Mike Butler and Gary Lieber of my staff be permitted the privilege of the floor.

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

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

The PRESIDING OFFICER. On whose time?

Mr. TOWER. Mr. President, I suggest the absence of a quorum and I ask unanimous consent that the time not be charged to either side.

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

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1295

Mr. HELMS. Mr. President, I call up my Amendment No. 1295.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 126, line 7, after the word "citizens", insert a comma and the following: "including a group representing nonpublic primary and secondary educational institutions proportional to the number of pupils enrolled in nonpublic educational institutions nationwide.".

On page 127, between lines 16 and 17, insert the following:

"(I) The contribution of nonpublic primary and secondary education in providing alternate educational experiences for pupils and a variety of options for parents in guiding their children's development.".

Mr. HELMS. Mr. President, the purpose of the amendment that I am now offering is to insure that the 1977 White House Conference on Education actively considers the role of nonpublic education in American life, and that nonpublic educators participate fully in the deliberations.

We all know that nonpublic education has played an important role in the history of the United States. While we are all proud of the role which public education has played in the development of our Nation, we must not forget that nonpublic education preceded the public educator's role, and that even today it offers a vigorous alternative for parents who seek other options for their children. In fact, one of the most interesting phenomena in education today is the resurgence of private education at the elementary and secondary levels; while one of the most distressing is the increasing financial precariousness of nonpublic education.

It is all too easy for the educational establishment to think of education today entirely in terms of public education, particularly at the lower grade levels. In 1973, enrollment from kindergarten to eighth grade was 89.1 percent public, and 10.9 percent nonpublic. From ninth through twelfth grade, it was 92.3 percent public and 7.7 percent nonpublic. At college level, it was 76.1 percent public, and 23.9 percent nonpublic. These figures are from the U.S. Department of Commerce, Current Population Reports, series P-20, No. 261.

Although the majority of pupils in the United States are enrolled in public schools, it is clear that a significant minority are enrolled in nonpublic education. Out of some 59 million students, nearly 8 million are in nonpublic schools. What is especially worthy of note is the rise in recent years in the number of nonchurch affiliated nonpublic schools. Competition is good in any field, and I applaud the variety which nonpublic education offers.

Mr. President, the present bill lying before us proposes to set up a White House Conference on Education in 1977. It is intended—

To stimulate a national assessment of the condition, needs, and goals of education, and to obtain from a broadly representative group of citizens a report of findings and recommendations with respect to such assessment.

Mr. President, I believe that there is a need to make the intent of Congress clear on what we mean by "a broadly representative group of citizens." At the last White House Conference held in 1965, nonpublic schools were seriously underrepresented. I have a list of the delegates to the 1965 National Conference. Out of 709 delegates, only 10 represented nonpublic primary and secondary schools; and of those 10, only 2, so far as I can ascertain, came from nonpublic schools that were not church affiliated. I think it is difficult to imagine that the voice of nonpublic education was adequately heard in 1965.

At the college level, nonpublic education had a better representation: There were 75 delegates from such schools. But many of these came from prestigious schools such as Harvard, Bennington, and Radcliffe where participation in such conferences is a matter of course. The less well-organized schools either were not invited or were unable to come. Even so, the number represented is only a bit over 10 percent of the delegates, while the school population at nonpublic colleges is about 24 percent of the total.

Mr. President, I ask unanimous consent that the list of delegates to the 1965 White House Conference on Education be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. HELMS. It is for this reason that I am proposing that the following words be added after "broadly representative group of citizens" on page 126, line 7:

Including a group representing non-public primary and secondary educational institutions proportional to the number of pupils enrolled in non-public educational institutions nationwide.

Mr. President, I want to bring to the attention of the Senate the fact that this language inserted where I have indicated refers only to the conference itself; it does not refer to the makeup of the National Conference Committee, whose makeup is specified on page 128. My language amends only the Conference itself. I think that the Senate has to make its intention clear that nonpublic education is not to be underrepresented at the Conference.

My amendment also adds a ninth paragraph to the items which are specified for special consideration at the conference. It would be paragraph I, page 128, between lines 16 and 17, providing for the consideration of:

The contribution of non-public primary and secondary education in providing alternate educational experiences for pupils and a variety of options for parents in guiding their children's development.

I think that this paragraph is self-explanatory and will be of immense value in guiding the overall assessment of education in this country.

EXHIBIT 1

ALPHABETICAL LIST OF PARTICIPANTS, THE WHITE HOUSE CONFERENCE ON EDUCATION

This list includes all those on the program and all those invitees who registered by 4 p.m. Tuesday.

It does not include: observers, working press, Conference staff members, pages, or college interns.

Mr. Hale Aarnes, 1317 N 1st Street, Fargo, North Dakota.

Mr. Leon Abramson, Staff, House Education and Labor Committee, Rayburn Building, Washington, D.C.

Dr. Donald C. Agnew, Southern Association of Colleges & Schools, 795 Peachtree St. N. E., Atlanta, Ga.

Hon. Angel O. Alfard, Secretary of Education, Department of Education, Hato Rey, P. R. 00900.

Dr. Wendell Allen, Asst. Superintendent for Teacher Education and Certification, Dept. Public Instruction, P. O. Box 500, Olympia, Wash. 98501.

Mrs. Ethan Allen, Lawrence, Kans.

Mr. Dwight W. Allen, Stanford University, Stanford, Cal.

Ms. Mary P. Allen, % Carl Elliott, P. O. Box 1049, Jasper, Ala.

Hon. James E. Allen, Jr., Commissioner of Education, State Education Department, Albany, N. Y. 12201.

Mr. Lloyd A. Ambrosen, Maryland School for the Deaf, Frederick, Md.

Mr. Paul Amenta, 80 Cedarwood Drive, New Britain, Conn.

Mr. Don Anderson, Staff, House Education and Labor Committee, Rayburn Building, Washington, D.C.

Florence Anderson, Carnegie Corporation, 589 5th Av., New York, N. Y.

Miss Reba Anderson, Hutchinson Jr. College, Hutchinson, Kans.

Hon. Glenn Andrews, House of Representatives, Washington, D.C.

Sister M. Annunciata, OP, Catholic U. of America, 620 Michigan Ave., N.E., Washington, D.C. 20017.

Brother E. Anthony, FSC NCEA, 1785 Mass. Ave., N.W., Washington, D.C. 20036.

Msgr. Kenneth Applegate, Superintendent of Catholic Schools, S. Sixth Street, Columbus, Ohio.

* * * * *

Mr. Walter M. Arnold, 1301 S. Scott Street, Apt. 026, Arlington, Va. 20202.

Dr. George Arnstein, 2001 N. Adams St. Arlington, Va.

Mr. John Artichoker, Supt., Northern Cheyenne Agency, Lake Deer, Mont. 99043.

Mr. Charles Atheaton, The Commission of Fine Arts Building, 7000 Interior Dept., Washington, D.C.

Sister M. Austin, CPPS, St. Anthony School, 6495 Glen Carlyn Rd., Falls Church, Va. 22041.

Mr. Perly F. Aver, Exec. Sec., Council of Southern Mountains, Berea, Ky.

Hon. William M. Ayres, House of Representatives, Washington, D.C.

Dr. Augusto Babonis, Dean, School of Education, University of Puerto Rico, Rio Piedras, P.R.

Mr. Hollis D. Bach, Director of Employment and placement, Post Office Department, Washington, D.C.

Dr. Stephen K. Bailey, 416 Hillsboro Parkway, Syracuse, N.Y.

Mr. George Baird, Director, Greater Cleveland Educational Research Council, Cleveland, Ohio.

Mr. Robert Baker, Detroit Federation of Teachers, 8830 Puritan Avenue, Detroit, Michigan.

Dr. Edward C. Banfield, Harvard University, Boston, Mass.

Mr. Melvin Barnes, Supt of Schools, Portland, Oreg.

Mr. Albert Barouh, 1138 Roxbury Drive, Westbury Li., N.Y.

Mr. St. John, Barrett, Civil Rights Division, Department of Justice, Washington, D.C.

Mr. John Barry, Principal, Vineland High School, Vineland, N.J.

Dr. Colman Barry, President, St. Johns University, Collegeville, Minn.

Mr. Robbins W. Barstow, Jr., Dir. of Professional Development, Connecticut Education Association, Hartford, Conn.

Hon. Lynn M. Bartlett, Superintendent of Public Instruction, State Department of Public Instruction, Lansing, Mich. 48902.

Hon. D. F. Bartlett, U.S. Senate Office Building, Washington, D.C.

Dr. Richard Batchelder, President-elect, National Education Association, Housemaster, Barry Hse., Newton High School, Newtonville, Mass.

Judge David L. Gazelon, Circuit Court, Washington, D.C.

Mr. Fred Beckman, Payette High School, Payette Idaho.

Msgr. A. W. Behrens, National Catholic Education Assoc., 1785 Massachusetts NW., Washington, D.C.

Hon. Alphonzo Pell, House of Representatives, Washington, D.C.

Hon. T. H. Bell, Superintendent of Public Instruction, State Department of Public Instruction, Salt Lake City, Utah, 84114.

Mr. Wilmer V. Bell, Director of Adult Educ., Baltimore City Schools, Baltimore, Md.

Mr. Daniel Bell, Professor of Sociology, Columbia University, New York 27, N.Y.

Mr. Lerone Bennett, Senior Editor, Ebony Magazine, Johnson Publishing Co., Chicago, Ill.

Mr. William Benton, 342 Madison Ave, New York, N.Y.

Mr. Charles Beton, President, Encyclopaedia Britannica Films Inc., Wilmette, Ill.

Mr. Joseph H. Bertotti, General Electric Co., Crontonville, P.O. Box 151, Ossining, N.Y.

Rev. Leo N. Bieaster, Principal, Bishop Modeyitt H.S., 22nd & Market Streets, Harrisburg, Pa.

Committee

Mr. Max Birmbaum, director, Education & Training, Amer. Jewish Committee, 165 East 56th St., New York, N.Y.

Mr. Charles E. Bish, Nat. Education Assn., 1201 16th St. NW., Washington, D.C. 20036.

Mr. William Bishop, Supt. of School, Englewood, Colo.

Mr. Robert Blackburn, Dean of Faculty, Swiner College, Mount Carroll, Ill.

Dr. Leonard S. Blackman, Teachers College, Columbia University, New York, N.Y. 10027.

Mrs. Martha F. Blakeslee, Joint Graduate, Consortium, 1903 N St. NW., Washington, D.C.

Mr. L. Wayne Bledsoe, 3610 Barry Ave., Fort Smith, Ark.

Mr. Charles Blitzer, director, Division of Education, Smithsonian Institution, Washington, D.C.

Miss Kathryn Bloom, 801 G Street SW., Apt. 513, Washington, D.C. 20024.

Dr. Edward Blousteen, president, Bennington College, Bennington, Vt., 05201.

Mr. John T. Blue, 6310 Glenoak Drive, Norfolk, Va.

Mr. Lassor Blumenthal, 280 Ninth Avenue, New York, N.Y.

Mr. Samuel J. Borowsky, National Council for Jewish Education, 101 Fifth Avenue, New York, N.Y.

Mr. Forbes Bottomley, superintendent of schools, Seattle, Wash.

Hon. Albert Boutwell, Mayor, City Hall, Birmingham, Ala. 35203.

Mr. Charles R. Bowen, director of education projects, IBM Corporation, Armonk, N.Y. 10504.

Mrs. Joan Bowers, Human Relations Commission, City Bldg., Third and Walnut Streets, Evansville, Ind.

Dr. Jim Bowers, vice president, Austin College, Sherman, Tex.

Mr. Albert H. Bowker, chancellor, the City University of New York, New York, N.Y.

Dr. Frank Bowles, 477 Madison Avenue, New York 22, N.Y.

Mr. Norman J. Boyan, Stanford University, Stanford, Cal.

Hon. John Brademas, House of Representatives, Washington, D.C.

Mr. Thomas W. Braden, chairman, State Board of Education, Oceanside, Cal. 92054.

Mr. Herman Branson, physics department, Howard University, Washington, D.C.

Mr. Paul W. Briggs, superintendent of schools, Cleveland, Ohio 44114.

Mr. David Brinkley, Natl. Broadcasting Co., Washington, D.C.

Mr. Peter Broderick, Box 2003, Providence, R.I.

Dr. J. T. Brooks, Exec. Sec. Am. Teachers, Assoc., 145 Ashby Street NW., Atlanta, Ga.

Mr. J. Deton Brooks, Jr., Suite 522, 1 North Wacker Drive, Chicago, Ill. 60606.

Mr. Charles E. Brown, Supt., Newton School System, Newtonville, Mass. 02160.

Mr. Brown Frank Brown, principal, Melbourne High School, 1050 Babcock Street, Melbourne, Fla.

Hon. Edmund J. Brown, Governor of California, Sacramento, Calif.

Hon. Samuel A. Brownell, Supt. of Schools, Detroit, Mich.

Hon. Louis Bruno, superintendent of public instruction, office of the State Superintendent of Public Instruction, Olympia, Wash. 98501.

Dr. Mary I. Bunting, president, Radcliffe College, Cambridge, Mass.

Mr. Lowell A. Burkett, American Vocational Association, 1510 H St., NW., Washington, D.C.

Mr. Victor Bussie, 429 Government St., P.O. Box 50, Baton Rouge, La. 70822.

Mr. George Butler, Director of Div. of Educ. & Community Relations PCEEO, room 2209, Labor Department Bldg., Washington, D.C.

Dr. Broadus N. Butler, 1427 Hamlin Street NE., Washington, D.C.

Dr. Victor Butterfield, president, Wesleyan University, Middletown, Conn.

Dr. Alexander Calandra, Dept. of Physics, Washington University, St. Louis, Mo.

Hugh Calkins, Esq., 1750 Union Commerce Bldg., Cleveland 14, Ohio.

Mr. Allen Calvin, Ladera Professional Center, Menlo Park, Calif.

Dr. Roald Campbell, dean, Grad. Sch. of Educ., University of Chicago, Chicago, Ill.

Mr. Clifford J. Campbell, 2004 NE. Craner, Portland, Oreg.

Mr. William Cannon, Bureau of the Budget, Executive Office Bldg., Washington, D.C.

Mr. Frank Caplan, president and treasurer, Creative Playthings Inc., P.O. Box 1100, Princeton, N.J.

Hon. Hugh L. Carey, House of Representatives, Washington, D.C.

Mr. William D. Carey, Executive Assistant Director, Bureau of the Budget, Executive Office Bldg., Washington, D.C. 20503.

Mr. Ben E. Carmichael, superintendent of schools, Chattanooga, Tenn., 37409.

Mr. William G. Carr, secretary, National Education Association of the United States, 1201 16th Street NW., Washington, D.C. 20036.

Mr. Thomas V. Carr, Director, President's Commission on White House Fellows, Executive Office Building, Washington, D.C.

Mr. Douglas C. Carter, the Governors School of North Carolina, Salem College, Winston-Salem, N.C.

John P. Carter, executive secretary, Natl. Assoc. of Episcopal Schools, Airlie Foundation, Warrenton, Va.

Hon. Clifford P. Case, Senate Office Building, Washington, D.C.

Hon. Francis A. Castles, superintendent of schools, division of schools, Balboa Heights, Canal Zone.

Mr. Weston A. Cate, Box 567, Montpelier, Vt.

Hon. Douglass Cater, special assistant to the President, The White House, Washington, D.C.

Hon. Anthony J. Celebrezze, U.S. Department of Health, Education, and Welfare, Washington, D.C. 20202.

Mr. John Chaffee, Jr., 58 Michael Road, Randolph, Mass.

Ms. Ruth Chandler, Aberdeen High School, Aberdeen, Idaho.

Sister Marie Charles, MHSH, Mission Helpers of the Sacred Heart, 2206 Kentmere Parkway, Wilmington, Del. 19806.

Dr. Henry Chauncey, Educational Testing Service, Princeton, N.J.

Hon. Joseph S. Clark, United States Senate, Washington, D.C.

Dr. Harold F. Clark, professor of economics, Trinity University, 718 Ridgepont Ave., San Antonio, Texas.

Dr. Kenneth B. Clark, professor, dept. of psychology, City College of New York, New York, N.Y.

Mr. David Clift, American Library Association, 50 East Huron Drive, Chicago, Ill. 60611.

Mr. Adam Clymer, National Press Bldg., Washington, D.C.

Mrs. Dick Coburn, P.O. Box 188, Avondale, Colorado.

Sister Josephina Cocannon, dept. of education, Boston College, Boston, Mass. 02167.

Ms. Ruth Cockerhan, 423 Canal Street, New Orleans, La.

Mr. Charles H. Cogen, President, American Federation of Teachers, 716 N. Rush Street, Chicago, Ill., 60611.

Hon. Wilbur J. Cohen, Undersecretary, Department of Health, Education, and Welfare, Washington, D.C. 20202.

Mr. Eli Cohen, National Committee on Youth Employment, 145 East 32nd Street, New York City, N.Y.

Mr. Francis J. Colligan, Bureau of Educational and Cultural Affairs, Department of State, Washington, D.C.

Hon. Leroy Collins, Under Secretary of Commerce, Department of Commerce, Washington, D.C. 20230.

Hon. William G. Colman, Executive Director, Advisory Commission on Intergovernmental Relations, Washington, D.C. 20575

Hon. James B. Conant, President Emeritus, Harvard University, A study of American Education, Princeton, New Jersey 08540

Mr. Forrest E. Conner, Executive Secretary, American Association of School Administrators, 1201 16th Street NW., Washington, D.C. 20036

Frances P. Conner, Teachers College, Columbia University, New York 27, N.Y.

Mr. Jack T. Conway, Deputy Director, Office of Economic Opportunity, 1200 19th Street NW., Washington, D.C.

Dr. Paul Cooke, Director of Programs, Model School Division, Public Schools, Washington, D.C.

Sister Corita, Chairman, Department of Art, Immaculate Heart College, Los Angeles, Calif.

Mrs. Vivian Couzzens, teacher, Bancroft Elementary School, 18th and Newton Streets NW., Washington, D.C.

Marion Cranmore, Burns Park School, 1414 Wells St., Ann Arbor, Mich.

Dr. Lawrence Cremin, 202 Junipero Sorra Blvd., Stanford, Calif.

Hon. Emilio Q. Daddario, U.S. House of Representatives, Washington, D.C.

John T. Dailey, George Washington University School of Education, Washington, D.C. 20006

Mr. Charles U. Daly, Vice President, University of Chicago, Chicago, Ill. 60637

Mrs. Louise M. Dargans, House Education and Labor Committee, House of Representatives, Washington, D.C.

Dr. David D. Darland, 341 D. St. SW., Washington, D.C.

Mr. Frederick Dashiell, 602 S. View Terrace, Alexandria, Va.

Mr. Don Davies, Executive Secretary, National Committee on Teacher Education and Professional Standards, 1201 16th St. NW., Washington, D.C.

Dr. Howard A. Dawson, 5628 Massachusetts Ave., Washington, D.C.

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Hon. Leornard J. DeLavo, Superintendent of Public Instruction, State Department of Education, Santa Fe, N. Mex. 87501.

Dr. Edward L. DeJnozka, Department of Education, Charlotte Amalie, St. Thomas, U.S. Virgin Islands 00802.

Dr. C. L. Dennard, Principal, Carver Vocational High School, Atlanta, Ga.

Dr. Lawrence Derthick, 5470 Sanger Ave., Alexandria, Va.

Mr. Philip H. Des Marais, Acting Assistant Secretary for Legislation, Department of Health, Education, and Welfare, Washington, D.C. 20201.

Dr. Harold C. Deutsch, head, Department of History, University of Minnesota, Minneapolis, Minn.

Mr. Martin Deutsch, Department of Psychiatry, New York Medical College, 23 E. 105th St.

* * * * *

Mr. John Doar, assistant attorney general of the United States, Civil Rights Division, Washington, D.C. 20930.

Mr. Frederick J. Dockstader, Director, Museum of American Indian, Broadway at 155th St., New York City, N. Y.

Hon. William J. Dodd, Superintendent of Public Education, State Department of Education, Baton Rogue, La., 70804.

Mrs. W. H. Dodge, 3363 Maple Drive, Ypsilanti, Mich.

Dr. Marion Donaldson, Supt., Amphitheater School District, Phoenix, Arizona.

Mr. John D. Donognue, 40 Mayden Parkway, South Burlington, Vt

Mr. Hedley Donovan, Editor-in-Chief, Time Inc., Time & Life Bldg., 20 Rockefeller Ctr., New York, N. Y.

Dr. Adron Doran, Pres., Morehead State College, Morehead, Kentucky.

Mr. Albert Dorne, 680 Fifth Ave., New York, N. Y.

Hon. William J. Driver, Administrator of Veterans Affairs, Veterans Admin. Bldg., Washington, D.C., 20420.

Dr. Lee A. Dubridge, Pres., California Institute of Technology, Pasadena, Cal.

Mr. C. J. Duckworth, President, American Teachers Association, 145 Ashby Street NW., Atlanta, Ga.

Hon. Robert D. Duncan, House of Representatives, Washington, D.C.

Mr. Sam Duncan, President, Livingston College, Salisbury, N.C.

Mr. Donald W. Dunnan, Supt. of Schools, St. Paul, Minn.

Mrs. Louise Echols, Gainesville High School, Gainesville, Florida.

Mr. James R. Echols, Cultural Affairs Adviser, United States Information Agency, Washington, D.C.

L. L. Ecker-Racz, Advisory Commission on Intergovernmental Relations, 1701 Penn. Ave., Washington, D.C. 20575.

Hon. J. W. Edgar, Commissioner of Education, Texas Education Agency, Austin, Tex. 76711.

Dr. Alfred C. Edwards, President, Holt, Rhinehart and Winston, Inc., 383 Madison Avenue, New York, N.Y.

Mr. John H. Eklund, 1012 14th St. NW., Suite 1206, Washington, D.C.

Hon. Buford Ellington, Director, Office of Emergency Planning, Executive Office Bldg. Annex, Washington, D.C. 20504.

Mr. Ralph Ellison, 730 Riverside Drive, New York 31, N.Y.

Sister Mary Elsa, OSF, 620 Michigan Ave. N.E., Washington, D.C. 20017.

Dr. Willard S. Elsbree, Teachers College, Columbia University, New York, N.Y.

Dr. Harold Enarson, Academic V. P., Univ. of New Mexico, Albuquerque, New Mexico.

Hon. D. F. Engelking, Superintendent of Public Instruction, State Department of Education, Boise, Idaho 83702.

Mr. Benjamin R. Epstein, Anti-defamation League, 315 Lexington Avenue, New York, N.Y. 10016.

Mr. Samuel B. Ethridge, Commission on Professional Rights and Responsibilities, 1201 16th Street NW., Washington, D.C.

Dr. Alvin C. Eurich, President, Aspen Institute, Aspen, Colo.

Brother Leonard Fabian, FSC, St. Joseph H.S., 1840. Mayfair Ave., Westchester, Ill. 61370.

Mr. J. Crockett Farnell, Supt., Hillsborough Co. Schls., P.O. Box 3408, Tampa, Fla.

* * * * *

Mr. Warren T. Farrell, 61 Lindbergh Parkway, Waldwick, N.J.

Dr. Wilda Faust, 1201 16th St., Washington, D.C.

Dr. David Fellman, Pres. American Assn. of University Professors, Dept. of Political Science, Univ. of Wisconsin, Madison, Wisc.

Dr. Fred Feltman, 41 Stonegate Road, Portola Valley Calif.

Mr. John J. Ferdian Jr., Boonsboro High School, Boonsboro, Md.

Miss Barbara Finberg, Carnegia Corporation, 509 Fifth Ave., New York, N.Y., 10017.

Dr. James Finn, Director, Instructional Technology & Media, Project, Univ. of So. Calif., Los Angeles, Calif.

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Dr. Jerrold Zacharias, 32 Clifton Street, Belmont, Mass.

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

Mr. PELL. Mr. President, I think the Senator's amendment, No. 1295, includes an important segment of our educational community, the nonpublic sector, in the deliberations of the White House Conference on Education. However, I would note that the amendment, as it is now drafted would require proportional representation of nonpublic educators. This kind of earmarking is something that the committee attempted to avoid, since if you mandate one group's participation, you must mandate all.

Would the Senator agree to modify his amendment to avoid such earmarking? If he would do so, I would support his amendment.

Mr. HELMS. I thank the distinguished Senator for his suggestion and I send to the desk a modification.

Mr. PELL. Mr. President, I ask unanimous consent that it be considered.

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

Mr. HELMS. Mr. President, I ask that the modified amendment be stated.

The PRESIDING OFFICER. The amendment will be stated as modified.

The assistant legislative clerk read as follows:

On page 126, lines 6 and 7, strike the phrase 'broadly represented group of citizens', and insert the following: 'from a group of citizens broadly representative of all aspects of education, between public and nonpublic.'

On page 127, between lines 16 and 17, insert the following:

"(I) The contribution of nonpublic primary and secondary education in profor pupils and a variety of options for parents in guiding their children's development.".

Mr. JAVITS. Mr. President, will the Senator yield to me on the time in opposition?

Mr. PELL. I yield.

Mr. JAVITS. I am agreeable to this amendment. Certainly, I want to see the nonpublic elements of education considered. However, I cannot refrain from spreading on the record one thing that does trouble me, so that it may appear on the record and that we are not heedless of it, and that is that there have been many charges over the years that there were created nonpublic education facilities in various jurisdictions which were created simply for the purpose of avoiding the desegregation decisions of the U.S. Supreme Court. They were called

"academies" or by other fancy names. I would like it very clear as a matter of legislative record that when we speak of nonpublic school participants, we are speaking of those which are lawful under the courts and the laws of the United States, and not those in some twilight zone or subject to some litigation. That can be left in the good judgment of the people who will be organizing the conference, but I thought it needed to be said because of the practical situation we have found to exist from time to time.

I have no objection to the adoption of the amendment, but I did wish to put that caveat in the RECORD.

Mr. HELMS. I am willing to yield back my time.

Mr. PELL. I yield back our time.

Mr. DOMINICK. Mr. President, will the Senator from North Carolina yield to me first?

Mr. HELMS. I am delighted to yield to the Senator from Colorado.

Mr. DOMINICK. Mr. President, I merely wish to say that I had the honor of having as a roommate for 4 years the head of the Independent School Association. I am sure he would be most appreciative of this amendment as it has been revised in order to get the input for this group of very skilled educators on the conference.

I congratulate the Senator from North Carolina.

Mr. HELMS. I thank the Senator from Colorado.

The PRESIDING OFFICER. Is all time yielded back?

Mr. HELMS. I yield back the remainder of my time.

Mr. PELL. I yield back the remainder of my time.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Mr. President, the Senator from North Carolina (Mr. HELMS) has three amendments. I would not want to see him give up his time unwittingly. Would the Parliamentarian rule?

The PRESIDING OFFICER. The Senator will be given his time.

The question is on agreeing to the amendment.

The amendment was agreed to.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, will the Senator from North Carolina yield to me briefly?

Mr. HELMS. I am delighted to yield.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination reported unanimously earlier today by the Committee on the Judiciary.

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

The PRESIDING OFFICER. The nomination will be stated.

DEPARTMENT OF JUSTICE

The legislative clerk read the nomination of Robert E. Hauberg, of Mississippi, to be U.S. attorney for the southern district of Mississippi.

The PRESIDING OFFICER. 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 the nomination.

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

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, 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.

DEPARTMENT OF STATE AND U.S. INFORMATION AGENCY AUTHORIZATIONS

Mr. MANSFIELD. Mr. President, out of order I ask unanimous consent that the Senate turn to the consideration of Calendar No. 804, S. 3473.

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

The bill was read by title, as follows:

A bill (S. 3473) to authorize appropriations for the Department of State and the U.S. Information Agency, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3473

A bill to authorize appropriations for the Department of State and the United States Information Agency, 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 "State Department/USIA Authorization Act, Fiscal Year 1975".

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 2. (a) There are authorized to be appropriated for the Department of State for fiscal year 1975, to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States, including trade negotiations, and other purposes authorized by law, the following amounts:

(1) for the "Administration of Foreign Affairs", $370,045,000;

(2) for "International Organizations and Conferences", $229,604,000;

(3) for "International Commissions", $17,832,000;

(4) for "Educational Exchange", $65,014,000; and

(5) for "Migration and Refugee Assistance," $9,420,000.

(b) There are authorized to be appropriated for the United States Information Agency for fiscal year 1975, to carry out international informational activities and programs under the United States Information and Educational Exchange Act of 1948, the Mutual Education and Cultural Exchange Act of 1941, and Reorganization Plan Numbered 8 of 1953, and other purposes authorized by law, the following amounts:

(1) for "Salaries and Expenses" and "Salaries and Expenses (special foreign currency program)", $226,839,000, except that so much of such amount as may be appropriated for "Salaries and Expenses (special foreign currency program)" may be appropriated without fiscal year limitation;

(2) for "Special International Exhibitions", $6,770,000; and

(3) for "Acquisition and Construction of Radio Facilities", $4,400,000.

(c) In addition to amounts otherwise authorized, there are authorized to be appropriated to the Secretary of State for the fiscal year 1975 not to exceed $50,000,000 to carry out the provisions of section 101(b) of the Foreign Relations Authorization Act of 1972, relating to Soviet refugee assistance.

(d) In addition to amounts authorized in subsections (a) and (b) of this section, there are authorized to be appropriated for fiscal year 1975 for the Department of State and for the United States Information Agency such additional amounts as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law which arise subsequent to the date of enactment of this Act.

(e) Amounts appropriated under subsection (a) and clauses (2) and (3) of subsection (b) of this section are authorized to remain available until expended.

TRANSFER OF FUNDS

SEC. 3. (a) Whenever the President determines it to be necessary, funds made available under any clause of subsection (a) or (b) of section 2 may be transferred to, and consolidated with, the funds made available under any other such clause, and may be used for any of the purposes for which funds to which the transfer was made may be used. However, the funds made available under any such clause shall not be decreased by a total of more than 5 percent, and no such clause shall be increased by a total of more than 5 percent, as the result of transfer made under this subsection.

(b) The President shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate not less than fifteen days before he intends to transfer and consolidate any funds under subsection (a) of this section, a report setting forth that clause of subsections (a) or (b) of section 2 under which the funds are made available and from which the transfer is to be made, the amount intended to be transferred, a full explanation of how each such amount is to be expended, and the reasons why he deems each such transfer necessary.

REPEAL OF THE FORMOSA RESOLUTION

SEC. 4. The joint resolution entitled "Joint resolution authorizing the President to employ the Armed Forces of the United States for protecting the security of Formosa, the Pescadores and related possessions and territories of that area", approved January 29, 1955 (69 Stat. 7; Public Law 84–4), and known as the Formosa Resolution, is repealed.

PUBLICATION OF POLITICAL CONTRIBUTIONS OF CERTAIN NOMINEES

SEC. 5. (a) Section 6 of the Department of State Appropriations Authorization Act of 1973 is amended by inserting after the first sentence the following new sentence: "The Chairman of the Committee on Foreign Relations of the Senate shall have printed in the Congressional Record each such report."

(b) The amendment made by subsection (a) of this section shall only apply with re-

spect to reports filed on and after the date of enactment of this Act.

TRAVEL EXPENSES OF STUDENT-DEPENDENTS OF GOVERNMENT EMPLOYEES

SEC. 6. Section 5924(4)(B) of title 5, United States Code, is amended by inserting in the first sentence, after the words "not to exceed one", the word "annual".

ASSIGNMENT OF FOREIGN SERVICE OFFICERS TO PUBLIC ORGANIZATIONS

SEC. 7. (a) Part II of title V of the Foreign Service Act of 1946 is amended by adding after section 575 thereof the following new section:

"ASSIGNMENTS TO PUBLIC ORGANIZATIONS

"SEC. 576. (a) Except as otherwise provided in subsection (c) of this section, each Foreign Service officer shall, between his eighth and fifteenth years of service as such an officer, be assigned in the continental United States for significant duty with State or local government, public schools, community colleges, or other public organizations designated by the Secretary. Such assignment shall be for a period of not less than twenty-two consecutive months or more than twenty-six consecutive months. The Foreign Service officer shall be entitled to state a preference with respect to the type of public organization to which he would like to be assigned but may not state a preference with respect to the geographical location to which he would like to be assigned.

"(b) A Foreign Service officer on assignment under this section shall be deemed to be on detail to a regular work assignment in the Service, and the officer remains an employee of the Department while so assigned. However, any period of time an officer assigned under this section shall not be included as part of any period that the officer has remained in a class for purposes of determining whether he is to be selected out under section 633 of this Act, or regulations promulgated pursuant thereto. The salary of the officer shall be paid from appropriations made available for the payment of salaries of officers and employees of the Service.

"(c) The Secretary may exempt a Foreign Service officer from assignment under this section if the Secretary determines in writing, the reasons, that it is in the interest of the United States not to so assign that officer. Such determination, including the reasons, shall be promptly transmitted to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

"(d) Any period of time that a Foreign Service officer serves on an assignment under this section shall also be considered as a period of time that the officer was assigned for duty in the continental United States for purposes of section 572 of this Act.

"(e) For the purpose of this section—

"(1) 'State' means—

"(A) a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and a territory or possession of the United States; and

"(B) an instrumentality or authority of a State or States as defined in subparagraph (A) of this paragraph (1) and a Federal-State authority or instrumentality; and

"(2) 'local government' means—

"(A) any political subdivision, instrumentality, or authority of a State or States as defined in subparagraph (A) of paragraph (1); and

"(B) any general or special purpose agency of such a political subdivision, instrumentality, or authority."

(b) The amendment made by subsection (a) of this section shall apply only to a Foreign Service officer who completes his eighth year of service as such an officer on or after the date of enactment of this Act.

AUTHORITY AND RESPONSIBILITY OF AMBASSADORS

SEC. 8. The Act entitled "An Act to provide certain basic authority for the Department of State", approved August 1, 1956, as amended, is further amended by adding at the end thereof the following new section:

"SEC. 16. (a) The United States Ambassador to a foreign country shall have full responsibility under the President for the direction, coordination, and supervision of all United States Government officers and employees in that country, except for personnel under the command of a United States area military commander.

"(b) The Ambassador shall keep himself fully and currently informed with respect to all activitists and operations of the United States Government within that country. He shall insure that all Government officers and employees in that country, except for personnel under the command of a United States area military commander, comply fully with his directives.

"(c) Any department or agency having officers or employees in a country shall keep the United States Ambassador to that country fully and currently informed with respect to all activities and operations of its officers and employees in that country. The department or agency shall also insure that all of its officers and employees, except for personnel under the command of a United States area military commander, comply fully with all applicable directives of the Ambassador."

REORGANIZATION OF FOREIGN AFFAIRS LEGISLATION

SEC. 9. (a) The Act of August 1, 1956, as amended by section 8 of this Act, is further amended by adding at the end thereof the following new section:

"SEC. 17. Proposed legislation by the executive branch requesting authorizations of appropriations relating to foreign affairs (other than proposed legislation requesting authorizations for emergency, supplemental, or deficiency appropriations) shall be submitted for the ensuing fiscal year and shall be submitted as—

"(1) a proposed bill or joint resolution authorizing appropriations for the conduct of foreign affairs, which shall include separate ennumerations of requested authorizations for—

"(A) the administration of foreign affairs, including separate enumerations for the administration of foreign affairs by the Department of State, the Arms Control and Disarmament Agency, and Foreign Service buildings;

"(B) international organizations, conferences, and commissions;

"(C) information and cultural exchanges, including separate enumerations of authorizations for the United States Information Agency, educational exchanges, and the Board for International Broadcasting; and

"(D) any other program or activity with respect to foreign affairs which is not a program or activity providing foreign economic or military assistance, and is made available or is to be made available under a law within the jurisdiction of the Committee on Foreign Relations and the Committee on Foreign Affairs;

"(2) a proposed bill or joint resolution authorizing appropriations for foreign economic assistance, which shall include separate enumerations of requested authorizations for—

"(A) each program and activity involving bilateral assistance;

"(B) each program and activity involving multilateral assistance;

"(C) the Peace Corps;

"(D) migration and refugee assistance; and

"(E) any other program or activity providing foreign economic assistance, and is made available or is to be made available under such a law; and

"(3) a proposed bill or joint resolution authorizing appropriations for foreign military assistance, which shall include separate enumerations of requested authorizations for—

"(A) military loan and grant assistance;

"(B) military credit sales and guaranties;

"(C) security supporting assistance; and

"(D) any other program or activity providing foreign military assistance, and is made available or is to be made available under such a law."

(b) The amendment made by subsection (a) of this section applies with respect to fiscal year 1976 and each fiscal year thereafter.

MILITARY BASE AGREEMENTS

SEC. 10. The Act of August 1, 1956, as amended by sections 8 and 9 of this Act, is further amended by adding at the end thereof the following new section:

"SEC. 18. (a) No funds may be obligated or expended under any provision of law to carry out any agreement entered into, on or after the date of enactment of this section, between the United States Government and the government of any foreign country (1) providing for the establishment of a major military installation at which units of the Armed Forces of the United States are to be assigned to duty, (2) renewing, or extending the duration of, any such agreement, or (3) making changes which significantly alter the terms of such agreement, unless the Congress approves that agreement by law, or, if a treaty, the Senate advises and consents to that treaty.

"(b) For purposes of this section, 'a major military installation' means an installation with an assigned, authorized, or detailed personnel strength in excess of five hundred."

DIEGO GARCIA AGREEMENT

SEC. 11. The Act of August 1, 1956, as amended by sections 8, 9, and 10 of this Act, is further amended by adding at the end thereof the following new section:

"SEC. 19. Commencing thirty days after the date of enactment of this section, no steps shall be taken to implement any agreement signed on or after January 1, 1974, by the United States and the United Kingdom, relating to the establishment or maintenance by the United States of any military base on Diego Garcia, until the agreement is submitted to the Congress and approved by law."

INTERNATIONAL MATERIALS BUREAU

SEC. 12. (a) The Act entitled "An Act to strengthen and improve the organization and administration of the Department of State, and for other purposes", approved May 26, 1949, as amended, is further amended by adding at the end thereof the following new section:

"SEC. 6. (a) There is established within the Department of State an International Materials Bureau, to be headed by a Director. The Director shall be appointed by the Secretary of State.

"(b) The Bureau shall be responsible for continuously reviewing (1) the supply, demand, and price, throughout the world, of basic raw and processed materials (including agricultural commodities), and (2) the effect of United States Government programs and policies (including tax policy) in creating or alleviating, or assisting in creating or alleviating, shortages of such materials. In conducting such review, the Bureau shall obtain information with respect to—

"(A) the supply, demand, and price of each such material in each major importing, exporting, and producing country and region of the world in order to understand long-term

and short-term trends in the supply, demand, and price of such materials;

"(B) projected imports and exports of such materials on a country-by-country basis;

"(C) unusual patterns or changes in connection with the purchase or sale of such materials;

"(D) a list of such materials in short supply and an estimate of the amount of shortage;

"(E) international geological, geophysical, and political conditions which may affect the supply of such materials; and

"(F) other matters that the Bureau considers appropriate in carrying out this section.

"(c) In conducting its review, the Bureau shall utilize the most advanced technology available, such as the Earth Resources Conservation System.

"(d) Not later than fifteen days after the end of each month, the Bureau shall submit a report to the President and the Congress, with separate copies to the Committee on Foreign Relations of the Senate and the Office of Technology Assessment, for such month with respect to the matters reviewed by it in accordance with subsection (b).

"(e) Not later than sixty days after the end of each year, the Bureau shall submit a report to the President and the Congress, with separate copies to the Committee on Foreign Relations of the Senate and the Office of Technology Assessment, on its activities for such year. Such report shall also include projections regarding the supply, demand, and price of each such material for the five years following such year, based upon the information obtained by the Bureau in making its review under subsection (b), and such recommendations as the Bureau considers appropriate, including recommended changes in the policies and programs of the United States Government or international, foreign, and domestic entities which changes would tend to increase the supply of, or decrease the demand for, or the price of, such materials.

"(f)(1) The Secretary shall appoint an Advisory Committee of fifteen eminent members to advise the Director with respect to the functions of the Bureau under this section. The Committee shall select its own Chairman and Vice Chairman.

"(2) Each member of the Committee who is appointed from private life shall receive $125 per diem (including traveltime) for each day he is engaged in the actual performance of his duties as a member of the Committee. A member of the Committee who is in the legislative, executive, or judicial branch of the United States Government shall serve without additional compensation. All members of the Committee shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

"(3) The Director shall provide such information, staff, and administrative assistance as may be necessary for the Committee to carry out its duties."

(b) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"(98) Director, International Materials Bureau, Department of State."

ANNUAL UNITED STATES INFORMATION AGENCY REPORTS TO CONGRESS

SEC. 13. Section 1008 of the United States Information and Educational Exchange Act of 1948 is amended to read as follows:

"SEC. 1008. The Secretary shall submit to the Congress annual reports of expenditures made and activities carried on under authority of this Act, including appraisals and measurements, where feasible, as to the effectiveness of the several programs in each country where conducted."

REVIEW OF POLICY TOWARD CUBA

SEC. 14. It is the sense of the Congress that the time has come for the President and the Congress to review United States policy toward Cuba and to develop and formulate a new policy respecting Cuba to include—

(1) recognition of the traditional friendship of the people of the United States and the people of Cuba;

(2) the security of the Americas;

(3) the work of the Organization of American States; and

(4) the aspirations of the peoples of the Americas respecting self-determination and individual human rights.

FUTURE OF UNITED STATES ASSISTANCE TO SOUTH VIETNAM

SEC. 15. (a) It is the sense of the Congress that it has the right to determine ultimately the financial commitments of the United States and to determine periodically whether such commitments are in the national interest.

(b) The Secretary of State is directed to submit to the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives, within one hundred and twenty days of the enactment of this Act, a detailed plan for future United States economic and military assistance to the Government of South Vietnam, including a specific timetable for the phased reduction of such assistance to the point when the United States will cease to be the principal source of funds and material for South Vietnam's self-defense and economic viability.

REDUCTION OF CERTAIN PERSONNEL ASSIGNED ABROAD

SEC. 16. (a) The total number of personnel of the executive branch of the United States Government (other than personnel of the Department of State, the United States Information Agency, the Central Intelligence Agency, and the Department of Defense, and volunteers carrying out the Peace Corps Act) who were present in foreign countries on January 1, 1974, and who were citizens or nationals of the United States, shall be reduced by 2 percent by June 30, 1975.

(b) The total number of personnel of the Department of Defense assigned or detailed to military attaché activities or to military assistance advisory groups or military aid missions, who were present in foreign countries on January 1, 1974, and who were citizens or nationals of the United States, shall be reduced by 10 percent by June 30, 1975.

PRIOR AUTHORIZATION REQUIRED

SEC. 17. Subsection (a) of section 15 of the Act entitled "An Act to provide certain basic authority for the Department of State", approved August 1, 1956, is amended to read as follows:

"(a)(1) Notwithstanding any provision of law enacted before the date of enactment of the State Department/USIA Authorization Act, Fiscal Year 1975, no money appropriated to the Department of State under any law shall be available for obligation or expenditure with respect to any fiscal year commencing on or after July 1, 1972—

"(A) unless the appropriation thereof has been authorized by law enacted on or after February 7, 1972; or

"(B) in excess of an amount prescribed by law enacted on or after such date.

"(2) To the extent that legislation enacted after the making of an appropriation to the Department of State authorizes the obligation or expenditure thereof, the limitation contained in paragraph (1) shall have no effect.

"(3) The provisions of this section—

"(A) shall not be superseded except by a provision of law enacted after February 7, 1972, which specifically repeals, modifies, or supersedes the provisions of this section; and

"(B) shall not apply to, or affect in any manner, permanent appropriations, trust funds, and other similar accounts administered by the Department as authorized by law."

LIMITATION ON PAYMENTS

SEC. 18. There are authorized to be appropriated funds for payment prior to January 1, 1975, of United States expenses of membership in the United Nations Educational, Scientific, and Cultural Organization, the International Civil Aviation Organization, and the World Health Organization notwithstanding that such payments are in excess of 25 percent of the total annual assessment of such organizations.

Mr. MANSFIELD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HUGH SCOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VISIT TO THE SENATE BY U.S.S.R. SUPREME SOVIET DELEGATION

Mr. HUGH SCOTT. Mr. President, we are particularly honored today to have with us a very distinguished high level delegation from the Supreme Soviet of the U.S.S.R. The delegation is headed by Mr. B. N. Ponomarev. Mr. Ponomarev is the alternate member of the Politburo of the Central Committee of the CPSU, chairman, Committee on Foreign Relations, Soviet of Nationalities, Supreme Soviet of the U.S.S.R.

Accompanying him are V. M. Kovun, member of the Presidium of the Supreme Soviet of the U.S.S.R., chairman, executive committee, Vinnitsa Regional Soviet of People's Deputees; Mrs. Z. P. Pukhova, member of the Presidium of the Supreme Soviet of the U.S.S.R., manager textile factory, city of Ivanovo; Mr. G. A. Zhukov, who is known to many Americans through his great career in journalism; and he is also a member of the Committee on Foreign Relations, Soviet of Nationalities, Supreme Soviet of the U.S.S.R. member of the Committee of the U.S.S.R. Parliamentary Group, political observer of the newspaper "Pravada;" Mr. L. M. Zamyatin, member of the Committee on Legislative Initiatives, Soviet of Nationalities, Supreme Soviet of the U.S.S.R. director general of TASS—telegraph Agency of the Soviet Union; Mr. B. I. Stukalin, member of the Supreme Soviet of the U.S.S.R. chairman, State Committee of the U.S.S.R. Council of Ministers on Publishing, Poligraphic Industry and Book Sales; Mr. L. N. Tolkunov, member of the Committee on Foreign Relations, Soviet of Nationalities, Supreme Soviet of the USSR, vice chairman, Parliamentary Group of the U.S.S.R. editor-in-chief of the newspaper "Izvestia." Mr. A. B. Chakovsky, member of the Committee on Foreign Relations, Soviet of Nationalities, Supreme Soviet of the U.S.S.R. editor-in-chief of the newspaper "Literary Gazette"; and accompanying them and present elsewhere than on the floor are very prominent members of the staff, including the members of the All-Union Trade-Industrial Chamber, and of the Department of International Relations,

and the Soviet Committees on the UNESCO, the Academy of Science, the Institute of World Economy and International Relations, interpreters, administrators, correspondents, senior fellows of Soviet organizations.

Mr. President, we are indeed greatly honored by the presence of this delegation, and the members of the Committee on Foreign Relations of the Senate have had a very interesting discussion today, which will be followed by a luncheon and other activities during the stay of our friends and colleagues of the Soviet Union.

RECESS

I therefore ask unanimous consent that the Senate stand in recess for 5 minutes so that Senators may have an opportunity to make the acquaintance of our parliamentary colleagues.

There being no objection, at 12:33 p.m. the Senate took a recess until 12:38 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. NUNN).

MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (S. 775) to amend the Public Health Service Act to provide for the establishment of a National Institute on Aging.

The President pro tempore subsequently signed the enrolled bill.

EDUCATION AMENDMENTS OF 1974

The Senate continued with the consideration of the bill (S. 1539) to amend and extend certain acts, relating to elementary and secondary education programs and for other purposes.

ORDER OF BUSINESS

Mr. WEICKER. I ask unanimous consent that the yeas and nays may be ordered on my amendment No. 1342 to S. 1539.

The PRESIDING OFFICER. Is there objection to asking for the yeas and nays?

Without objection, it is so ordered.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, in compliance with the promise made to the distinguished Senator from Virginia (Mr. WILLIAM L. SCOTT), I ask unanimous consent that the yeas and nays on his amendment may be ordered.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Is there a sufficient second?

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, if the Senator will yield to me, as I shall probably move to table that amendment, does the Senator want the yeas and nays ordered on that motion now?

Mr. MANSFIELD. Yes, indeed.

Mr. JAVITS. Mr. President, I ask unanimous consent that the yeas and nays may be ordered on a motion to table the Scott amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Is there a sufficient second?

The yeas and nays were ordered.

Mr. HELMS obtained the floor.

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

Mr. HELMS. Mr. President, I yield to the Senator from Connecticut.

Mr. WEICKER. Mr. President, I ask unanimous consent that during the debate on my amendment No. 1342, Jeff Baker, Bob Dotchin, A. Searle Field, and Tim Keeney of my staff be permitted access to the floor.

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

Mr. WEICKER. I thank the Senator from North Carolina.

Mr. HELMS. Mr. President, I call up my amendment No. 1292 and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read the amendment, as follows:

Beginning on page 258, line 20, strike out all through page 261, line 3.

Mr. HELMS. Mr. President, this amendment simply strikes section 404 in its entirety, which purports to provide education for the use of the metric system of measurement. Section 404 authorizes a total of $30 million over 3 years to encourage educational agencies and institutions to prepare students to use the metric system of measurement with ease and facility.

I call attention to an item in the New York Times headed "House Again Bars U.S. Metric System." This article appeared in the May 7 edition of that newspaper, and I ask unanimous consent that it be printed in full at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. HELMS. Mr. President, as Members of this body are no doubt aware, the future of the use of the metric system in the United States remains as cloudy as ever. For 100 years people have been saying that a changeover to metric was inevitable, and for 100 years nothing has happened. The only thing that has happened recently is that the House of Representatives resoundingly rejected the metric conversion bill on May 7 by a vote of 240 to 153. So it is clear that we will not have even a so-called "voluntary" conversion, as that bill proposed. Section 404 is therefore superfluous.

I also find it ironic that one of the principal objections in the House to the metric conversion bill was that the enormous cost of conversion was put right on the back of the American consumer and workingman. At the very least these costs could be several billion dollars, but estimates put forward in the House went as high as $100 billion. These costs were put on the back of the poor man, because no one could figure out an equitable way to compensate those who must buy new tools, new machines, new signs and labels, as well as carry the cost of double inventories during the changeover period. I agree that there is no equitable way to compensate for these costs, but my conclusion is that this inequity is a sound reason to avoid unnecessary changeover.

Nevertheless, here we have a thumping defeat for metric in the House because there is no equitable way to compensate ordinary people for the costs incurred; yet here, tucked into the education bill, we find $30 million authorized over 3 years to compensate the educational establishment for the cost of thinking up ways of teaching the transition.

With all of the increasing amounts of Federal money that has been pumped into American education over the years, one would think that American education would be greatly resilient, alert to change, and creative in thinking up new techniques without any more prodding from the Federal purse. Yet this bill is asking us to single out educators as the only class that needs compensation to changeover to metric. We cannot give the blue collar worker compensation, but somehow we must compensate the educational bureaucracy. Private enterprise is supposed to adapt to the new system and absorb all the costs and headaches, but the educational system supposedly needs a handout to do the same.

In my opinion, we would be far more likely to come up with a workable metric conversion program in education if each State simply experimented on its own, according to the needs of the locality. Indeed, California and Maryland have already announced that they intend to begin teaching the metric system without any pump-priming from Washington. Why should we reward the sluggards who lack the initiative to work out programs without help?

The congressional "findings" proposed in S. 1539 state, on the one hand, that "increased use of such metric system in the United States is inevitable, and such a metric system will become the dominant system of weights and measures in the United States," while, on the other hand, the $30 million program is said to be necessary "if the American people are to adapt to the use of the metric system of weights and measures." On the one hand it is inevitable, but on the other hand, the American people must be pushed.

Frankly, I think that the thing to do is to let nature take its course. Where the metric system is useful and economic, it will be adopted. Where our traditional systems are satisfactory and changeover is difficult, they will be restrained. I do not see why Americans need a $30 million program to make them "adapt." Any good mechanic can use the metric system right now, even without this program. Any teenager who ever stripped a used Volkswagen and put it back together doubtless needs no special educational program either. It is only the educators who are so ponderous that they need $30 million worth of programs to tell us how to think.

Under these circumstances, I can see section 404 only as a frivolous proposal. The House bill has no such provision, and I think it should be stricken from our version.

Mr. President, the distinguished manager of the bill and I have a disagreement about this amendment; he understands his side of it and I understand my side of it. I withhold the remainder of my time awaiting discussion of it.

EXHIBIT 1

HOUSE AGAIN BARS U.S. METRIC SYSTEM

(By Richard D. Lyons)

WASHINGTON, May 7.—The House of Representatives rejected today an attempt to pull the American system of weights and measures up into the 19th century by again defeating legislation to adopt the metric system—a bill stalled in Congress for over 100 years.

Failure to pass the metric conversion bill, by a vote of 240 to 153, came only a day before the Department of Agriculture is to start using the global standard of measurement in its regular crop reports.

Many Federal agencies, ranging from the Defense Department to the Department of Health, Education and Welfare, already employ the metric system as a standard of measurement for science, medicine and technology.

Several Representatives familiar with the behind-the-scenes maneuvering over the bill said it had failed to pass because of legitimate concerns over the national cost of conversion, and intense lobbying by "an obscure coalition," as one put it, of small business and labor groups to gain Federal loans and grants for companies and workers that would have cost the Treasury billions of dollars.

Foremost among the critics of the bill, as he has been for over a decade, was representative H. R. Gross, Republican of Iowa, who at first stated, and then began shouting his objections that adoption would cost "$60-billion to $100-billion."

Referring to a study by the Commerce Department endorsing adoption despite a conversion cost of several billion dollars, Mr. Gross said the "document is a blueprint of how to deceive the American people and Congress."

A QUICK QUERY

At one point, Mr. Gross demanded that Representative John W. Davis, the Georgia Democrat who at that moment was speaking in favor of the bill, "converted two inches into metric, quicklike."

Mr. Davis, replied, "about 50 millimeters," thought about it a moment, then said he was wrong—he was actually right—to roars of laughter from both proponents and opponents.

Representative John B. Anderson, Republican of Illinois, got another round of guffaws when he said failure to pass the measure would place the United States with "Trinidad, South Yemen and Tobago," as countries that have not converted to the metric system.

The bill's wording said it would "declare a national policy of converting to the metric system in the United States, and to establish a national metric conversion board to coordinate the voluntary conversion to the metric system over a period of 10 years."

The bill's floor manager, Representative Olin E. Teague, Democrat of Texas, stressed that "there wasn't a dime in the bill," except for the board's expenses, which have been estimated to cost $14-million during the first five years.

VOLUNTARY MEASURE

Mr. Teague emphasized that "this bill is completely voluntary," meaning that strictly speaking, no one would be forced to do anything. The theory has been that once conversion started on a voluntary basis, competitive forces would almost demand that private companies fall into line and convert from the foot-pound-gallon system, as some already have.

Briefly, the metric system would substitute liters for quarts, kilograms for pounds, kilometers for miles, milimeters for inches, meters for yards, hectares for acres, and quintals for bushels as has been done in virtually every industrialized nation. There are, for instance, 39.37 inches in a meter.

But the bill's critics, primarily Representative Spark M. Matsunaga, Democrat of Hawaii, demanded amendments allowing Federal reimbursement for workers who would be retrained in the use of the metric system, and even payment for new tools with metric measurements.

"Boondoggle," yelled representative Robert McClory, Republican of Illinois. He insisted that such payments would mean "Federal handouts for everything" and that the best policy for conversion would be "let the costs fall where they lie."

Again Mr. Gross demanded an answer to the question of who would pay for conversion.

Representative Stanford E. Parris, Republican of Virginia, replied that "the people who are going to pay are the people who ultimately pay, the consumers."

Mr. Anderson, Representative Barry Goldwater Jr., Republican of California, and Representative James W. Symington, Democrat of Missouri, then rose to defend the bill stating that American businesses, and ultimately American workers, would be hurt by foreign competition if the nation did not convert.

Many of those voting against the bill did so because it was called to the House floor under a procedure that barred amendments, and they wanted the reimbursement amendments.

In 1821 the then Secretary of State John Quincy Adams suggested to Congress the adoption of "the new French system of weight and measure." Congress legalized use of the metric system in 1866 and adopted a three-year study of conversion. But in 1869 moves to convert were installed, as they have been scores of times since then.

Mr. PELL. Mr. President, as the Senator from North Carolina has pointed out, we have talked about this amendment and we do disagree. We have to agree to disagree.

The basic bill that would move us into the metric system was introduced by me about 10 years ago. It has been moving along fairly slowly, although the Senate did pass it in the previous Congress. My own view is that it will increase our exports and increase our balance of payments, and that it is to our advantage to be on the metric system.

We had a 3-year study made by the Department of Commerce and the conclusion it came to, in a comprehensive eight- or nine-volume report, was very much along the same lines.

The automobile industry, Henry Ford particularly, have come to the conclusion that by going to the metric system they will be able to meet the competition from abroad and invade the foreign markets. As of now the only countries that enjoy with us the old-fashioned English system are a few countries in Africa and Trinidad, Tabago, Yemen. The British had the good sense to leave their so-called English system a few years ago. I have conferred with the chairman of their Education Committee, who is a relative of mine, who told me that their claims were relatively mild, their costs have been very mild, and their industrial health is prospering every day. There is no other nation in the world other than ours which is holding to this old-fashioned line. As a result, we are continuing to lose many foreign markets. So I believe that the sooner we adopt this method, the better off we will be. For that reason, the provision was included in the bill.

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial published in the Washington Post the day before yesterday in respect to metric conversion.

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

METRIC CONVERSION

Plantagenet Palliser harbored an overriding ambition. The hero of Anthony Trollope's political novels of the Victorian era (Palliser becomes Prime Minister and Duke of Omnium in the fifth of the series) hoped to introduce a great monetary reform by which the penny would contain five farthings and the shilling 10 pennies. "It was thought," wrote Trollope, "that if this could be accomplished, the arithmetic of the whole world would be so simplified that henceforward the name of Palliser would be blessed by all schoolboys, clerks, shopkeepers, and financiers. But the difficulties were so great that Mr. Palliser's hair was already grey from toil, and his shoulders bent by the burden imposed upon them." His assistants, the novelist tells us, "were near to madness under the pressure of the five-farthing penny."

Well, poor Plantagenet Palliser need no longer turn in his grave. Blessed, no doubt, by schoolboys, clerks, shopkeepers and financiers (to say nothing of foreign tourists), the shilling now has 10 pennies and the pound ten shillings. Great Britain, moreover, is well on the way to complete metric conversion of weights and measures as well.

Which is, as American school children must surely know, what George Washington, Thomas Jefferson, James Madison and other founders of this republic advocated at the time Congress passed the Coinage Act in 1792, giving us a neat 100 cents for the dollar. In 1866, Congress made it at least "lawful throughout the United States of America to employ the weights and measures of the metric system." But to this day Congress has refused to simplify "the arithmetic of the whole world," being unwilling to forego the colonial legacy of Britain's old 16 ounces for the pound, two pints for the quart, 12 inches for the foot, and 1,760 yards for the mile. Just the other day, the House once again defeated metric common sense, leaving this country, as Rep. John Anderson (R-Ill.) pointed out, in league only with Trinidad, Tabago, Yemen and less than a dozen other countries which still measure the modern world with ancient yardsticks.

This last defeat of orderly metric conversion, to be sure, was only a matter of procedure. Rep. Olin Teague (D-Tex.), whose Science and Astronautics Committee had unanimously favored a voluntary metric conversion plan, maneuvered its defeat rather than pay a huge federal ransom for it. The issue is no longer whether we buy our milk in liters and figure our distances in kilometers. We must inevitably join a metric world. Americans already buy most prescription drugs in grams, build 100-meter Olympic swimming pools, and are beginning to post road signs which tell distances in both miles and kilometers. The issue, as Sen. Claiborn Pell (D-R.I.) put it, is "whether we have costly and chaotic conversion rather than coordinated comprehensive conversion."

Under the defeated House bill, which was similar to the Senate proposal sponsored by Sen. Pell, coordinated and comprehensive conversion is to take place within 10 years. The conversion is to be guided by a National Metric Conversion Board, funded to en-

courage and assist industry and to educate the public in the use of the metric system. The bill would have let "change-over costs lie where they fall." And this is what organized labor objects to. The AFL-CIO insists that the federal government pay for the new metric tools and for retraining in the metric arithmetic. The labor unions have proposed, for instance, that garage mechanics be paid up to $4,000 for new socket wrenches and measuring tapes, although mechanics repairing foreign cars already use tools that are calibrated in centimeter and milimeters. The building trades demand funds to train apprentices in measuring metered bricks and lumber, although these apprentices seem to have no trouble in figuring that 50 cents equal half a dollar. The claim is that conversion would cost workers and small businesses $40 to $60 billion.

The fact is that over 10 years plumbers carpenters and such are likely to buy new tools anyway. Most large firms, such as General Motors, Ford, Caterpillar Tractor and others, have either already begun conversion the better to compete in foreign markets, or plan to do so. They are willing to assume the full cost of worker-owned tools. The real fear on the part of labor seems to be that adoption of the metric system will speed the standardization of a good many products and may lead to increased imports of foreign products. The country as a whole, however, should surely welcome a greater measure of industrial standardization (it will make repairs and replacement of parts a great deal easier and less expensive) and favor expansion of world trade.

In short, the attitude of labor toward coordinated, metric conversion reminds us somewhat of the attempts of those legendary French workers who fought the introduction of machines by clogging the wheels with their wooden shoes, or *sabots*. Sabotage, as we all know, did not much delay the march of industralization which, in turn, raised labor's standard of living. Since we are eventually going to have to join the rest of the world in this matter, in any case, it seems to us only logical to face up to it in a coordinated and comprehensive fashion, as Sen. Pell suggests.

Mr. HELMS. Mr. President, the distinguished manager of the bill is eloquent, as always, but I think I must reiterate a couple of points that I made earlier.

I find it ironic that one of the principal objections in the House to the metric conversion bill was that the enormous cost of conversion was put right on the back of the American consumer and workingman. At the very least these costs could be several billion dollars, but estimates put forward in the House went as high as $100 billion. These costs were put on the back of the poor man, because no one could figure out an equitable way to compensate those who must buy new tools, new machines, new signs, and labels, as well as carry the cost of double inventories during the changeover period. I agree that there is no equitable way to compensate for these costs, but my conclusion is that this inequity is a sound reason to avoid unnecessary changeover.

My first thought was to let the question on this amendment be by voice vote. But because of the seriousness of it, I want to ask for the yeas and nays.

The yeas and nays were not ordered.

Mr. HELMS. 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. HELMS. 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. HELMS. Mr. President, I ask unanimous consent that I may withdraw my request for the yeas and nays on amendment No. 1292.

The PRESIDING OFFICER. Without objection, the request for the yeas and nays is withdrawn.

Mr. HELMS. Mr. President, I call up my amendment No. 1291.

The PRESIDING OFFICER. What does the Senator wish to do with the pending amendment?

Mr. HELMS. We ought to proceed with it and put it to a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment, No. 1292 (putting the question).

The noes appear to have it.

Mr. ROBERT C. BYRD. Mr. President, may we hear the request again?

The PRESIDING OFFICER. The question is on agreeing to the Helms amendment, No. 1292. On this question, the yeas and nays have not been ordered.

The question is on agreeing to the amendment. (Putting the question.)

The amendment was rejected.

Mr. HELMS. Mr. President, I now call up amendment No. 1291.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 384, beginning with line 1, strike out through line 8 on page 388 and insert in lieu thereof the following:

"TITLE VIII—PUBLIC SCHOOL JURISDICTION PROVISIONS

"SHORT TITLE

"SEC. 801. This title may be cited as the 'Public School Jurisdiction Act of 1974'.

"FINDINGS

"SEC. 802. (a) The Congress finds that—

"(1) the Supreme Court has repeatedly ruled that the maintenance of dual school systems in which students are assigned to schools solely on the basis of race, color, or national origin denies to those students the equal protection of the laws guaranteed by the fourteenth amendment;

"(2) these and related court rulings have imposed upon public school agencies the burden of eliminating the vestiges of dual school systems and of establishing all school systems upon a unitary basis;

"(3) the lack of appropriate statutory definition of a unitary school system has left the courts without objective standards in enforcing the equal protection of the laws in regard to pupil assignment with a resulting lack of uniformity in enforcement and regulatory requirements;

"(4) the courts have been overburdened with the complexity and length of the litigation and continuing judicial process for effective enforcement of the fourteenth amendment and the Civil Rights Act of 1964, and other related statutes.

"(b) For the foregoing reasons, it is necessary and proper that the Congress, pursuant to the powers granted to it by the Constitution of the United States, including, but not limited to section 5 of the fourteenth amendment, take action to enhance the enforcement of court determinations under the Civil Rights Act of 1964, to make court enforcement uniform by setting standards and definitions relative to a unitary school system, and to relieve the congestion of court calendars by providing for the orderly release of continuing Federal jurisdiction over desegregated public schools.

"DEFINITIONS

"SEC. 803. Section 401 of the Civil Rights Act of 1964 is amended by adding at the end thereof the following:

"'(e) "Local educational agency" means any local educational agency as defined by section 801(f) of the Elementary and Secondary Education Act of 1965.

"'(f) "State educational agency" means a State educational agency as defined by section 801(k) of the Elementary and Secondary Education Act of 1965.

"'(g) "Unitary school system" means any public school system in which—

"'(1) the local educational agency has complied with an order of any court of the United States based on racial enrollment criteria for the public schools of that agency, or is in compliance with any specific plan or published guideline authorized or approved by the Commissioner of Education with respect to such enrollment criteria; or

"'(2) the presently used procedure for assignment of children and teachers in the elementary and secondary schools of the local educational agency has been found by any court of the United States to be in compliance with the Constitution and laws of the United States against a charge that the schools of such agency were segregated; or

"'(3) the assignment of children to elementary and secondary schools of that agency is by attendance zones which are or have been found by any court of the United States (A) to have been originally established with reasonable geographical divisions without intent to discriminate between areas on the basis of race, color, or national origin, and (B) to have not thereafter been altered except to accord with and meet conditions caused by population increases or decreases in the area served, granting to such agency the right to reasonable educational discretion in the creation or elimination of neighborhood school zones in geographically contiguous areas without regard to the racial composition of the affected residential area; or

"'(4) not less than two-thirds of the schools of a local educational agency have a racial composition of the student body of each school which shall contain a percentage of majority students which is not less than one-third of the percentage of majority students in the school population taken as a whole, and a percentage of minority students which is not less than one-third of the percentage of minority students in the school population taken as a whole.'.

"TERMINATION OF FEDERAL JURISDICTION

"SEC. 804. Title IV of the Civil Rights Act of 1964 is amended by adding at the end thereof the following new section:

"'ORDERLY TERMINATION OF FEDERAL JURISDICTION OVER STATE EDUCATIONAL AGENCIES

"'SEC. 411. (a) The continuing applicability of any order of any district court or court of appeals of the United States requiring the desegregation of the public elementary and secondary schools of a local educational agency shall terminate upon a determination by jury in the issuing court or by a court having review jurisdiction thereover that such schools of the defendant local educational agency are and have been a unitary school system as defined in section 401 of the Civil Rights Act of 1964 for a period of not less than a full school year since their estab-

lishment or following any voluntary or required organization thereof.

"'(b) No district court or court of appeals of the United States shall have original, continuing, or pendent jurisdiction to issue in any case or controversy, in law or in equity, any writ, process, rule, decree, order or command directing, forbidding, or changing (A) the assignment or transportation of any student or students to any public elementary or secondary school made, provided, or proposed pursuant to the determination and direction of the State or local educational agency operating or having supervisory powers over the operation of such schools, or (B) the employment, assignment, reassignment, transfer, or retention of any member of the teaching or administrative staff of any such school, or (C) any appropriation or expenditure of any funds for the construction, maintenance, equipment, or operation of any such school, or (D) the accreditation of any such school by any public or private agency, or its inclusion in any published list or directory of accredited schools, if such school is, or is part of, a unitary public school system as defined in section 401(g) of the Civil Rights Act of 1964, and has been so for the period specified in subsection (a) of this section.

"'(c) The provisions of this section shall apply with respect to any civil case or controversy now pending or here after brought in or removed to any court of the United States for or with respect to desegregation of the public elementary and secondary schools of the local educational agency or for or with respect to the appropriation or expenditure of funds for the construction, equipment, maintenance, operation, or support thereof.

"'(d) On application therefor by any local educational agency, or by the parent of any student enrolled in any school operated by such agency, or by any State educational agency or any State officer having supervisory authority over the public elementary and secondary schools of such local educational agency, any prior judgment, decree, or order of any district court of the United States or of any court of appeals of the United States related to, providing for, or concerning the assignment or transportation of students in or to the public elementary and secondary schools of such local educational agency, as a means to end or prevent or correct the effects of segregation of students in the schools of such agency on the basis of race, color, or national origin, shall be reopened by such court and the court shall thereupon promptly submit to jury determination as a question of fact whether or not the public elementary and secondary schools of such agency are, and have been, for the period specified in subsection (a) of this section, a unitary school system as defined in section 401 of the Civil Rights Act of 1964. Such application shall be made by a motion in the cause in the case or controversy and in the court in which such judgment, decree, or order has been requested or was entered. Such application shall be heard and the determination thereby prayed shall be made within twelve months from the date on which the application was filed. The filing of any such application shall stay the enforcement of any existing order pending final determination of the issue thereby raised.

"'(e) Nothing contained in this section shall limit the right of a local educational agency to change or alter its administrative or financial policies following the termination of Federal jurisdiction by reason of this section: *Provided, however*, That—

"'(i) no such change thereafter made shall be for the purpose of discriminating against any class of students or employees on the basis of race, color, or national origin, and

"'(ii) no student shall be denied the right to continue thereafter to attend the school to which such student was assigned prior to such change and to be furnished the necessary transportation therefor.

"'(f) Nothing contained in this section shall limit the existing jurisdiction of the courts of any State with respect to the public elementary and secondary schools of that State, nor limit or affect the established review jurisdiction of the Supreme Court of the United States over decisions of the highest courts of the several States.'.

"SEVERABILITY

"SEC. 805. If any provision of this Act or of any amendment made by this Act, or the application of any such provision to any person or circumstances is held invalid, the remainder of the provisions of this Act and of the amendments made by this Act and the application of such provision to other persons or circumstances shall not be affected thereby.".

On page 124, in the table of contents, strike out title VIII and item "Sec. 801." through "Sec. 806." and insert in lieu thereof the following:

"TITLE VIII—PUBLIC SCHOOL JURISDICTION PROVISIONS

"Sec. 801. Short title.
"Sec. 802. Findings.
"Sec. 803. Definitions.
"Sec. 804. Termination of Federal jurisdiction.
"Sec. 805. Severability.".

Mr. HELMS. Mr. President, my present intent is to ask for the yeas and nays on this amendment, but I observe that a sufficient number of Senators is not in the Chamber to order them.

Mr. President, a few days ago, when we were discussing the so-called antibusing amendments, there was a great deal of debate about the impact of busing to achieve racial balance on our educational system. There is no doubt that busing is one of the most disruptive tools ever introduced into the toolkit of the courts.

But let us admit frankly that busing is only a symptom of a deeper problem, a problem that goes to the heart of the American sense of equity and the American tradition of personal freedom. And that problem is the vague and indefinite role which the courts have assigned to themselves in dealing with social problems. Under cover of judicial decisions, the courts have used the doctrine of equity under the law to assume a role which is both legislative and executive in nature. And while equity has an honored and important place in our judicial tradition in overcoming an imbalance of justice in particular worthy cases, I do not think that our tradition ever contemplated the use of equity for broad and compelling social decisions.

The result in the educational field is that the courts have assumed continuing and indefinite jurisdiction over many of the key operational decisions of our schools. These decisions have been taken out of the hands of the competent local officials and taken over by judges who, all too often, know nothing about the educational process or the social implications of the orders of their courts.

Now I think there is agreement that the thrust of the Brown decision was that the State must be color-blind in the operation of its school systems: the dual school system must be abandoned, and a unitary school system set up. But later decisions of the U.S. Supreme Court developed the theory that even though race must not be a factor in State action under the Constitution, the doctrine of equity required affirmative action in regard to race as a remedy where State action was race-related in the past. The contradiction between the decision of Brown and the subsequent doctrine of affirmative action was apparently resolved on the grounds that affirmative action was a temporary suspension of constitutional rights. In other words, one's constitutional right not to be discriminated against on the basis of race could be suspended temporarily while remedies were applied. This was the doctrine of Swann, and I have spelled it out in more detail in the lengthy statement I made in introducing my bill (S. 2336) originally.

But there are two observations to be made about this temporary suspension of constitutional rights. First, by its very nature, a temporary suspension cannot last indefinitely. Rights long delayed are rights denied. At some point the unitary school system desired by the courts must be presumed to have been achieved. Second, once the unitary school system has been achieved, the courts have no right under the Constitution or under equity to demand affirmative action based upon racial quotas or goals.

Now I realize that this last point is hard to grasp for some of the more avid proponents of school desegregation and I respect their sincerity. But even the Supreme Court in Swann carefully distinguished between the constitutional remedies required by equity and the desirability of school desegregation as public policy. Indeed, the Court said that it had no power under the Constitution to enforce school desegregation as a public policy once a unitary school system was achieved. The Court specifically said that even changing neighborhoods and changing racial mixtures of the school enrollment which resulted from demographic changes were beyond its reach.

So let us distinguish between affirmative action to achieve a unitary school system and school desegregation as public policy. Frankly, there is no constitutional right to have certain set racial ratios, even ratios that reflect the overall composition of the school district, in a given school. Any school jurisdiction that believes that uniform ratios throughout its system make for good public policy should be entitled to operate their schools in that manner if their constituencies approve; but, by the same token, once a unitary system has been established, a school system ought to be able to use a neighborhood system, or any other nonracial system of pupil assignment that may be desired.

A recent article in the Washington Post gave a good example of this in announcing the reorganization of six schools in the predominantly white northwest area of the District of Columbia. It is well known that enrollment in these schools had drastically declined in recent years as parents chose private schools or moved out of the District. The Post article said that first priority in pupil assignment would be given to those children living in the neighborhood. One

school is to become exclusively a school for the arts. And busing of black children from Anacostia will stop next year. Mr. President, I say that if a neighborhood school system is good for Washington, D.C., it is good for any of the 50 States, North or South.

Mr. President, I ask unanimous consent that the article, from the Washington Post of Monday, May 13, 1974, be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. HELMS. My amendment is based upon the broad reservoir of good will which exists between the two races and desire of most parents to have stability and convenience in the public educational system. It gives a statutory definition of a "unitary school system," but it does it without imposing on the jurisdiction of the courts. In essence, the definition says that a unitary school system is one that has been declared a unitary school system by the courts, or one that has been operating under a court or HEW-ordered affirmative action plan intended to bring about a unitary school system. And since the suspension of constitutional rights inherent in an affirmative action plan must necessarily be of limited duration, Congress exercises its prerogative to limit that suspension to a reasonable—and I emphasize the word "reasonable"—administrative unit; namely, 1 school year. It should also be noted that compliance with the court order for a school year must be certified by the issuing court.

The definition is weighted in favor of Federal court determinations; a "unitary school system" is one which—

First. Has complied with any court order based on racial enrollment criteria, or with published HEW plans or guidelines; or

Second. Has a pupil assignment procedure that a U.S. court has found to be in compliance with constitutional requirements for that school system; or

Third. Has assignment by attendance zones found by a U.S. court to have been established without intent to discriminate and not altered except without regard to racial composition of the residential area; or

Fourth. Has a control group consisting of two-thirds of its schools in which each school meets minimum standards of racial composition; an individual school in the control group which would have to have at least one-third of the percentage of minority students in the school population as a whole.

If the issuing court determines that the school system has been in compliance with the statutory definition for the required period of time—and any school official or parent can ask the court to make the determination—then the system is released from Federal jurisdiction under the terms of this amendment. Control goes back to the people and the local officials. The matter cannot be reopened in Federal courts, although the State courts, with appeal up to the U.S. Supreme Court, remain available.

Mr. President, my proposal would relieve parents and local schools of the burden of uncertainty which comes with continuing and indefinite jurisdiction of the Federal courts. I have received letters from all over the country from school and civic officials supporting my plan—from the North, the Midwest, the West, and the Southwest, as well as the South. It is a plan which Senators from every State of the Union can agree upon. It is a plan which all who are concerned about civil rights and individual liberties can support in good faith. Mr. President, I ask unanimous consent that the letters I have just mentioned be printed in the RECORD at the conclusion of my remarks, as well as my statement from the RECORD of August 3, 1973.

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

(See exhibits 2 and 3.)

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

EXHIBIT 1

SIX SCHOOLS IN NW WILL BE MERGED

(By Bart Barnes)

Six of the city's elementary schools west of Rock Creek Park will merge next year in an effort to remain open and viable in the face of declining enrollments and continuing flight to private schools.

The six schools—Fillmore, Hyde, Key, Mann, Hardy and Stoddert—all are located in the southern section of ward three south of Massachusetts Avenue NW. They are in an area predominantly white and affluent, where over the last few years the public schools have waged a continuing struggle to attract enough students to remain open.

What they propose for next year is to hold elementary classes in four of the six schools, make one of the remaining two a center for music, art, science and math, and the other an intermediate school.

Dr. James T. Guines, associate school superintendent said the central school administration has approved the merger and that he expects it to go into effect in the fall. A few details remain to be worked out, he said.

In essence, the merger plan is the result of long hours of discussion and negotiation among parents, teachers and principals at all of the six schools. Those discussions and negotiations took place after school administration officials invited parents in the area to devise a plan to strengthen public education in their neighborhood by reorganizing the schools.

Under the plan, Fillmore School at 35th and S Streets NW, which now has an enrollment of 117, would be closed as an elementary school next year. It would become a center for music and arts, science and mathematics with courses and programs available to children from each of the other five schools.

Hardy, at Foxhall Road and Volta Place NW, would become an intermediate school for grades 5, 6 and 7 and in subsequent years grades 8 and possibly 9.

Enrollment at any of the schools would be open first to children living in the school district. Places not taken by children living within the boundaries of the six schools would be declared open to any child living in the city.

The total enrollment of all six schools is 709 but there is space for at least 900. Of the 709 enrolled, 211 are bused in daily from Anacostia under a program begun in 1967 to alleviate overcrowding in the Far Southeast section of the city.

School officials have told the Northwest parents that the busing program probably will not continue more than a year of 18 months more since the Anacostia schools are no longer overcrowded.

It was the impending cancellation of the busing program that provided the immediate spark of the reorganization since some of the schools were heavily dependent on bused-in children to remain operating.

At Hardy, for example, 40 per cent of the students this year were bused from Anacostia while at Fillmore the figure was 70 per cent.

Parents at Fillmore launched an ambitious campaign earlier in the year to recruit additional students, and although there was some limited success it was felt that eventually the school would have to close as an elementary school.

Fillmore students, like those in the younger grades at Hardy will be assigned to other schools in the district. Parent-Teacher Associations of all six schools say they plan to continue to recruit additional students for their schools and are planning a mass rally May 22 to encourage parents to enroll their children in the public schools.

EXHIBIT 2

THE STATE OF NORTH DAKOTA,
DEPARTMENT OF PUBLIC INSTRUCTION,
Bismarck, N. Dak., August 24, 1973.

Hon. JESSE HELMS,
U.S. Senate, Committee on Agriculture and Forestry, Washington, D.C.

DEAR SENATOR HELMS: We have considered the material describing the Public School Jurisdiction Act of 1973 (S. 2336) which you introduced on August 3 and arrived at the conclusion that it appears to offer a solution to the turmoil brought about by the court-ordered desegregation.

At the present time there seems to be no legislation to guide the courts in this respect other than the varying interpretations given to the fourteenth amendment.

Also, as indicated in the summary, the decisions by the courts in our opinion seem to be quite narrow while press interpretations seem broad. Now this is only our humble evaluation of the situation.

We believe your legislation is good in its proposing four definitions of a unitary school system. This should eliminate the need for court-ordered processes.

From our point of view, the research is good, the justification well stated, and the legislation clear. I think the bill is worthy of support.

Yours sincerely,
M. F. PETERSON, *Superintendent.*

CITY OF POMPANO BEACH,
Pompano Beach, Fla., August 24, 1973.

Hon. JESSE HELMS,
U.S. Senator, Senate Office Building, Washington, D.C.

DEAR SENATOR HELMS: We have received the packet of material describing the Public School Jurisdiction Act of 1973 (S. 2336) and I have reviewed this bill. You have my wholehearted support, as well as that of the majority of the citizens in our City, in our County and in our State. They would like to see a bill of this kind passed by Congress, so that we can emerge from the muck and mire and the cost of trying to live up to what is known as the unitary school system.

Best of luck in your fight—wish I could aid you personally.

Sincerely yours,
WILLIAM J. ALSDORF, *Mayor.*

STATE OF SOUTH CAROLINA,
DEPARTMENT OF EDUCATION,
Columbia, September 19, 1973.

Hon. JESSE HELMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HELMS: I am pleased to respond to your request that I review and

comment on the Public School Jurisdiction Act of 1973 (S. 2336) which you introduced on August 3. Members of my legal research staff have studied the Act and report that it is legally sound and will withstand any legal challenge. They also note its merit in providing relief of the tremendous burden upon the federal courts.

From an administrator's standpoint, the proposed act addresses a fundamental question that has developed in the wake of Civil Rights litigation in the Southeast: At what point and by what measure will a political subdivision be judged to have erased all vestiges of *de jure* segregation? I recognize that the proposed act has universal application to cases arising out of both *de jure* and *de facto* segregation but it is the former that presents unique problems to us. I appreciate your efforts to legally define a "unitary school system" with all its implications for resolving administrative and program problems within the system of public education.

Sincerely yours,

CYRIL B. BUSBEE,
State Superintendent of Education.

OFFICE OF THE GOVERNOR,
Phoenix, Ariz., August 29, 1793.

Hon. JESSE HELMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HELMS: Thank you so much for sending me the packet of materials describing the Public School Jurisdiction Act of 1973. A member of my staff has reviewed the proposed legislation and I am advised that it has much merit.

I share your deep concern over the recent trend of court decisions which seem to directly encroach upon the traditional notion of local control over education. The damage which these decisions may have caused to our young people is as yet still undetermined but I am persuaded that when the final statistics are in, they will horrify even the most committed social planner. We simply cannot afford to sacrifice the health of our young people and our communities at large for the sake of some sterile, artificial concept of racial balance.

It is for these reasons that I wish to express my support for S 2336 and am today urging that Arizona's Congressional Delegation join me in that support. I believe that your legislation represents an effective response to our current dilemma.

Again, thank you for sending the information to me and please accept my best wishes and continued support in this endeavor.

Yours sincerely,

JACK WILLIAMS.

FRESNO UNIFIED SCHOOL DISTRICT,
Fresno, Calif., September 11, 1973.

Hon. JESSE HELMS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR HELMS: On August 14, 1973, you addressed a communication to the Honorable Ted Wills, Mayor of the City of Fresno, including information relating to the Public Schools Jurisdiction Act of 1973 sponsored by you. Mayor Wills forwarded that communication and the material to me for my review and response.

I am very grateful to Mayor Wills for forwarding this material to me, because I am pleased and excited about the proposed legislation. I have studied the material carefully and discussed it with my associates. We are of the opinion that this is the best effort yet to bring order to the unfortunate chaos of segregation, desegregation, and integration efforts. I urge you to move with dispatch in securing passage of this very important appropriate and necessary legislation.

For your information, I am enclosing a copy of a letter which I have directed to Senators Tunney and Cranston, and to my own Congressman, Bernie Sisk, and a personal friend, Del Clawson. Again, best wishes.

Sincerely,

ARNOLD FINCH, *Superintendent.*

STATE OF DELAWARE,
DEPARTMENT OF PUBLIC INSTRUCTION,
Dover, Del., August 20, 1973.

Hon. JESSE HELMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HELMS: I am writing this letter in response to yours of August 8, 1973 in which you presented a packet of materials describing the Public School Jurisdiction Act of 1973 (S. 2336) and invited my comment of support as the case may be. Several members of our staff have reviewed your proposal and have pointed out to me instances in which such a law would have been of service to the Delaware school system.

In your own research you may have come across the classic case from our own State. In a Civil Action No. 1816–1822 under the heading of "Evans vs Buchanan" in the United States District Court for the District of Delaware, we had a ruling on June 26, 1961 relating to the desegregation of our schools. (Until that time Delaware was not only segregated but was unique among the officially segregated states in that we had two series of school boards and school districts throughout the State.) In your discussion of S. 2336 you point out the courts have permitted cases to stand open or to be reopened. In the case of "Evans vs Buchanan" the court reserved the right to reopen and thus on about July 27, 1971 attorneys did file to reopen for the purpose of adding parties plaintiff and parties defendant. We are now in preparation in behalf of the State of Delaware to defend ourselves in this newly opened case.

Our case is similar to those referred to in your speech before the Congress in that housing characteristics in the Wilmington School District have changed since 1961. In fact, they have changed even more, recently. In 1965 to '67 following the enactment of the Civil Rights Act all Delaware school districts were found in compliance with the new federal Act and thus moved forward thinking that the situation was settled for all of our State.

It would appear that had the Public School Jurisdiction Act been a fact during the past several years in Delaware we would not now again be in a disruption, the cause of which we do not fully comprehend. It can be a bit embarrassing to think as a school official you have done everything the law or the court is requiring and are in compliance and then be served with a reopened suit.

I take this opportunity to give my endorsement to the proposals you are making and in turn invite you or members of your staff to inquire further through my office into our own situation if that will be of benefit to you. You may, of course, wish to make further inquiry through our own Senior Senator William Roth or our Junior Senator Joseph Biden.

Sincerely yours,

KENNETH C. MADDEN,
State Superintendent.

CITY OF SHEBOYGAN, WIS.,
August 22, 1973.

Hon. JESSE HELMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HELMS: Roger Schneider is no longer the Mayor of Sheboygan as of April, 1973, but I would be more than happy to answer your letter, being the newly elected Mayor of Sheboygan.

I agree with the legislation you have introduced. We do not have a racial problem of any sort in Sheboygan but the day may come when we will, but either way, I feel to bus for the sake of racial equality is wrong. We as cities are losing local control and I am totally against that. Bussing disrupts families, no matter what color, and also disrupts the students.

Let us return to grass roots control of local government. I am sure we are all responsible community leaders who will do what is best for all people.

Respectfully,

RICHARD W. SUSCHA, *Mayor.*

CITY OF TEXAS CITY,
August 24, 1973.

Hon. JESSE HELMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: I want to thank you for your letter of August 14, 1973, and enclosures concerning the Public School Jurisdiction Act of 1973 (S. 2336) and I have read it with great interest.

I am entirely in accord with this legislation and sincerely hope that Congress will speedily enact it.

Thank you very much for allowing me the privilege of reviewing this material and expressing my views.

Sincerely,

EMMETT F. LOWRY, *Mayor.*

OFFICE OF SUPERINTENDENT, PUBLIC INSTRUCTION, JOHNSTON COUNTY,
Smithfield, N.C., August 15, 1973.

Hon. JESSE HELMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HELMS: I wish to thank you for your letter dated August 8 and the copy of the bill you introduced in the Senate on August 3.

This bill appears to have great merit, especially for the states outside the south.

An area in which you can be of valuable assistance to our school system and many others in North Carolina is in reference to the problem which I wrote your office several weeks ago. In brief the problem is this. Congress appropriates funds for schools such as ESAP and then HEW sets up their own rules and regulations in such a manner that it is extremely tedious and difficult to obtain the money appropriated. The officials in the Atlanta Office and apparently in the Washington Office resort to extreme methods designed to turn down applications to the extent of going back from six to eight years and charging that someone was treated unfairly when they have no evidence to support their charge and also enter into the employment of personnel quotas that are difficult to meet. Also, they wish to determine the membership of various classes on strict racial ratio without reference to sound educational planning. Local control and local planning along the line of sound educational planning is extremely difficult when one makes an effort to comply with their guidelines.

Sincerely yours,

E. S. SIMPSON, *Superintendent.*

CITY OF WILMINGTON, N.C.,
September 12, 1973.

Hon. JESSE HELMS,
U.S. Senator, Committee on Aeronautical and Space Sciences, Washington, D.C.

DEAR SENATOR HELMS: Your letter describing the Public School Jurisdiction Act of 1973 (S. 2336) appears to be a vast improvement and I am very happy that you introduced this on August 23rd. It should prove most helpful to children, teachers, and parents and if you will advise us of any particular way we may support this, we will be happy to do so.

Your effort in this vital area is most appreciated by most people and we look forward to better days as a result.

With best wishes, I am,

Sincerely,

JOHN C. SYMMES, *Councilman.*

CITY OF DURHAM, N.C.,
September 4, 1973.

Hon. JESSE HELMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HELMS: I have your letter of August 14, 1973, requesting that I review the proposed Public School Jurisdiction Act of 1973 (S. 2336). I have read the materials and believe that the proposed legislation has a great deal of merit.

As the father of five children, I am more concerned about them being uprooted from a school situation movement than I am about integration. If your legislation can once and for all stabilize the movement of children, then I would be enthusiastic for it.

Sincerely,

JAMES R. HAWKINS, *Mayor.*

COMMONWEALTH OF VIRGINIA,
OFFICE OF THE GOVERNOR,
Richmond, August 23, 1973.

Hon. JESSE HELMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HELMS: Your letter describing the Public School Jurisdiction Act of 1973 arrived in my absence from Richmond. I appreciate your thoughtfulness in bringing this proposed legislation to my attention.

Certainly, legislation which would alleviate the frustrations and time-consuming problems of parents and school administrators alike would be of great benefit to everyone. The resolution of such problems would also help us, in Virginia, to realize our Constitutional mandate for quality education for our total school population. Of course, a desegregated school system must not be allowed to return to a segregated status.

Best wishes.

Cordially,

LINWOOD HOLTON.

THE CITY OF HAMPTON, VA.,
August 28, 1973.

Hon. JESSE HELMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HELMS: Thank you for your letter of August 15, 1973, with enclosed copies of your proposed bill dealing with the subject of busing of the public school children.

The issue of busing has occupied our attention here at Hampton as well as in practically every other community in Virginia, and it is certainly one of the great challenges of our day which will be solved only through the application of the best thinking of many to the problem.

I commend you on your efforts, together with my good friend Bill Scott of Virginia, in this regard.

Yours very truly,

DAVID N. MANTAGUE, *Mayor.*

CITY OF VALLEJO, CALIF.,
August 29, 1973.

Hon. JESSE HELMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HELMS: I have read the material you sent on the Public School Jurisdiction act of 1973 (S. 2336).

I favor local jurisdiction in school operation. Neither ethnic people or Caucasians are happy with enforced busing. People purchase homes near schools so their children will be within walking distance of a school for safety reasons. A Mother does not feel comfortable with her children bussed across town.

I believe that if neighborhoods are integrated as they are today, the schools will be integrated in the same proportion as the neighborhood.

Good teachers teach the same curriculum no matter what the class composition is.

Mandatory regulations are breaking down the public school system by arbitrary demands not desired by the citizenry and we are breaking down the foundation of America, happy families, by required bussing causing anxiety in the homes and frustration.

I certainly believe your Bill S-2336 is a good bill and a step forward in the highly controversial matter of busing.

Sincerely,

FLORENCE E. DOUGLAS, *Mayor.*

STATE OF ARKANSAS,
OFFICE OF THE GOVERNOR,
Little Rock, August 16, 1973.

Hon. JESSE HELMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HELMS: Thank you for your letter of August 8 with the enclosed packet describing the Public School Jurisdiction Act of 1973 (S. 2336). Obviously, a great deal of talent and hard work have gone into this piece of legislation, and I look forward to a report on it from my Department of Education. I appreciate the opportunity to study your proposal and respond with suggestions.

Kindest regards.

Sincerely,

DALE BUMPERS.

STATE OF CALIFORNIA,
GOVERNOR'S OFFICE,
Sacramento, September 11, 1973.

Hon. JESSE HELMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HELMS: Thank you for giving me the opportunity to review your proposed Public School Jurisdiction Act of 1973 (S. 2336).

As you know, I strongly advocate the principle of local autonomy, which I believe your proposal emphasizes. I look forward to studying it carefully to consider its effect on the people of the State of California.

Best regards.

Sincerely,

RONALD REAGAN,
Governor.

EXHIBIT 3

[From Congressional Record, Aug. 3, 1973]

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HELMS (for himself, Mr. EASTLAND, Mr. SCOTT of Virginia, Mr. ALLEN, and Mr. THURMOND):

S. 2336. A bill to provide objective definitions of unitary school systems for uniform court enforcement of the Civil Rights Act, and to relieve the congestion of court calendars by providing for the orderly release of continuing Federal jurisdiction over desegregated schools, and for other purposes. Referred to the Committee on the Judiciary.

PUBLIC SCHOOL JURISDICTION ACT OF 1973

Mr. HELMS. Mr. President, I send to the desk a bill designed to restore local jurisdiction over public schools in an orderly and rapid manner. I ask unanimous consent that the text of the bill be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. HELMS. I also ask unanimous consent that the names of the distinguished Senator from Mississippi (Mr. EASTLAND) and the distinguished Senator from Virginia (Mr. SCOTT) be added as cosponsors of this bill.

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

I. THE NATURE OF THE PROBLEM

Mr. HELMS. Mr. President, in framing a remedy for the problem of educational disruption through court orders to achieve racial balance, we must focus precisely upon the nature of the problem, the restraints of the Constitution as currently interpreted by the Supreme Court, and the practical effects of the solutions proposed. Moreover, we want a remedy that will work, and work now.

A further complication is that such a remedy must be universally applicable in cases arising both out of de jure and de facto segregation. Since the Denver decision it may be assumed that court orders will now be issued in geographic areas where it had formerly been assumed that segregated schools were the result of de facto situations. The mere absence in the past of legislation or regulations requiring the separation of students by race no longer protects school systems outside the South from assault through the courts. It is urgent therefore that both North and South join in framing a remedy.

Nor can a legislative remedy deal directly with the desire of most people for neighborhood and community schools, and their distaste for court-imposed busing and other mandatory assignment plans and integration devices. I believe that any attempt to restrict the hands of the courts would ultimately be set aside, even though I disagree with the basic premise the courts are using. It would be deeply disappointing to pass a bill providing relief against busing for racial balance, only to have it thrown out by the courts.

Finally, our remedy must be a solution that can be supported in good conscience by all men of good will, whatever their political persuasion. We must not forget that the ultimate aim of relief legislation is to promote good community relations and a wholesome atmosphere for sound education. The research report by Harvard sociologist David J. Armor, "The Evidence on Busing" in the Public Interest, No. 28 Summer 1972, and the subsequent discussions clearly demonstrate that the sociology of mandatory integration without freedom of choice has proven to be either erroneous or much more complex than formerly imagined. It does nothing to improve relationships between the races or academic achievement; in fact the evidence is that it engenders hostility and lowers self-esteem and achievement. Until our Constitutional interpretation can be brought into line with reality, we must take legislative steps to foreclose the harm being done to the children.

If such steps are to survive a court test, they must not violate the internal logic of the current mythology attributed to the Fourteenth Amendment. We must focus the issue more narrowly upon what the courts have decided, not upon what we think they have decided, or what we would like them to decide. Changing judicial thinking is a process of years, even if a constitutional amendment were passed overnight. The only ready remedy is one written within the grammar of recent court decisions. And contrary to the popular impression, the major court decisions—although sweeping in their effects—have been quite narrowly defined.

II. AFFIRMATIVE ACTION TO ACHIEVE RACIAL BALANCE

Although "busing" gets the headlines, there are many other techniques also prescribed by courts to achieve what is commonly called "a racial balance." These other techniques are just as disruptive—some even more so—of the organic patterns of community development.

These techniques include pairing of schools, reorganization of junior and senior high schools, building of new schools, gerrymandering of attendance zones, and other devices apparently intended to create a racial balance in each school. Yet the common impression that the courts have required a

racial balance as an end in itself is misleading. On the contrary, the U.S. Supreme Court has never required that a school system must have a racial balance for its own sake. In specific situations, however, the Court has upheld orders that are weighted heavily on the side of accomplishing in each school of the system a racial distribution that approximates the racial balance of the locality.

Such orders have been generally issued by the lower courts under their equity powers, usually in the form of decrees or orders of a continuing quality which retain jurisdiction in the courts without limit of time or circumstances. Civil rights cases and in particular school cases have created a special form of constitutional interpretation. Until such cases came to the courts, the Constitution was viewed as a prohibitory instrument forbidding discrimination under "State action." The lower Federal courts, in particular, have devised an affirmative or "compensatory" interpretation of the Constitution on the ground that preexisting deprivation of constitutional rights must be affirmatively adjusted to a given point of defined equality before the normal constitutional limits can be restored.

In effect, then, when the Supreme Court is upholding a lower court order that requires some affirmative action—in the form of busing, pairing, zoning, et cetera—it is requiring the school authorities to demonstrate that the State is no longer encouraging segregation. In order to prove that the past practices which resulted in segregation and are now declared unconstitutional have been abandoned, the school authorities must take steps to achieve the uniform racial distribution that presumably would have resulted had it not been for past State action. In short, the Court does not hold that it is the Consitution that requires a uniform racial distribution; it is the doctrine of equity that requires busing and similar artificial steps to achieve racial balance until a supposedly normal state of constitutional rights can be restored.

For example, in approving the district court's formula for a racial balance of 71 percent to 29 percent, the Supreme Court in Swann against Charlotte-Mecklenburg Board of Education, specifically called it "a useful starting point in shaping a remedy to correct past Constitutional violations." It was a starting point, not an end in itself. The Supreme Court found that—

"In sum, the very limited use made of mathematical ratios was within the equitable remedial discretion of the district court."

These are subtle distinctions which are of no comfort to parents who find their children's lives disrupted and their educational achievement threatened by the instability and social chaos which so frequently follows such court orders. I strongly dissent from the fine-spun constitutional theory that invents momentous new doctrines of affirmative action out of whole cloth. Yet we must use as our starting point the fact that these theories are the prevailing law and that there is little hope that they will be overturned in the near future. Our legislative remedy must be framed out of the same distinctions.

III. THE REQUIREMENT FOR A UNITARY SCHOOL SYSTEM

If racial balance is not the end sought by present constitutional interpretation, then what is that end? In judicial language, the requirement is that a State, under a recent interpretation of the 14th amendment, must convert any dual school system into a unitary school system. The Supreme Court has emphasized this over and over.

In the pivotal Green decision, the Court said:

"The transition to a unitary, nonracial system of public education was and is the ultimate end to be brought about." [391] US 430 at 436; 20 Law Ed 2nd 716 at 722; 88SCt 1689 at 1693]

Referring back to Brown II, the Court's opinion in Green was very specific:

"School boards such as the respondent then operating state-compelled dual systems were nevertheless clearly charged with the affirmative duty to take whatever steps might be necessary to convert to a unitary system in which racial discrimination would be eliminated *root* and *branch*." [391 US 430 at 437; 20 Law Ed 2nd 716 at 723; 88SCt 1689 at 1664]

Unfortunately, the phrase "a unitary system" has never been defined. Yet we can deduce the Court's concept from the way it was handled in the Swann opinion. There we find that "the objective today remains to eliminate from the public schools all vestiges of State-imposed segregation." Over and over again, Swann deals with the problem of racial composition strictly in accord with whether or not the pattern was State-imposed.

"The constant theme and thrust of every holding from *Brown I* to date is that state-enforced separation of races in public schools is discrimination that violates the Equal Protection Clause. The remedy commanded was to dismantle dual school systems." [402 US 1 at 22; 28 Law Ed 2nd at 570; 91SCt 1267 at 1279]

And again, the Court narrowly defined its mission to include only State-sanctioned discrimination in schools, not discrimination which might arise from other factors:

"We are concerned in these cases with the elimination of the discrimination inherent in the dual school systems, not with the myriad factors of human existence which can cause discrimination in a multitude of ways on racial, religious, or ethnic grounds. The target of the cases from *Brown I* to the present was the dual school system. The elimination of racial discrimination in public schools is a large task and one that should not be retarded by efforts to achieve broader purposes lying beyond the jurisdiction of school authorities. One vehicle can carry only a limited amount of baggage. It would not serve the important objective of *Brown I* to seek to use school desegregation cases for purposes beyond their scope, although desegregation of schools ultimately will have impact on other forms of discrimination." [402 U.S. 1 at 22; 28 Law Ed 2nd at 570; 91SCt 1267 at 1279]

Finally, the Court came as close as it ever has done to defining a unitary school system when it said:

"Our objective in dealing with the issues presented by these cases is to see that school authorities exclude no pupil of a racial minority from any school, directly or indirectly, on account of race; it does not and cannot embrace all the problems of racial prejudice, even when those problems contribute to disproportionate racial concentrations in some schools." [402 U.S. 1 at 23; Law Ed 2nd at 570; 91SCt 1267 at 1279.]

We may conclude that a unitary school system is one in which the school authorities exclude no pupils of a racial minority from any school, directly or indirectly, on account of race. At the same time, the Court recognizes that a unitary school system might include disproportionate racial concentrations in some schools, so long as those disproportionate concentrations are not caused by action on the part of school authorities with intent to segregate. State discriminatory actions are proscribed; other factors which result in racial imbalance in the schools are beyond the scope of the Court's activity. In fact, the Court said specifically:

"The Constitutional command to desegregate schools does not mean that every school in every community must always reflect the racial composition of the school system as a whole." [402 U.S. 1 at 24; 28 Law Ed 2nd 554 at 24; 91SCt 1267 at 1280.]

In fact, the Court tells us that "absent a constitutional violation, there would be no basis for judicially ordering assignment of students on a racial basis."

To summarize these important distinctions, we may say that the Supreme Court holds it unconstitutional to assign pupils on the basis of race; however, when a court finds a situation where pupils have been assigned on the basis of race, then equity requires that this "Constitutional violation" be compensated by pupil assignment on a racial basis. Yet this compensatory action is obviously of limited duration. Compensation cannot go on forever; nor can a sound theory of the Constitution endure a permanent suspension of the Constitutional right not to be assigned on a racial basis.

The Court itself calls this suspension an "Interim period" Referring to remedial altering of school zones in Swann, it said:

"As an interim corrective measure this cannot be said to be beyond the broad remedial powers of a Court" [402 U.S. 1 at page 27; 28 Law Ed 2nd 554 at page 573; 91SCt 1267 at 1282].

Noting the burdens which court orders impose—burdens the Court itself admits may be "administratively awkward, inconvenient and even bizarre"—the Court says—

"But all awkwardness and inconvenience cannot be avoided in the interim period when remedial adjustments are being made to eliminate the dual school system" [402 U.S.] page 28; Law Ed 554 at page 575; 91SCt 1267 at 1282].

It follows therefore that Congress is at liberty to impose a legislative definition of a normal interim period. Moreover, the situation which the courts are seeking to remedy is in constant flux. School authorities, pupils, and families come and go. The inherent logic of the Supreme Court's argument demands that the extraordinary suspension of constitutional rights come to an end within a reasonable length of time. The Court itself accepted its own logic. In the remarkable concluding paragraphs of Swann, the Court had this to say:

"At some point, these school authorities and others like them should have achieved full compliance with this Court's decision in *Brown I*. The systems will then be "unitary" in the sense required by our decisions in *Green* and *Alexander*.

"It does not follow that the communities served by such systems will remain demographically stable, for in a growing, mobile society, few will do so. Neither school authorities nor district courts are constitutionally required to make year-by-year adjustments of the racial composition of student bodies once the affirmative duty to desegregate has been accomplished and racial discrimination through official action is eliminated from the system. This does not mean that Federal courts are without power to deal with future problems; but in the absence of a showing that either the school authorities or some other agency of the State has deliberately attempted to fix or alter demographic patterns to affect the racial composition of the schools, further intervention by a district court should not be necessary. [402 US 1 at 31; 28 Law Ed 2nd 554 at 575; 91 SCt 1267 at 1283].

Working strictly within the constraints of the Court's reasoning, we can see therefore that there can and must be an end to pupil assignments on the basis of race. There can and must be an end to busing, pairing, zoning, and so forth. A return to neighborhood schools is not only desirable, but feasible under current court decisions. The only question is when.

IV. THE DURATION OF COURT JURISDICTION

Thus neither school authorities nor district courts are required to adjust the racial com-

position of student bodies once the affirmative duty to desegregate has been accomplished and racial discrimination through official action has been eliminated from the system. The suspension of the constitutional right of pupils not to be assigned to a school on the basis of race is of limited, but indefinite duration. Since the Supreme Court itself has admitted that the suspension of rights is of limited duration, it is entirely proper for the Congress of the United States to pass legislation setting a definite time limit during which the courts can suspend these rights.

I believe that a great majority of school systems have by this time become desegregated under the terms of the original orders to the Federal courts, by compliance with the guidelines issued by the Commissioner of Education, or remain in a form historically instituted without reference to racial separation either by law or collusive drawing of attendance zones. Current problems before the courts accordingly are, in possibly a majority of cases, directed against resegregation caused by population shifts occurring subsequent to prior school desegregation. Quite frequently it is argued that the actions of school authorities, although possibly taken today without regard to race, are tainted by the vestiges of past actions. In the forefront of such actions are those which attempt to overcome the increasing concentration of blacks in inner city areas by overriding political boundaries existing between different school systems as in the cases of Richmond and Detroit where massive busing into suburbs has been directed.

Yet in every case, the orders are different, the standards are different, and the burdens to be borne and the levels of compliance are different. The length of time the school systems remain under court jurisdiction is entirely at the discretion of the court. Every court commands the establishment of a unitary system, but the level of compliance varies. There are two difficulties. First, unitary is indefinite both in quantum and period of time. Second, the equitable doctrine of continuing jurisdiction over an existing decree permits the courts to change preexisting orders from time to time in order to correct situations which have changed after an initial determination and local compliance.

It is within the power of Congress to statutorily define the unitary concept, to fix its effective period, and to terminate continuing district court jurisdiction, provided only that in so doing the Congress does not specifically or by implication permit the restoration of a school system based on racial separation.

V. THE REMEDY

The Public School Jurisdiction Act provides the required remedy. It defines a "unitary school system" with the constraints of current practices.

First of all, it accepts the work of any Federal court that has approved a desegregation plan to achieve a unitary system. If the Court has said that such and such a plan will bring a system into compliance, then the Public School Jurisdiction Act agrees that it is a plan which will bring about compliance. In the same way, the Public School Jurisdiction Act also accepts compliance with any specific plan or generally published guideline authorized or approved by the Commissioner of Education. Both accomplish the same end and should have equal standing in the light of the numerous court references to such guidelines as indicative of the meaning of the term "desegregated school."

Thus, this first definition does not negate any plan currently in effect. It makes every court order and every HEW pupil assignment plan part of the definition of "unitary school system." There are some activists who say that present plans do not go far enough. Yet, present plans must go at least as far as the Supreme Court itself has gone.

Those who want to go further are not arguing law, but questions of policy.

The Public School Jurisdiction Act's second definition of a unitary school system accepts the decision of any court of the United States upholding a pupil assignment plan as in compliance with the laws and Constitution of the United States. Thus, any school system which has successfully defended itself against the charge of unconstitutional actions is, on the face of it, a unitary school system. This is really a corollary of the first definition. A court decides whether a school system is unitary or not.

The Public School Jurisdiction Act's third definition of a unitary school system also involves a court test. Here, if a court decided that attendance zones were originally established with reasonable geographical divisions without the intent to discriminate—and no changes had been made except for reasonable educational discretion—then such a school system is a unitary school system. Such a finding is a reasonable defense against demands that school attendance zones be altered within a system, or that the system be merged with adjacent systems in other political jurisdictions.

The Public School Jurisdiction Act's fourth definition recognizes that many courts under a plea of equity have tried to fashion some formula for the overall racial composition of student bodies as evidence of the school authorities' affirmative acton. Up to now, this has been left to the decision of the individual judge, with no guidelines for him to follow. The courts have acted variously with respect to their racial ratio requirements, which, despite Federal assistance legislation to the contrary, is being used by the Federal courts and to some extent as well by the Department of Health, Education, and Welfare as a target for the requirements of busing and the other techniques. Most courts have differed in the extent to which they view an approximation of local racial ratios as being required and the extent to which it will be applied across the board to all public schools in the system or be compromised to lessen the amount of change required.

In fact, in Swann, the Supreme Court was at pains to point out that it approved the district court's order only because that order was not to be interpreted as a "fixed mathematical racial balance." The Court said:

"If we were to read the holding of the District Court to require, as a matter of substantive Constitutional right, any particular degree of racial balance or mixing, that approach would be disapproved and we would be obliged to reverse. The Constitutional command to desegregate schools does not mean that every school in every community must always reflect the racial composition of the school system as a whole." [402 US 1 at 24; 28 Law Ed 2nd 554 at 571; 91SCt 1267 at 1280]

Indeed, the Supreme Court quoted approvingly from the district court's own explanation as follows:

"This court [the District Court] has not ruled and does not rule that "racial balance" is required under the Constitution; nor that all-black schools in all cities are unlawful; nor that all school boards must bus children or violate the Constitution; *nor that the particular order entered in this case would be correct in other circumstances not before this court.*" (Emphasis in original) [402 US 1 at 24 (n. 9); 28 Law Ed 2nd 554 at 571 (n. 9); 91SCt 1267 at 1280 (n. 3)]

Although the Supreme Court thus holds that there does not have to be a rigid mathematical formula, there are still no guidelines for a lower court to follow in fashioning a remedy in equity. The Public School Jurisdiction Act has a formula under which Congress sets up the parameters. It provides for the kind of flexibility which the Supreme Court demanded in Swann, keeping in mind that the Court only approved a—

"... very limited use made of mathematical ratios ... within the equitable remedial discretion of the District Court." [402 US 1 at 25; 28 Law Ed 2nd 554 at 572; 91SCt 1267 at 1280]

These limitations must be borne in mind. Basically, the formula would provide that a control group of not less than two-thirds of the schools of a local educational agency would have to meet certain standards of racial composition in enrollment if the school system does not otherwise qualify as a unitary school system. These standards would be based upon the ratio of whites and blacks in the school system: an individual school in the control group would have to have at least one-third of the percentage of majority students in the school population as a whole, and one-third of the percentage of minority students in the school population taken as a whole.

All in all these are not definitions which I endorse for their substance; I endorse them because they will work within the system as it is now constituted. They provide definitions of a unitary school system so that judges will have an objective standard of justice, nor do they upset current legislation or court orders on the subject.

The other aspect of definition is to put a limitation on the duration of the suspension of the constitutional rights of students not to be assigned to schools on the basis of race. As I have already pointed out, it is unhealthy for constitutional rights to be suspended indefinitely. Congress can put a reasonable limitation on the length of time required to demonstrate that a dual school has been abandoned. It would be highly suspect if Congress were to put severe limitations on the so-called remedies available to courts in equity. It might be charged that due process of law or equal protection was being abridged by statute. But a reasonable time limitation violates neither. The courts would still have all the powers that they now have to order desegregation plans, to order busing, pairing, and so forth. The power to order the organizational disruption that we now have in our school systems would not be abated. The only difference would be that it could not go on forever.

The Public School Jurisdiction Act sets a limitation of 1 full school year. This would apply either to schools on a 9-month plan or on a 12-month plan. It assumes that the school authorities are acting in good faith and that they actually do what they are ordered to do. One year is a significant administrative unit in a school system, as pupils normally move from one grade to another in that year's time. The courts will see to it that the assignment plan is comprehensive enough to compensate for past unconstitutional practices; the year's duration under the court's jurisdiction will see to it that a constitutional assignment plan is actually in operation.

It must be remembered that the Supreme Court has said that the Constitution itself does not command proportional racial composition of student bodies; once a violation has been corrected, the Constitution is indifferent to assignment methods, so long as school authorities do not make assignments on the basis of race. School authorities are not required to make pupil assignment adjustments for discrimination that may result from other factors in society, once the affirmative duty to desegregate has been accomplished. This means that the neighborhood school—favored by the overwhelming majority of Americans of both races—can return once the violations have been corrected.

During the space of a school year, the dislocations of student bodies and teachers would have to be endured. There is no way

within the present grammar of the court decisions that this can be evaded where the schools have been found to be operating dual systems. But it would be endurable because the end would be in sight.

Moreover, many school systems have already met and have been meeting the definition of a unitary school system for 1, 2, 3, or 4 years. Under the Public School Jurisdiction Act, they could pass the test immediately. What counts as far as meeting the constitutional test is the actual time served under court orders without regard to the passage of the Public School Jurisdiction Act. A statute cannot affect the constitutionality of an action.

At the end of a full school year, the school authorities, State officials, or any parent can apply to have the case reopened so that the judge involved can submit the case to a jury to make a determination that the school system has met the statutory definition of a unitary school system for a full school year. The determination is narrowly limited to questions of fact, that is, whether the plan decreed by the court has in fact been followed. The judge would have no opportunity to reassess the case itself or to consider new data.

Upon reopening of the case, enforcement of the judge's court order is stayed until the final determination has been made. This would ensure prompt actions by the Court so that any affected parties could make a timely appeal if desired.

Once the determination was made that the school authorities had been operating a unitary school system for the required length of time, then the system would be released from Federal district or appeals court jurisdiction in matters relating to segregation and allied problems. The matters could not be raised again in the Federal courts.

Nevertheless, the full system of State courts remains open to plaintiffs who allege that their constitutional rights have been abridged by some action of the school authorities, including appeal to the U.S. Supreme Court.

Thus it is clear that due process and equal protection are carefully preserved by the Public School Jurisdiction Act. Every school system may be brought into Federal court at least once, and that court will have the opportunity to apply the full range of so-called remedies that it perceives to be necessary. The unitary school system which the U.S. Supreme Court says is constitutionally required will have been established, and it will have actually been put into operation. If further State-directed discrimination occurs, the full range of State courts is available for redress. The United States Constitution would assure this, but for the sake of clarity, the Public School Jurisdiction Act spells it out.

Finally, the Public School Jurisdiction Act provides a specific exemption to preserve the right of any student who feels he has secured particular advantages under any current assignment plan. I think we can be sure that most parents will wish their children to attend school under a neighborhood school plan if one is offered. There may be some who are being transported to schools outside their neighborhood where they feel they have special advantages.

If there are such, they can be allowed to continue to be transported to those schools if they so choose. They have this right not by constitutional protection, but in the interests of good educational policy and sound community relations. Thus, under the Public School Jurisdiction Act, no child would lose what he or his parent perceives to be an advantage from the current system.

The Public School Jurisdiction Act preserves the interests of all those concerned. It maintains current court holdings, decrees, and HEW plans. It preserves all constitutional rights under the present mode of interpretation. It provides for the orderly termination of Federal court jurisdiction so that standards are uniform throughout the Nation. It provides for the early restoration of local control over attendance plans. And it safeguards the interests of those who feel they have obtained advantages under the present situation.

But most of all, it will bring about the rebuilding of a wholesome educational atmosphere and constructive community relations. The best society is the society that has the maximum of free choice and evolves from the myriad decisions of each citizen over the years, and over the generations. To destroy that organic development is to destroy the very fabric of a healthy society. The destruction has been imposed upon us by the courts, and it is time for Congress to begin rebuilding.

EXHIBIT 1

S. 2336

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

SEC. 2. (a) The Congress finds that—

"(1) The Supreme Court has repeatedly ruled that the maintenance of dual school systems in which students are assigned to schools solely on the basis of race, color, or national origin denies to those students the equal protection of the laws guaranteed by the fourteenth amendment;

"(2) These and related court rulings have imposed upon public school agencies the burden of eliminating the vestiges of dual school systems and of establishing all school systems upon a unitary basis;

"(3) The lack of appropriate statutory definition of a unitary school system has left the courts without objective standards in enforcing the equal protection of the laws in regard to pupil assignment, with a resulting lack of uniformity in enforcement and regulatory requirements;

"(4) The Courts have been overburdened with the complexity and length of the litigation and continuing judicial process for effective enforcement of the fourteenth amendment and the Civil Rights Act of 1964, and other related statutes.

"(b) For the foregoing reasons, it is necessary and proper that the Congress, pursuant to the powers granted to it by the Constitution of the United States, including, but not limited to, section 5 of the fourteenth amendment, take action to enhance the enforcement of court determinations under the Civil Rights Act of 1964, to make court enforcement uniform by setting standards and definitions relative to a unitary school system, and to relieve the congestion of court calendars by providing for the orderly release of continuing Federal jurisdiction over desegregated public schools.

SEC. 3. Section 401 of the Civil Rights Act of 1964 is amended by adding at the end thereof the following:

"(e) 'local educational agency' means any local educational agency as defined by section 801(f) of the Elementary and Secondary Education Act of 1965.

"(f) 'State educational agency' means a State educational agency as defined by section 801(k) of the Elementary and Secondary Education Act of 1965.

"(g) 'unitary school system' means any public school system in which—

"(1) the local educational agency has complied with an order of any court of the United States based on racial enrollment criteria for the public schools of that agency, or is in compliance with any specific plan or published guideline authorized or approved by the Commissioner of Education with respect to such enrollment criteria; or

"(2) the presently used procedure for assignment of children and teachers in the elementary and secondary schools of the local educational agency has been found by any court of the United States to be in compliance with the Constitution and laws of the United States against a charge that the schools of such agency were segregated; or

"(3) the assignment of children to elementary and secondary schools of that agency is by attendance zones which are or have been found by any court of the United States (a) to have been originally established with reasonable geographical divisions without intent to discriminate between areas on the basis of race, color, or national origin, and (b) to have not thereafter been altered except to accord with and meet conditions caused by population increases or decreases in the area served, granting to such agency the right to reasonable educational discretion in the creation or elimination of neighborhood school zones in geographically contiguous areas without regard to the racial composition of the affected residential area;

"(4) not less than two-thirds of the schools of a local educational agency have a racial composition of the student body of each school which shall contain a percentage of majority students which is not less than one-third of the percentage of majority students in the school population taken as a whole, and a percentage of minority students which is not less than one-third of the percentage of minority students in the school population taken as a whole."

SEC. 4. Title IV of the Civil Rights Act of 1964 is amended by adding at the end thereof the following new section:

"ORDERLY TERMINATION OF FEDERAL JURISDICTION OVER STATE EDUCATIONAL AGENCIES

"SEC. 411. (a) The continuing applicability of any order of any District Court or Court of Appeals of the United States requiring the desegregation of the public elementary and secondary schools of a local educational agency shall terminate upon a determination by jury in the issuing court or by a court having review jurisdiction thereover that such schools of the defendant local educational agency are and have been a unitary school system as defined in Section 401 of the Civil Rights Act of 1964 for a period of not less than a full school year since their establishment or following any voluntary or required organization thereof.

"(b) No District Court or Court of Appeals of the United States shall have original, continuing, or pendent jurisdiction to issue in any case or controversy, in law or in equity, any writ, process, rule, decree, order or command directing, forbidding or changing (A) the assignment or transportation of any student or students to any public elementary or secondary school made, provided or proposed pursuant to the determination and direction of the State or local educational agency operating or having supervisory powers over the operation of such school, or (B) the employment, assignment, reassignment, transfer or retention of any member of the teaching or administrative staff of any such school, or (C) any appropriation or expenditure of any funds for the construction, maintenance, equipment or operation of any such school, or (D) the accreditation of any such school by any public or private agency, or its inclusion in any published list or directory of accredited schools, if such school is, or is part of, a unitary public school system as defined in Section 401(g) of the Civil Rights Act of 1964, and has been so for the period specified in Paragraph (a) of this Section.

"(c) The provisions of this section shall apply with respect to any civil case or controversy now pending or hereafter brought in or removed to any court of the United States for or with respect to the desegregation of the public elementary and secondary

schools of the local educational agency or for or with respect to the appropriation or expenditure of funds for the construction, equipment, maintenance, operation or support thereof.

"(d) On application therefor by any local educational agency, or by the parent of any student enrolled in any school operated by such agency, or by any State educational agency or any State officer having supervisory authority over the public elementary and secondary schools of such local educational agency, any prior judgment, decree or order of any District Court of the United States or of any Court of Appeals of the United States related to, providing for, or concerning the assignment or transportation of students in or to the public elementary and secondary schools of such local educational agency, as a means to end or prevent or correct the effects of segregation of students in the schools of such agency on the basis of race, color, or national origin, shall be reopened by such court and the court shall thereupon promptly submit to jury determination as a question of fact whether or not the public elementary and secondary schools of such agency are and have been, for the period specified in Paragraph (a) of this Section, a unitary school system as defined in Section 401 of the Civil Rights Act of 1964. Such application shall be made by a motion in the cause in the case or controversy and in the court in which such judgment, decree or order has been requested or was entered. Such application shall be heard and the determination thereby prayed shall be made within twelve (12) months from the date on which the application was filed. The filing of any such application shall stay the enforcement of any existing order pending final determination of the issue thereby raised.

"(e) Nothing contained in this section shall limit the right of a local educational agency to change or alter its administrative or financial policies following the termination of federal jurisdiction by reason of this section, provided however,

"(i) No such change thereafter made shall be for the purpose of discriminating against any class of students or employees on the basis of race, color, or national origin, and

"(ii) No student shall be denied the right to continue thereafter to attend the school to which such student was assigned prior to such change and to be furnished the necessary transportation therefor.

"(f) Nothing contained in this section shall limit the existing jurisdiction of the courts of any State with respect to the public elementary and secondary schools of that State, nor limit or affect the established review jurisdiction of the Supreme Court of the United States over decisions of the highest courts of the several States."

SEC. 5. If any provision of this Act or of any amendment made by this Act, or the application of any such provision to any person or circumstances is held invalid, the remainder of the provisions of this Act and of the amendments made by this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

QUESTIONS AND ANSWERS ON THE PROPOSED PUBLIC SCHOOL JURISDICTION ACT OF 1973

1. What does the Public School Jurisdiction Act do?

The Public School Jurisdiction Act provides a statutory basis for a public school system to meet its Constitutional obligations to establish or maintain a unitary school system under currently acceptable definitions within a reasonable period of time. Once these obligations have been met, no Federal court will henceforth have jurisdiction over that system for the purpose of desegregation.

2. Who decides that the obligation has been met?

The same court issuing an order submits it to a jury for determination as a question of fact, or the appropriate Appeals Court thereof.

3. What definitions are used?

The definitions are essentially those in current use:

A unitary school system is:

(1) Any system that is under a court-ordered plan—i.e., all current court determinations qualify. Similarly, any system complying with an HEW-approved plan is a unitary system for the purposes of this Act.

(2) Any system that has been found by a Federal court to be in compliance with the U.S. Constitution and laws—i.e., any system that has successfully defended itself against charges of discrimination.

(3) Any system that has been found by a Federal court to have set up its geographic attendance zones without the intent to discriminate, and not to have altered them except to meet increases or decreases in population.

(4) In addition, a formula is proposed as a benchmark for integration plans. A unitary system would be one in which not less than two-thirds of the schools each have a percentage of each race which is not less than one-third of their percentage, respectively, in the school population taken as a whole.

4. How can we be sure that a school system won't go back to discrimination once it is released from Federal jurisdiction?

Because the Supreme Court has held that discrimination violates the U.S. Constitution and laws. Furthermore, the Public School Jurisdiction Act forbids any changes in pupil assignment for the purpose of discrimination.

5. What redress is there if a school system lapses into discrimination?

Plaintiffs have the full apparatus of the State courts, with final appeal to the Supreme Court of the United States.

6. Doesn't the termination of Federal jurisdiction unconstitutionally restrict the right of due process?

No. Every student or parent in every public school system has had or will have the right to bring his system into the Federal courts at least once if it is not a unitary system under the definitions of the Public School Jurisdiction Act. The Public School Jurisdiction Act simply imposes a reasonable limitation upon the jurisdiction of the lower Federal Courts. A plaintiff will always have the full range of State Courts open to him, including appeal to the U.S. Supreme Court.

7. Will the Public School Jurisdiction Act be upheld by the Supreme Court?

Yes. The Public School Jurisdiction Act takes as its starting point HEW and court orders currently in effect. It is wholly within the power of Congress to provide a reasonable statutory basis for enforcement under the enforcement section of the Fourteenth Amendment. Due process is not denied because the avenue of the State court is left open, with appeal to the U.S. Supreme Court, as well as original jurisdiction in the first instance with the Federal courts. Furthermore, the Public School Jurisdiction Act does not allow reversion for the purpose of discrimination. If racial balance occurs as a result of shifting population patterns, or as a result of the free choice of parents, the School Board is not responsible under the Constitution. The Supreme Court in the *Green* case refused to rule against freedom of choice plans as such. The Public School Jurisdiction Act purges the State of the taint of past actions in operating a dual system, eliminating the need for indefinite "compensatory action" for past actions under the dual system.

8. Why does the bill require that a unitary plan be in effect "for one full school year"?

Because some systems operate on a nine-month basis, and others operate on a twelve-month basis. Specification of a calendar year would cut across equitable planning for each.

9. Is "one full school year" sufficient to create a presumption that the vestiges of a dual system have been eliminated?

Yes. Yes, Congress can create whatever legal presumption it feels is administratively convenient and reasonable. Congress created such a presumption in the Voting Rights Act of 1964 when it set up Federal jurisdiction over voter registration and elections for one year longer than the quadrennial Presidential elections. School administration, however, changes with the annual influx of new students, and one year is an appropriate administrative unit.

10. Does the Public School Jurisdiction Act outlaw busing?

No. The Public School Jurisdiction Act approves whatever integration plans are currently imposed by court order, including those which require busing. Once a school system has met the definition of a unitary system, it can employ any pupil assignment method it chooses, so long as it does not do so for the purpose of discriminating. The issue of busing will then revert to a local issue, a matter to be decided between the school board members and their constituency.

11. Does the Public School Jurisdiction Act permit "freedom of choice" assignment plans?

The Public School Jurisdiction Act permits any assignment plan which is not adopted for the purpose of discrimination. In the Green case, the Supreme Court specifically refused to rule against freedom of choice plans as such. Presumably, some would be permitted, others would not.

12. Will the Public School Jurisdiction Act "roll back" the gains of the civil rights movement?

No. In so far as the civil rights movement has made real progress in the hearts of the people, to the same extent will progress be retained under the Public School Jurisdiction Act. In the long run, the Public School Jurisdiction Act represents real progress because it places the states in a neutral position as regards school assignment. Reforms which are freely accepted by the people represent a more solid accomplishment. Discrimination remains outlawed by the Fourteenth Amendment; the Public School Jurisdiction Act merely regulates the widely varying interpretations of what discrimination consists.

13. Will the Public School Jurisdiction Act permit children now attending superior schools under busing to be sent back to the inferior schools they formerly attended?

No. A special clause safeguards the right of any child to receive transportation and assignment to the school he now attends despite any assignment plan that might be subsequently adopted by the School Board. Whether this option is exercised is up to the parent.

14. Will the Public School Jurisdiction Act apply with equal effect in the North as well as in the South?

Yes. The Public School Jurisdiction Act addresses itself both to *de jure* and *de facto* situations. If a Federal court finds that discrimination through State action has occurred in the North, then the judge can issue appropriate orders setting up a unitary school system under the statutory definitions. When that judge or an appeals court finds that a unitary school system has been in effect for one year, the situation reverts back to school board control.

15. How soon will the Public School Jurisdiction Act bring relief to bused children and their parents?

As soon as the court finds that the school system has been a unitary school system for one full school year. For school systems that have already been under court orders for

more than a year, this finding could take place on the day that the Act is signed into law. Actual relief would follow just as soon as the local school board adopted an appropriate school assignment plan of its own choosing. The speed with which this is done is a matter of local concern and local constituencies.

16. How can we be sure that a court issuing an order will act to end its own jurisdiction in a case?

Application to end jurisdiction can be made by any state authority or local educational agency, or any affected citizen. Under the law, the judge must reopen the order and submit it to a jury to make the determination whether the system has been a unitary system for the required period of time. This is a simple question of fact, amounting to whether or not the schools have complied with the judge's own order for a school year. If the determination is adverse, the question may be taken to the appropriate appeals court.

17. Will the Public School Jurisdiction Act achieve desegregation?

The Public School Jurisdiction Act does not address itself to the problem of desegregation. The Public School Jurisdiction Act addresses itself to the problem outlined in the *Swann* case by Chief Justice Burger:

"The constant theme and thrust of every holding from *Brown I* to date is that State-enforced separation of races in public schools is discrimination that violates the Equal Protection Clause. The remedy commanded was to dismantle dual school systems.

"We are concerned in these cases with the elimination of the discrimination inherent in the dual school systems, not with myriad factors of human existence which can cause discrimination in a multitude of ways on racial, religious, or ethnic grounds. The target of the cases from *Brown I* to the present was the dual school system. The elimination of racial discrimination in public schools is a large task and one that should not be retarded by efforts to achieve broader purposes lying beyond the jurisdiction of school authorities. One vehicle can carry only a limited amount of baggage . . .

"Our objective in dealing with the issues presented by these cases is to see that school authorities exclude no pupil of a racial minority from any school, directly or indirectly, on account of race; it does not and cannot embrace all the problems of racial prejudice, even when those problems contribute to disproportionate racial concentrations in some schools." [402 US 1 at page 22]

The Public School Jurisdiction Act provides objective criteria for the elimination of dual school systems, thereby insulating present State action that does not discriminate from the taint of past State action that did.

18. Does the Public School Jurisdiction Act restrict the remedies available to a plaintiff whose rights have been abused under the Fourteenth Amendment?

No. The remedies would be exactly the same as at present.

19. Would the Public School Jurisdiction Act eliminate busing across boundary lines of political subdivisions?

Yes, except in a rare case where it might be proved in court that a political boundary line was drawn for the purpose of segregating schools. Most communities doubtless could show that their boundaries are historic and were drawn for reasons not associated with an intent to segregate the schools. The fact that segregation occurred along boundary lines for other reasons would be irrelevant to the Constitutional duty to eliminate dual systems.

20. Would the Public School Jurisdiction Act preserve the neighborhood school?

After jurisdiction is returned to the public school agency, the public school system can do as it pleases, so long as it does not discriminate. Given the generally prevailing sentiments of most people, black or white, the Public School Jurisdiction Act would create a positive environment which would gradually eliminate school desegregation jurisdiction in the Federal courts, return control of the school systems to State and local authorities and eliminate the great bulk of cross-zone racial balance busing. Experience seems to indicate that public dissatisfaction with busing is as characteristic of the black community as of the white. The neighborhood school assignment system seems to be the preferred choice of the great majority of American families. In terms of educational improvement, a shift to such a basis would eliminate the major burden of busing expense which deprives students of the greater educational opportunities available in terms of improved physical plant and equipment, and special teaching assistance which the saving of such busing costs could make possible.

Mr. JAVITS. Mr. President, I yield myself 10 minutes.

This amendment must be opposed. It has many defects; I shall deal only with the most fatal of those defects.

For one thing, it is obviously an effort to betray the whole busing business, because it relates, as Senators will note, specifically at page 7, lines 3 to 16, to reopening of decrees dealing with busing. That is obviously its main thrust. The same is true at page 8, lines 9 to 12. We shall handle that in a proper way at the proper time.

Similarly, at page 5, line 24, to page 6, line 4, it deals with transportation, and so on, all of which involves busing, and is tied up with the limitation of the unanimous-consent agreement.

Mr. President, on the merits this amendment is critically based on a section of the statute which it seeks to revise, section 401 of the Civil Rights Act of 1964. It is very important to point that out, because that is the section which deals with discrimination, education programs of less quality, et cetera. The amendment, on pages 3, 4, and 5, amends that particular section, and then, in the operative clauses respecting the nonapplicability of court decrees, simply picks up section 401(g) of the Civil Rights Act. It does not say "as amended by this amendment," but that is the effect of it.

So what is introduced now is a totally new factor which is, in my judgment, flatly unconstitutional, in respect to desegregation of public schools, for it is conditioned, according to Senator HELMS' amendment, on the material contained on page 4, line 19, to page 5, line 2, and it sets a numerical standard by which a school shall be considered desegregated.

This is absolutely and flatly against the cases of the U.S. Supreme Court on this issue: That numerical standard is that:

. . . not less than two-thirds of the schools of a local educational agency have a racial composition of the student body of each school which shall contain a percentage of majority students which is not less than one-third of the percentage of majority students in the school population taken as a whole, and a percentage of minority students which is not less than one-third of the percentage of minority students in the school population taken as a whole.

By the way, there are a lot of other qualifications for a unitary school system but it is separated from them by the word "or" and not by the word "and." So an effort is being made to substitute a definite number standard, a numerous clausus if you will, Mr. President, for the present definition, as decided by the cases which seek substantially to bring about segregation in the school system.

So this amendment can speak about a unitary school system as long as it wishes, but it does not change anything in the amendment itself, as directed in the unitary school system and by its own definition, to which the rest of the amendment refers. That definition is flatly unconstitutional by endeavoring to fix and set a number to determine the issue, which the court has just not gone along with. They may have used such relationships as indexes of what is and what is not a segregated school system, but this would make it absolutely standard.

Then, to lock it in further, it is interesting to me to read how an effort is made to get aboard this self-determined definition of a unitary school system which, as I say, is an unconstitutional definition, that is, by leaving the determination not to a jury of the issuing court.

Now, Mr. President, that takes into account all kinds of local feelings on this subject, which in many cases are unfavorable, yet that is not the law of the land as determined by the Constitution.

I find it difficult to see how such a question can be left to a jury alone, as if it were a coroner's jury, without being left to the court. It seems to me that this is a fatal defect because the court is determined to reopen any existing decree. If there is an application to submit a question of fact to a jury to determine, it might return a question of fact when we consider the very clear and specified number which makes or unmakes a dual school system according to the amendment itself.

This is nothing but another attempt to betray the whole desegregation of the schools issue and to endeavor to get rid of busing as a tool in that regard—under any guise. I believe therefore that it runs counter to the position—certainly to the position of the committee taken on the bill and to the action of the Senate already taken on this very broad issue.

For all those reasons, Mr. President, I would propose to move at an appropriate time under the unanimous-consent agreement to table the amendment.

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Rhode Island yield me 2 minutes?

Mr. PELL. I yield 2 minutes to the Senator from West Virginia.

The PRESIDING OFFICER (Mr. ALLEN). The Senator from West Virginia is recognized for 2 minutes.

Mr. ROBERT C. BYRD. Mr. President, I would hope we would not have to reach a vote on this amendment or on any tabling motion. I am a strong advocate of the idea of doing away with forced busing to achieve racial balance in the schools. I am much opposed to forced busing for that purpose alone. I do not

think the Constitution requires it. It is a waste of the taxpayers' money. Black and white parents alike oppose it. The money spent for forced busing would be better spent on upgrading educational facilities and increasing teachers' salaries. And it creates a serious drain upon our limited gasoline supplies.

But I do not believe, Mr. President, that this amendment is in order under the agreement. I know that my distinguished friend from North Carolina will realize the spirit in which I say this, but I have looked the amendment over. In every section and subsection of the amendment, there is a very clear reference to busing, or to the assignment of pupils, or to the Civil Rights Act. Every section, with the exception of the severability clause and possibly subsection (f) of section 411, I think, clearly is an amendment that deals with busing or school assignments or some facet of integration.

We entered into an agreement last Thursday that there would be no more so-called busing amendments.

We have gone up the hill on busing last week, and I have marched with my friend from North Carolina and stood by his side. As he rammed the flag down the cannon's barrel, I stood by his side, and we were defeated on a very close vote.

Under the agreement, there were to be no more so-called busing amendments offered to the bill. Several Senators who entered into the agreement are not here today. I am constrained to believe that they will feel we did not live up to the agreement if we have a vote on this amendment.

I am therefore just hoping that the Senator, who has made a fine case for his amendment and a very fine statement for it, would withdraw it and offer it some other day to some other bill.

I am constrained to think that I am going to have to raise a point of order myself on the amendment if he does not withdraw it. I do not want to be forced into that position, but I am one who helped to work out the agreement, and I feel that we have to honor our agreements here.

What I say is no reflection on the distinguished Senator from North Carolina. He is an honorable and fair and decent man. He did not work up the agreement. He was given consent in the agreement to call up three amendments. I personally have not had the opportunity to look at this amendment until now. I am saying to him that I do not see how the Parliamentarian can possibly do anything other than sustain a point of order against the amendment.

I say that, in all kindness and with great respect for my friend from North Carolina, I would have to raise a point of order against the amendment.

Mr. JAVITS. Mr. President, if the Senator will yield for a clarification of one or two points, I had not intended to raise this question but it seems to me it does need to be raised. It relates to the terms of the unanimous-consent agreement. It will be noted on page 2 of the calendar of business where the unanimous-consent agreement is repeated that, "It will not be in order to offer further busing amendments." If the Senator will refer back to the previous unanimous-consent agreement, he will find that it says with relation to busing where it dealt in the affirmative that we would not discuss busing at a given time—we used the term "so-called busing."

Mr. ROBERT C. BYRD. "So-called busing"—that is right.

Mr. JAVITS. My distinct recollection is that the Senator used exactly the same term in the unanimous-consent request. That is important, because we were dealing with a generic class of amendments in a negative way of the same kind. We had dealt with it in the proper way.

Mr. ROBERT C. BYRD. Yes.

Mr. JAVITS. That is very supportive of a very honorable position because I know the Senator's feeling and his voting record on this subject which the Senator has now taken.

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

Mr. JAVITS. Will the Senator agree with me?

Mr. ROBERT C. BYRD. Yes, I do indeed. I would have to say, with all due deference to my dear friend from North Carolina, the State in which I was born, that this amendment violates the terms of the agreement both in letter and in spirit, and I say nothing by way of reflection on the Senator. He has acted in the utmost good faith.

Mr. HELMS. Mr. President, I know exactly what the——

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 3 minutes.

Mr. HELMS. Mr. President, I understand exactly what the distinguished Senator from West Virginia is saying. As he well knows, I sat in on the determination of the unanimous-consent agreement. If he will check the RECORD, he will see that there were three busing amendments that I did not call up. I think he will agree that I am not a man to break his agreement.

Mr. ROBERT C. BYRD. I agree with my friend absolutely.

Mr. HELMS. The point is, Mr. President, that I did check with the Parliamentarian prior to the busing amendment limitation, and it was my understanding at that time that this amendment is not a busing amendment in the frame of reference of the unanimous-consent agreement. Certainly, it was not intended to be simply a busing amendment, even though busing is indeed a part of the travail that exists all over this country as a result of Federal meddling in the local schools of the country. There are many, many other aspects of Federal control of our schools which bother me and to which this amendment addresses itself.

I will put this bargain to the distinguished majority whip: that we have a quorum call, to permit the Parliamentarian to complete his study of the amendment, and if the Parliamentarian now believes that it is indeed a busing amendment, I will withdraw it, because I have no intention whatever of violating any agreement that I participated in or which the Senate entered into.

I say again that this amendment is not by intent merely a busing amendment; and had it been declared a busing amendment, I would have called it up in the time allotted to me last week during the period when busing amendments were permitted.

So, with that bargain with the distinguished majority whip, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. If the Senator will withhold his suggestion for 1 minute, what I am concerned about here is that, while the Senator may not interpret the amendment strictly as a "busing" amendment, I think the agreement was entered into in the spirit of an understanding that no "so-called busing" amendments would be called up today.

Mr. HELMS. That is correct. The Senator is absolutely correct. It is simply a matter of definition. I want at all times to do what is right and fair.

Mr. ROBERT C. BYRD. For example, the Senator from Michigan (Mr. HART), who entered into the agreement, would have objected had he known the contents of this amendment. The thrust of the amendment is such that those Senators who felt that there would be no votes on so-called amendments today did not comprehend anything like this amendment.

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

The PRESIDING OFFICER. On whose time?

Mr. HELMS. That the time, as the distinguished majority whip said earlier, be charged to nobody.

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

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. The Senator has 8 minutes remaining.

Mr. HELMS. I thank the Chair.

Mr. President, there is some confusion about the understanding as to what is a proper amendment to call up. Frankly, I think it is proper to call up anything at any legislation that may have the remotest chance of putting an end to the tyranny of Federal judges and HEW bureaucrats over the schoolchildren of this country and their parents.

I recognize that there are others in the Senate who feel otherwise, who wish to continue this burden and this—if the Senate will forgive me—absurdity of forced busing that is being perpetrated day after day, with a considerable waste of money, a waste of millions of gallons of gasoline, and all the other dreary aspects of Federal control of our schools. But since there is a question about whether this is a busing amendment, let me emphasize that I did not intend

it solely as a busing amendment as such, under the terms of the agreement which was entered into. As I said earlier, the bitter fruits of Federal control of schools speak for themselves—unhappily so and depressingly so.

Let me say, Mr. President, that as long as I am a Member of the Senate, I am going to oppose forced busing of schoolchildren. I think it is unwise, I think it is improper, and I think it is a usurpation of the rights of local government; and it is a terrible burden that is cast upon the most innocent of our citizens, the children.

Thus, in deference to my good friend, the distinguished majority whip, I shall not ask for the yeas and nays. I shall not even put the Parliamentarian on the spot in determining whether this is indeed a busing amendment under the conditions of the unanimous-consent agreement.

But I will say, Mr. President, that I have learned something about unanimous-consent agreements, and with all respect and affection for the leadership, I must say I will listen more attentively hereafter. I serve notice that this amendment will be back as well as any other amendment that I may devise to put an end to forced busing of schoolchildren.

I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me?

Mr. HATHAWAY. I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I wish to express appreciation to the distinguished Senator from North Carolina for having withdrawn the amendment. I know how deeply he feels about the subject and I can assure him that when he offers the amendment at another time on another day and to a proper vehicle I will support his idea. I cannot say "the amendment" because I have not read it word for word, but again I reiterate that insofar as his opposition to forced busing is concerned I am with him 100 percent.

But the Senate did enter into this agreement, which reads as follows: "that no so-called busing amendments be in order." That appears in the RECORD of May 16, 1974, at page 15204.

I believe that under established busing terminology, that would embrace the Senator's amendment. I think he now recognizes that and I want to express the appreciation of the joint leadership that he has withdrawn the amendment, thus avoiding the raising of a point of order or the making of a motion to table by the distinguished Senator from New York (Mr. JAVITS), and thereby saving the time of the Senate.

May I say further with respect to what the Senator has said about unanimous-consent agreements, they are sometimes very, very difficult to obtain, especially on controversial matters such as the bill before the Senate, and, in addition, they can be very complex. I want to assure the Senator that anything I can ever do to protect his rights, as I would those of any other Senator, I shall do.

Again, I thank the able Senator for withdrawing the amendment.

Mr. HELMS. I thank the distinguished majority whip for his customary gracious remarks. No one could have been more cooperative with this freshman Senator than he has been to me. I hope he is ever mindful of my gratitude to him. He does an exceedingly difficult job masterfully, always with grace and thoughtfulness.

Of course, I am disappointed that the misunderstanding developed on this amendment. I had done all I could to make sure it was clear for calling up at this time. I though it was clearly understood. But one swallow does not make a summer, and we will be back again, and again, and again, until we put an end to the cruel manifestation of Federal tyranny imposed upon the little schoolchildren of America.

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

Mr. JAVITS. Mr. President, I yield myself 1 minute to propound a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Mr. President, my parliamentary inquiry is as follows:

The unanimous-consent agreement uses the word "further" in respect of busing amendments—"to offer further busing amendments." Reference to the RECORD shows that when the Senator from West Virginia (Mr. ROBERT C. BYRD) made the unanimous consent he spoke of "so-called busing amendments."

Mr. President, would it be appropriate for the remainder of the debate to assume that the word "further" which is carried over from the previous unanimous consent, in which the words were used "so-called busing amendments," means for the purpose of this debate, under this unanimous consent "so-called busing amendments?"

The PRESIDING OFFICER. Yes. The Senator is correct. The word carries through as originally intended in the unanimous consent.

Mr. JAVITS. I thank the Chair. I appreciate very much how difficult this was for the Senator from West Virginia and how much it underwrites the integrity he tries to bring to the leadership.

Mr. ROBERT C. BYRD. I thank the distinguished Senator. The distinguished Senator did call attention, did he not, I say to the distinguished Senator from New York—he did reiterate that the phraseology "so-called busing amendments" was carried through into the agreement?

Mr. JAVITS. Yes, that is what the Chair ruled.

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

Mr. President, I ask unanimous consent that it be in order for the distinguished Senator from Texas to call up his amendment without prejudice to the distinguished Senator from Connecticut (Mr. WEICKER).

Mr. TOWER. Is that agreeable?

Mr. WEICKER. It is agreeable. The Senator has discussed the matter with me.

AMENDMENT NO. 1343

Mr. TOWER. Mr. President, I call up my Amendment No. 1343.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

The amendment is as follows:

On page 358, between lines 22 and 23, insert the following new section:

"PROVISION RELATING TO SEX DISCRIMINATION

"SEC. 535. Section 901(a) of the Education Amendments of 1972 is amended by—

"(1) striking out the word 'and' at the end of paragraph (4) of such section;

"(2) striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon and the word 'and'; and

"(3) adding at the end thereof the following new paragraph:

"'(6) this section shall not apply to intercollegiate athletic programs.'."

On page 358, line 24, strike out "SEC. 535." and insert in lieu thereof "SEC. 536."

On page 123, in the table of contents, redesignate "Sec. 535." as "Sec. 536." and insert immediately after the item "Sec. 534." the following:

"Sec. 535. Provision relating to sex discrimination.".

Mr. TOWER. Mr. President, I send to the desk a modification of my amendment. It is my understanding I do not have to get consent to modify it.

The PRESIDING OFFICER. The amendment will be so modified. The Senator will send the modification to the desk.

The amendment, as modified, is as follows:

On page 358, between lines 22 and 23, insert the following new section:

PROVISION RELATING TO SEX DISCRIMINATION

SEC. 535. Section 901(a) of the Education Amendments of 1972 is amended by—

(1) striking out the word "and" at the end of paragraph (4) of such section;

(2) striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon and the word "and"; and

(3) adding at the end thereof the following new paragraph:

"(6) this section shall not apply to an intercollegiate athletic activity to the extent that such activity does or may provide gross receipts or donations to the institution necessary to support that activity."

On page 358, line 24, strike out "Sec. 535." and insert in lieu thereof "Sec. 536."

On page 123, in the Table of Contents, redesignate "Sec. 535." as "Sec. 536." and insert immediately after the item "Sec. 534." the following:

"Sec. 535. Provision relating to sex discrimination.".

Mr. TOWER. Mr. President, in the printed version of my amendment, on page 2, line 3, it is stated:

"This section shall not apply to intercollegiate athletic programs."

I have modified the amendment to provide:

"This section shall not apply to an intercollegiate athletic to the extent that such activity does or may provide gross receipts or donations to the institution necessary to support that activity."

That is the only change in the printed version and I think that meets some objection that might have been made against the printed version.

Mr. President, my concern is for intercollegiate athletics, including both men's and women's sports. At most colleges and universities, intercollegiate athletics are funded in whole or in part by monies raised, for example, through the sales of tickets to men's football or basketball games and through fund-raising campaigns for general, scholarship or other specific purposes. As I understand it, at some schools other sports are also substantial revenue-producers: ice hockey at Colorado and Ohio State, wrestling, perhaps, at Iowa, Iowa State, Oklahoma, Oklahoma State, and Lehigh, and so forth. In these cases, impairment of the financial base of the revenue-producing activity threatens not only the continued viability of that activity, but the viability of the entire athletic program.

The prospect of such impairment becomes especially significant at present when there is a most substantial demand for upgrading women's athletic opportunities in our institutions of higher education. Although some progress has been and is being made to satisfy that demand, I think that it must be recognized that efforts to date have fallen far short of attaining the optimum goal of equal opportunity—in the context of demonstrated interest—for men and women in intercollegiate athletics. That being the case, new demands will be made in the future on the pool of athletic funds to finance expanded intercollegiate sports opportunities for women. Consequently, the women in our colleges and universities have as great a stake in a strong financial base for their individual school's sports program as do the men.

It has been the apparent failure of our colleges and universities to provide equal athletic opportunities for women that has attracted the attention of the Department of Health, Education, and Welfare. HEW has interpreted title IX of the Education Amendment of 1972 to provide it with the authority to promulgate rules governing sex discrimination in intercollegiate athletics. Because, according to my recollection and detailed, recent investigation, I do not believe that Congress intended title IX to extend to intercollegiate athletics, I would like to call upon the Senate Committee on Labor and Public Welfare to conduct hearings on this vitally important matter to determine what Federal legislation, if any, is necessary to assure equal intercollegiate athletic opportunities for women. I would like to digress one moment to observe that the Congress should be writing such legislation, for Congress has by far the better resources to define the problem, determine what progress is being made, and determine whether substantive legislation or the vestment of monitoring authority in HEW is the better course.

Grave concern has been expressed that the HEW rules will undercut revenue-raising sports programs and damage the overall sports program of the institution. Were HEW, in its laudable zeal to guarantee equal athletic opportunities to women, to promulgate rules which damaged the financial base of intercollegiate sports, it will have thrown out the baby with the bath water. The amendment which I have proposed will, if enacted, prevent any such result. The amendment will except only those sports which provide gross revenues and only to the extent that the revenues are necessary to support such revenue-producing athletic activities. This, of course, in no way grants HEW the authority to tell a school how much it can spend on a revenue-producing sport. However, if a court should hold that HEW has the authority to promulgate rules affecting intercollegiate athletics, HEW would be free under title IX to prescribe rules for all but the very narrow class of revenue-producing sports. Nonrevenue-producing sports are usually financed by the surplus over that amount necessary to pay for the revenue-producing activity or activities, and HEW would then be able to insist that that surplus be reasonably distributed to assure that equal opportunities are provided women in intercollegiate sports.

I want to emphasize that one of the prime reasons for my wanting to preserve the revenue base of intercollegiate activities is that it will provide the resources for expanding women's activities in intercollegiate sports. I have a vested interest because I have a daughter who is a potential varsity tennis player, and I would like to see that she gets the opportunity.

I hope the amendment will be adopted.

Mr. President, at this point I would like to modify my amendment to include a proposal made to me by the Senator from Minnesota (Mr. MONDALE). In adding this modification at his suggestion and request, which I think is a reasonable modification, may I say it is not intended to confer on HEW any authority it does not already have under the act.

I send the modification to the desk, but I will read it in full at this time:

At the appropriate place in the amendment insert "a" after the section designation of "Section 535", and add after that subsection the following new subsection.

(b) The Commissioner shall prepare and publish, not later than 30 days after the date of enactment of this Act, proposed regulations implementing the provisions of title IX of the Education Amendments of 1972 relating to the prohibition of sex discrimination in federally assisted education programs.

I think that this is a reasonable modification, and I therefore wish to modify my amendment as indicated.

The PRESIDING OFFICER. The amendment will be so modified.

Mr. TOWER. Mr. President, it is my understanding that with this modification my amendment is acceptable to both sides and therefore can be disposed of by voice vote.

The PRESIDING OFFICER. Who yields time?

Mr. HATHAWAY. Mr. President, the committee position on this amendment is that it is a clarifying amendment, as modified by the Senator, and we are willing to accept it.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. TOWER. Mr. President, I did not know we were under controlled time, but I yield it back.

Mr. JAVITS. Mr. President, we have reviewed the amendment on the minority side, and it is acceptable to us.

Mr. TOWER. I thank my distinguished friends from Maine and New York.

The PRESIDING OFFICER. All time on the amendment is yielded back. The question is on agreeing to the amendment offered by the Senator from Texas, as modified.

The amendment, as modified, was agreed to.

The PRESIDING OFFICER. At this time, in accordance with the previous order, the Chair lays before the Senate amendment No. 1342 by the distinguished Senator from Connecticut (Mr. WEICKER), which will become the pending business. Debate is limited to 1 hour, to be equally divided between the manager of the bill and the distinguished Senator from Connecticut.

The amendment is as follows:

At the end of the bill, add the following new title:

"TITLE IX—QUALITY SCHOOL AID ASSISTANCE

"STATEMENT OF PURPOSE

"SEC. 901. In order to provide increased resources for the improvement of equality of educational opportunity in the public elementary and secondary schools of the States it is the purpose of this part to make unconditional grants to States.

"AUTHORIZATION OF APPROPRIATIONS

"SEC 902. (a) There are authorized to be appropriated for the purpose of carrying out this Act $2,500,000,000 for the fiscal year ending June 30, 1974, and for each of the four succeeding fiscal years. Funds appropriated pursuant to the preceding sentence shall remain available for obligation and expenditure during the fiscal year succeeding the fiscal year for which they are appropriated.

"(b) Funds appropriated pursuant to this part shall be in addition to any other authorization of appropriations for financial assistance to public elementary and secondary schools.

"ALLOTMENT

"SEC. 903. (a) From the funds appropriated pursuant to section 902, the Commissioner shall allot not less than 3 per centum among the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs. From the remainder of such sums the Commissioner shall allot to each State an amount which bears the same ratio to the number of children in each such State—

"(1) who are aged five to seventeen, inclusive; and

"(2) (A) who are enrolled in the public elementary and secondary schools of the local educational agencies, and

"(B) enrolled in such schools of the State educational agency of such State;

bears to the number of such children in all States. For the purposes of this subsection, the term 'State' does not include Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

"(b) The portion of any State's allotment under subsection (a) for a fiscal year which the Commissioner determines will not be required, for the period such allotment is available, for carrying out the purposes of this Act shall be available for reallotment from time to time, on such dates during such period as the Commissioner may fix, to other States in proportion to the original allotments to such States under subsection (a) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum

which the Commissioner estimates will be needed in such State and will be used for such period for carrying out applications approved under this Act, and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts are not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for such year.

"USES OF FUNDS

"SEC. 904. Grants made under this part may be used in accordance with applications approved under section 905 to improve quality of educational opportunities in the public elementary and secondary schools of local educational agencies and of such schools operated by State educational agencies.

"APPLICATIONS

"SEC. 905. (a) A grant under this part may be made to any State educational agency upon application to the Commissioner at such time, in such manner, and containing and accompanied by such information as the Commissioner deems necessary. Each such application shall—

"(1) provide that the programs and activities for which assistance under this part is sought will be administered by or under the supervision of the applicant;

"(2) describe with particularity the programs and activities for which such assistance is sought;

"(3) provide procedures for submitting applications by local educational agencies within that State for grants under this part, for approval by the State educational agency, including appropriate procedures to assure that the State educational agency concerned will not disapprove any application of any such local educational agency without notice and an opportunity for a hearing;

"(4) provide for making such reasonable reports in such form and containing such information as the Commissioner may reasonably require to carry out his functions under this part, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

"(b) Applications for grants under this part may be approved by the Commissioner only if—

"(1) the application meets the requirements set forth in subsection (a); and

"(2) the application is consistent with objectives criteria established by the Commissioner for the purpose of achieving an equitable distribution under this part within such State. Such criteria shall be based upon a consideration of—

"(A) the number of children aged five to seventeen, inclusive, who are enrolled in the public elementary and secondary schools of the local educational agencies within each such State; and

"(B) the relative need of the local educational agencies within the State for assistance under this part.

"(c) Amendments of applications shall, except as the Commissioner may otherwise provide, be subject to approval in the same manner as the original applications.

"PAYMENTS

"SEC. 906. (a)(1) From the amounts allotted to each State under section 903, tne Commissioner shall pay to that State an amount equal to the cost of carrying out the application of that State.

"(2) From the funds paid to it pursuant to paragraph (1), each State educational agency shall distribute to each local educational agency of that State which has submitted an application approved pursuant to section 905(a)(3) the amount for which such application has been approved, except that this amount shall not exceed the maximum amount determined for that agency pursuant to section 905(b)(2).

"(b)(1) The Commissioner is authorized to pay to each State amounts equal to the amounts expended by it for the proper and efficient performance of its duties under this part (including technical assistance for the measurements and evaluations), except that the total of such payments in any fiscal year shall not exceed—

"(A) 1 per centum of the total maximum grants for State and local educational agencies of the State as determined for that year; or

"(B) $150,000 or $25,000 in the case of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands;

whichever is greater.

"(2) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

"WITHHOLDING

"SEC. 907. Whenever the Commissioner, after giving reasonable notice and opportunity for hearing to a grant recipient under this part, finds—

"(1) that the program or activity for which such grant was made has been so changed that it no longer complies with the provisions of this Act; or

"(2) that in the operation of the program or activity there is failure to comply substantially with any such provision;

the Commissioner shall notify such recipient of his findings and no further payments may be made to such recipient by the Commissioner until he is satified that such noncompliance has been, or will promptly be, corrected. The Commissioner may authorize the continuance of payments with respect to any programs or activities pursuant to this Act which are being carried out by such recipient and which are not involved in the noncompliance.

"JUDICIAL REVIEW

"SEC. 908. (a) If any State or local educational agency is dissatisfied with the Commissioner's final action with respect to the approval of its application submitted under section 905, or with his final action under section 907, such State or local educational agency may within 60 days after notice of such action file with the United States court of appeals for the circuit for which such agency is located a petition for review of that action. A copy of that petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner shall file promptly in the court the record of the proceedings on which he based his action, as provided for 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 file in 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) Upon the filing of such petition, 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.

"ADMINISTRATION

"SEC. 909. Unless otherwise inconsistent with the provisions of this part the provisions of the General Education Provisions Act shall apply to the program authorized by this Act."

On page 123, in the Table of Contents after title VIII add the following:

"TITLE IX—QUALITY SCHOOL AID ASSISTANCE

"Sec. 901. Statement of purpose.
"Sec. 902. Authorization of appropriations.
"Sec. 903. Allotment.
"Sec. 904. Uses of funds.
"Sec. 905. Applications.
"Sec. 906. Payments.
"Sec. 907. Withholding.
"Sec. 908. Judicial review.
"Sec. 909. Administration.".

Mr. WEICKER. Mr. President, first I ask unanimous consent that the distinguished Senator from Colorado (Mr. HASKELL) be added as a cosponsor of my amendment No. 1342.

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

Mr. WEICKER. Mr. President, I also at this time would like to propose a technical modification to my amendment, on page 5, between lines 18 and 19, to insert the following:

The Commissioner shall not disapprove an application without first affording the State educational authority notice and opportunity for a hearing.

This is just in the nature of a technical modification.

The PRESIDING OFFICER. Is there objection to the modification? The Chair hears none, and the amendment will be so modified.

Mr. WEICKER. Mr. President, Congress has recognized that all children enrolled in public schools are entitled to equality of educational opportunity.

I know that my colleagues and the American people need no new evidence that this principle is far from realized.

And therefore, I believe that Congress should take a new and positive step toward bringing equality of educational opportunity closer to reality. I submit that Congress should authorize an additional $2.5 billion a year in grants to States to improve equality of educational opportunity in public elementary and secondary schools, allotted to the States on the basis of the proportion of the State's public school enrollment to the national total.

The $2.5 billion a year of new funds would be made available to the States to distribute to local school districts for the purpose of improving equality of educational opportunity, allotted to the local districts on the basis of criteria of enrollment and relative need.

This $2.5 billion authorization represents roughly the combined amount of title I and impact aid funds to be authorized in S. 1539, the ESEA legislation. Thus the amendment roughly doubles the amount of Federal compensatory education funds available to the States and local school districts, but under a revenue-sharing approach not tied to title I on impact aid provisions.

The State educational agency would apply to the Commissioner of Education for grants under a comprehensive plan of proposed programs, procedures, and reports, consistent with the objectives of the enacting legislation and general guidelines established by the Commissioner.

The application of the State educational agency will be approved by the

Commissioner on the basis of the comprehensive plan, which must further meet objective criteria for equitable state-wide distribution to local educational agencies. These criteria are to be developed by the Commissioner, based on consideration of the public elementary and secondary school enrollment in the State, and relative need of local school districts within the State.

The Commissioner is authorized to withhold grant assistance for noncompliance with provisions of the act. Procedures for disapproval by the State educational agency of local agency applications include notice and opportunity of hearing. Likewise, State educational agencies would, under a modification I now propose to the amendment, be entitled to notice and opportunities for hearing in the case of disapproval by the Commissioner of a State's application for assistance. There also exists provision for State and local educational agencies to file for judicial review of any action of the Commissioner.

I will emphasize now that this is in no way a "busing" amendment. However, its genesis can be traced to the emotional "busing" issue.

As you know, this matter in varying forms has been under debate in the Senate for the past week and is also under specific review by the Supreme Court of the United States in the Detroit school case.

I think the time is long past when we should be wasting our energies debating each other regarding equality of educational opportunities for all Americans. The fact is that though substantial progress has been made, much is still undone.

All sides of the argument agree that inequality of educational opportunity exists in our country. All sides concur in their desire to see such inequality eliminated. But there is where the agreement ends and the shouting begins.

On the one hand you have those persons who would restrict the remedies which a court may apply to an unconstitutional situation, and on the other hand you have those who feel that the independence of the judiciary must be preserved.

Now let us get it straight that nobody I know is for busing as the solution to inequality of educational opportunity in the United States.

Let us also get it straight that separate is not equal and we're not going to live with inequality of educational opportunity in the United States.

There are three alternatives, as I see it. We can pass a constitutional amendment against busing. The pro of that is that it does away with busing, if such an amendment could be passed.

The con is that it does nothing to create equality of educational opportunity. I think the use of the Constitution as a legislative tool for every "hot" issue will eventually render that document worthless.

The second alternative is that we can pass legislation prohibiting the courts from hearing or ruling on busing cases as a remedy.

Again, the pro is that it may do away with busing.

The con does nothing to create equality of educational opportunity.

Second, I think it violates the checks and balances as between the judicial and legislative branches of the Government. Remember, if we can legislatively limit the court's authority over busing today, we can do the same with the writ of habeas corpus tomorrow. That would involve all of us. In other words, the principle that is involved has to be removed from the emotional issue of this time. The principle has to last throughout all time. This principle is that the Court has to have within its power the ability to order those remedies which in fact would bring to Americans as a whole whatever rights are theirs, whatever rights have been denied to them.

The third is to devise legislative solutions to improve equality of educational opportunities, such as this amendment seeks to accomplish.

On the pro side, this is a positive step to improve equality of educational opportunity in school districts which do or do not have forced busing.

Second, it may reduce conditions which demand a judicial solution such as busing.

There is a con side. It is expensive. Also, I am saying this is a positive step, but only one step. Comprehensive programs for superior public housing, recreation, and so forth, are certainly necessary to achieve equality of educational and life opportunity.

With this in mind, I am offering a revenue-sharing proposal for $12.5 billion in new educational aid after 5 years, specifically geared to creating equality of education opportunity. In and of itself, this proposal is not unusual. Any one of us could come into the Chamber and advocate that we are going to spend more money on this program, and that is rather painless. But I make no bones about the fact that the result of this program is going to cause a little pain, if indeed the solution suggested is worth anything. So I am making it clear now that whoever votes for this legislation will commit himself to bring to being a 1.5 percent surtax on all personal and corporate income taxes to produce at least $12.5 billion. The 1.5 percent surtax would raise roughly the needed revenues to meet the $2.5 billion a year authorized in the amendment.

What are we talking about here, insofar as the impact of corporate and personal income taxes is concerned? Total revenues raised by the surtax individual and corporate income tax revenue would be $2.6 billion. What is the impact on taxpayers in a family of four, with a $10,000 income? They would pay $13.58 in taxes per year. A single, individual taxpayer, earning $10,000, would pay an additional $22.95 per year. A family having a median income of $26,614 would pay $19.62 per year.

I realize that the House of Representatives has the power to raise revenues. I cannot include a surtax in my amendment, and it is not included. But there is a commitment on the part of each Senator that voting or making a legislative history, which is going on right now, is almost as good.

If we truly believe in what we say about equality of educational opportunity, then we must make the commitment; and our commitment means something only if we bite the bullet and pay for it with more than emotional rhetoric.

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

Mr. WEICKER. I yield.

Mr. MONDALE. I think the Senator from Connecticut makes a good point. If we look at the appropriations for education at the Federal level, I think about 4 years ago Federal contributions to local and elementary education in this country approximated 8 percent of the cost of educating children. Today I think that has slipped to about 6 percent, and it is dropping.

Every time we appropriate, it seems that education is the poor third or fourth cousin. If we look at appropriations for authorized education bills, except possibly for impacted aid, we usually appropriate about a third of the amount authorized.

Title I for example, carries authority for over $5 billion. We, in fact, are appropriating only about $1.8 billion. So the impact of title I each year becomes less and less and less.

I do not know why it is that with all the competing demands for Federal money, we seem to assume education should be the lowest rated priority. Because if there is any hope for the delivery of equal opportunity in education, which ought to be at the heart of the basic American commitment, it seems to me, among other things, it demands higher priorities for education.

This is giving the children the best chance to achieve their own potential—to become good parents, to become good citizens, to pay their taxes, to stay off welfare, to avoid committing crimes; and then to produce their own families which, in the next generation, will do the same.

I think that is the best investment we could make. In our committee, the now defunct Select Committee on Equal Educational opportunity, we have made a study of money spent on economies. We had a team of top economists, including Henry Levin, of Stanford, who concluded that there is a public return of $6 for every dollar spent. It is the best money we spend.

I do not know of a cheaper way of educating children. All our efforts to do it in a cheaper way have failed, and will fail. Education is expensive. If we want good teachers, we must pay them. If we want decent facilities, we must pay for them. When we deal with some children, whom I call children of a cheated background, who come to school with tremendous handicaps that they have accumulated through no fault of their own, it is frightfully expensive to give them a chance. Yet it is still the best investment we can make.

I do not know what position I will take on the pending amendment. I have a general aid proposal of my own. But I think the point the Senator from Connecticut makes is very strong. I hope that in the not too distant future we can develop a strong, new coalition in the

Senate to do for education what we did a few years ago in the nutrition field. When I came to the Senate, we were doing practically nothing for old people—or young children—who had nothing to eat. Over the years, we developed a coalition to bring them food, in sums up to a billion dollars. Over the years, we have begun food programs and other programs, including food stamps, at a cost of more than $4 billion.

Meanwhile education has been standing still—especially in view of inflation—and at great cost to this country. I commend the Senator for his statement.

Mr. WEICKER. I thank the distinguished Senator from Minnesota.

I would say this: I, in no wise, have the background or expertise of the distinguished Senator from Minnesota in the legislative field as it relates to education. Admittedly there might be aspects that fall short, as far as my amendment is concerned.

I have already said it is not just a matter of money. Obviously principles and programs are involved. But I do know that everyone will have a choice, in this legislation, in that they can opt for inequality of educational opportunity or can opt for taxes which might improve conditions which influence busing. But one option that is no longer available is doing nothing, on the one hand, or telling the courts what they can or cannot do. That is not a solution for anything. The Senator from Minnesota knows that as well as I do.

What I have tried to do is confront the Senate as well as the American people with the fact that there is no cheap way to really improve equality of educational opportunity.

I have proposed a legislative alternative to busing which says, "OK, let us get in here, now, and see what we can do by the route of additional compensatory funds, while at the same time admitting that obviously there are other factors involved, that the program is wrapped up in the question of housing and other aspects as well."

I am sure this must come to pass. I am sure that the Court would love it if they did not have to rule on a single case. I am sorry to say that, as far as the administration is concerned, the only thing I have heard is a lot of rhetoric trying to steam up the American people that they ought to be against busing. I wish they would tell me how that will educate one single child in this country that is already being deprived.

It may sound strange to stand on this floor and advocate taxes, but I am tired of Members on both sides standing here and saying, "We are going to have housing, we are going to have transportation, we are going to have education," and then saying, "No new taxes; we will get it all out of the Defense budget."

I do not see any way of doing what needs to be done in all these fields unless we raise the taxes to do it. That is the point of this amendment as much as anything else: To say that this body has the guts to face the problem, and one aspect of the problem is to make sure that we have the money to assure that each child will have the educational opportunity.

Mr. MONDALE. I guess if I were to object, it would be on the basis that, though taxes would be raised in certain areas, when you look at the situation of the low-income and many middle-income families today, they are being tortured. I know that the Senator from Connecticut understands this. Inflation is a dreadful burden, but more than that, their taxes have been raised dramatically in recent years, in ways they may not directly notice, through the payroll taxes. It comes out of their paycheck, and there are no deductions or exemptions, no adjustments for the size of the family. This average family is trying to make a go of it, and trying to do its job to help its children have a chance. That is a very important part of the child's education, too.

So I would hope that if we decide to raise taxes, we would reorder priorities, and try to raise taxes in a way that did not increase the burden upon these families who are already having such a desperate time trying to make it.

Mr. WEICKER. Mr. President, I do not think anyone is trying to burden the American taxpayer any more than necessary. But concerning this great burning issue of busing—let me put it this way: I do not think we can have equality of educational opportunity for all American schoolchildren with our prejudices and our wallets intact. I do not see how we can do it. I think anyone who says we can is not telling the truth. But unfortunately, all we have had is a great deal of rhetoric geared to steaming up rather than solving the problem, as far as the administration is concerned.

Everybody will have a choice, now, either to allow conditions of inferior schools within school districts to continue to exist, or to pay such taxes as would help to change those conditions to promote equality of educational opportunity.

The amendment does not call for legislative interference with court-ordered busing. But it would assure that students who are bused are not bused to inferior schools with inferior teachers and opportunities. It would also tend to reduce those conditions which influence court-ordered busing.

Let me emphasize again that this is not a "separate but equal" amendment. It is rather one positive step to improve, but not necessarily achieve, equality of educational opportunity.

The only thing that is no longer available is doing nothing or telling the courts what they can or cannot do.

We are warned something is going to be done. I would prefer we do it ourselves, and in the more natural way of having schools that by their excellence attract students of all colors and backgrounds.

What we cannot have, I repeat, is equality for all American schoolchildren with our prejudices and wallets intact.

I yield the floor to the distinguished floor manager of the bill.

Mr. HATHAWAY. Mr. President, I yield myself such time as I may require.

I have looked over the amendment which the Senator from Connecticut has submitted, and find some shortcomings in it. Although I agree with the Senator that some kind of general aid should be supported which can go to elementary and secondary schools throughout the country, I think that we should make this a matter of extensive hearings. I understand, through the statements that the Senator from Minnesota has just made and from word that has come to me about the attitude of both the chairman of the full committee and the chairman of the subcommittee, that such hearings will be held next year. I would hope that the Senator from Connecticut would consider, at least, withdrawing his amendment, so that we could hold extensive hearings on this matter.

As the Senator from Minnesota has pointed out, we are not getting enough money now to fund title I to the extent that it ought to be funded. That, as the Senator from Connecticut knows, is a program designed to help the educationally disadvantaged. I think until such time as we are able to take care of the educationally disadvantaged, we should withhold funds for just general purposes, although I agree with the Senator from Connecticut that such funds are necessary.

From reading the amendment which the Senator has proposed, it seems to me that there is no provision here for money to go to nonpublic schools. Am I correct in that assumption?

I understand that that is correct.

Also, the formula, of course, is based on the number of schoolchildren throughout the United States, which would mean that the wealthier schools would get just as much money as the poorer ones. Certainly, at this stage of financing of schools throughout the country, I think the focus of attention should be on those school districts where, because of the tax base, they are not able to raise enough money to provide an adequate education for the students in those districts.

As I mentioned earlier, until we can build the level of financing up high enough to take care of the poorer school districts where we have a considerable number of disadvantaged children, we should postpone consideration of any kind of a general aid program.

Mr. WEICKER. Mr. President, will the Senator from Maine yield for a response?

Mr. HATHAWAY. Yes, I am happy to yield to the Senator from Connecticut.

Mr. WEICKER. I do have to point out that while the amendment, as drafted, uses as a basis for a formula the total school population that which goes to the State, the money is then apportioned on the basis of need and on the basis of situations that exist at the local level, so it is a combination of the two. The need factor, in other words, enters into the formula as the State distributes the grants to local educational agencies.

Mr. HATHAWAY. But the need factor is determined by the State itself.

Mr. WEICKER. That is right.

Mr. HATHAWAY. So that we could get some States——

Mr. WEICKER. Along with the Commissioner of Education.

Mr. HATHAWAY [continuing]. That also, yes, but no mandate on the Commissioner of Education to distribute the money in accordance with need. Need is just one factor. What he might decide was adequate may be, in our opinion, grossly inadequate. Now we have State income levels and a formula for determining just which school districts are the neediest.

I would hate to see that left up to the discretion of any commissioner of education, whether he was State or Federal.

So I would simply ask the Senator from Connecticut if he would consider withdrawing his amendment at this time and submitting it to the committee as a bill for consideration along with other bills that have been submitted to the committee on this question of general aid to elementary and secondary schools.

Mr. WEICKER. I would say to the distinguished Senator from Maine, and I do not like to put myself in opposition to him, as I know of the very sound work he has done in the committee, as indeed have his other colleagues, but the fact is, the point I am trying to make is that much is embodied in the statement accompanying the legislation as in the legislation itself. We sit here and wring our hands over this busing issue and, really, the only ones to suffer—we are making such slow progress—are the schoolchildren themselves.

No one wants to get into an unpleasant solution to the problem. No one is willing to go ahead and face up to it. I happen to think that, yes, there are some Members of this body that know the time has come that, with complete candor, we must do what we say we will do, insofar as these issues are concerned. There are Senators within this body who will stand up and say, yes, there is no such thing as a cheap price for equality. But that is what we are confronted with. We are talking about catching up with equality, equality that is still denied. By anyone's definition of "with all deliberate speed," we are going at this thing too slowly. We should arrive at a positive resolution of the problem, rather than dumping the matter in the courts and getting mad at the courts when we do not like what they are doing. If we wait on the administration, they will be demagoging the busing issue to death in hopes of garnering votes.

But I am telling the Senator from Maine, who is as much concerned as I am as to the number of children 20 years later who are still in the situation of inequality, that one thing we have to do ahead of anything else is to establish the fact that we mean business. We will take some unpopularity on our shoulders—some of us have already done that—and it will be tough on everyone.

No one likes taxes. No one likes to advocate taxes. But no one likes busing, apparently, either.

So what I am trying to do is to say that there has to be another solution other than doing nothing or just sitting there and disparaging the courts.

With some reticence, as I recognize the fine record of the distinguished Senator from Maine and the majority of the members of the committee—both Republicans and Democrats, I must ask for a vote on this amendment, as I have asked for it, because if no one else will show any guts around here, at least let the Senate vote on it in some form.

We should not follow the usual course of advocating more money and then going back to our constituents to say, "We did the job as a matter of principle." Rather we should be able to say "Now we advocated more money but I also advocated the taxes in order to raise the money to pay for it." I think, with all due respect to the distinguished Senator from Maine and the committee, I should like to allow this amendment to go to a vote.

The PRESIDING OFFICER (Mr. BARTLETT). Who yields time?

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

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

The PRESIDING OFFICER. All time on this amendment has now been yielded back. The vote will follow the Scott amendment after 4:15 p.m. today.

The bill is open to further amendment.

Mr. HATHAWAY. Mr. President, I suggest the absence of a quorum with both sides to share equally on the bill.

The PRESIDING OFFICER. On whose time?

Mr. HATHAWAY. Both sides to share equally on the bill.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HATHAWAY. 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. HATHAWAY. Mr. President, I ask unanimous consent that I may call up an amendment at this time.

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

The amendment will be stated.

The assistant legislative clerk read as follows:

On page 271, line 5, strike out "16" and insert in lieu thereof "17";

On page 271, line 8, strike out "16" and insert in lieu thereof "17".

Mr. HATHAWAY. Mr. President, this is a perfecting amendment which I have discussed with the chairman of the subcommittee and the ranking minority member. I do not believe there is any controversy with respect to it.

Mr. JAVITS. Mr. President, what is this all about?

Mr. HATHAWAY. I understood that the staff had communicated to the Senator from New York what the purpose of this amendment is. If that is not true, I will go through the explanation.

Section 407 establishes an Office of Career Education within the U.S. Office of Education whose purpose it is to develop programs of career education across the country so that every child or youth may, by the time he or she leaves the formal education system, be prepared to fully participate in the society in which he or she is to live and work.

The purpose of this amendment is to effect a technical change upgrading the Director of the Office of Career Education from a GS–16 to a GS–17 as is consistent with the intent of the committee. You will notice in our report that, because career education cuts across all ages, all levels, and all areas of education, the Director is to report only to the Commissioner of Education and not to or through any other unit head of the Office. Moreover, as the report indicates, this position was to be comparable with other such offices reporting directly to the Commissioner, such as the Director of Teacher Corps or the right to read program—positions already established at grade 17 of the general schedule. Further, the position is comparable to the Director of the Office of Consumer Education, also created under title IV, the Special Projects Act, of this bill.

Finally, I should like to say that we expect the Director of this Office to be a national leader in this new field of education and to be able to deal competently with and to work collaboratively with leaders of elementary and secondary education, the State departments of education, community and junior colleges, 4-year institutions of higher education, the graduate and professional schools, business and industry, labor, and community groups as well. To attract a man of such high ability and stature, I feel that it is most necessary that he be installed at least at this grade level. In conclusion, I should point out that the official currently in charge of the limited career education programs now underway at USOE is already installed at the proposed level.

I hope that my colleagues will accept this amendment as one which will strengthen our efforts to bring this important reform to American education.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, I gather that the purpose of this amendment is to upgrade certain positions in the Office of Career Education. The administration objects to the entire provision for specifying grade levels, and putting a director in charge of this office.

There is a pending amendment by the ranking minority member of the subcommittee to strike out the whole sentence. I feel that I would have to contest the Hathaway amendment now before us unless it were agreed—and I ask that as a parliamentary inquiry—that notwithstanding the amendment, an amendment would be in order to strike the whole sentence, which I understand that one or more of our Members may desire to do. I am not sure, but I want to be sure that his rights are preserved.

Mr. HATHAWAY. I have no objection to that. I understand that the Senator from Colorado is going to make a motion to strike not only this section but many other sections as well.

The PRESIDING OFFICER. If the amendment proposed by the Senator

from Maine amends just a part of that sentence, a motion to strike the whole sentence would be in order.

Mr. JAVITS. I have no objection to the amendment, for that reason.

Mr. HATHAWAY. I thank the Senator from New York.

Mr. PELL. Mr. President, to my mind, this is a pro forma amendment making the pay of the Director of the Office of Career Education equal to that of people in similar offices of the Office of Education. I urge that the amendment be accepted.

The PRESIDING OFFICER. Is all time yielded back?

Mr. HATHAWAY. I yield back the remainder of my time.

Mr. DOMINICK. Mr. President, I wonder whether I could have a few minutes.

Mr. JAVITS. I yield to the Senator.

Mr. DOMINICK. I say to the Senator from Maine that one of the amendments I have would strike this out totally, and I agreed not to bring up that amendment by virtue of the acceptance of the consolidation amendment. So I am in somewhat of a bind.

I think the Senator from Maine is making a mistake, on the ground that we are creating another bureaucracy here which is probably not needed at all. If we start trying to organize the HEW—which I think is unorganized, anyhow—we are really going to get ourselves in trouble.

One of the big objections the administration has had from the very beginning has been the creation of all the bureaucracies within this bill. Although, unfortunately, I was not in the Chamber when the Senator from Maine presented his amendment, I gathered that it would raise the level to GS–17 instead of GS–16, which means that it would be even higher in the bureaucracy than it would have been to begin with. So, as a matter of principle, I find myself in a difficult spot, because otherwise I would be substituting my amendment to try to knock out the whole thing.

Mr. HATHAWAY. I say to the Senator from Colorado that the bill already specifies that this Director would be a GS–16. This was an inadvertence on my part in the committee for not specifying GS–17, because the others to which the Senator from Colorado has objection are all at level GS–17. This amendment simply corrects that oversight in the subcommittee and the full committee. The Director of the Teacher Corps, the Director of the right to read program, the Director of the Office of Consumer, Education—all are at grade level GS–17. I understand that the Senator from Colorado objects to all of them, but this is just to put the Director of this program at the same level as the others. They may all be knocked out by the amendment of the Senator from Colorado; but if they are going to be knocked out, I want mine at the same level as the others that are knocked out. If they are going to survive, I want mine at the same level.

Mr. DOMINICK. Am I correct in saying that the Senator from Maine is just putting this on the same level as the others in the bureaucracy?

Mr. HATHAWAY. That is correct.

Mr. DOMINICK. Reserving my right, so far as the conference is concerned, to still urge the House to maintain its position, I have no objection to the Senator's amendment.

Mr. HATHAWAY. I thank the Senator from Colorado.

The PRESIDING OFFICER. Is all time yielded back?

Mr. JAVITS. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

The amendment was agreed to.

The bill is open to further amendment.

Mr. JAVITS. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum, without the time being charged.

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

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. MONDALE. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. MONDALE. 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 154, between lines 18 and 19, insert the following new part:

"(5) Notwithstanding any other provision of this Act—

"(A) the dollar amount for the computation of the maximum amount of a special incentive grant under part B of such title I shall be $1 except as provided in clause (E) of this paragraph;

"(B) the aggregate amounts to which States are entitled under that part for any fiscal year shall not exceed $50,000,000 without regard to any other authorization for such part;

"(C) entitlements created under that part shall be considered only with respect to appropriations for such title I in excess of $1,396,975,000;

"(D) for the purposes of section 144 of such title I entitlements created under part B of such title I shall be treated in the same manner as entitlements under subpart 1 of part A of such title for the second sentence of such section 144, but only to the extent that appropriations for any fiscal year exceed $1,396,975,000; and

"(E) (1) in addition to the amount provided for in clause (A), an additional amount of 50 cents shall be computed under such part B; and

"(2) The aggregate amounts to which States are entitled under that part for any fiscal year, in addition to amount specified in clause (B) of this paragraph, shall not exceed $25,000,000; and

"(3) for the purpose of this clause there are authorized to be appropriated not to exceed $25,000,000 for the fiscal year ending June 30, 1974, and each of the four succeeding fiscal years."

On page 120, in the Table of Contents, add after item 101(a)(4), the following:

"(5) Amendment with respect to incentive grants.".

Mr. MONDALE. Mr. President, this is the amendment which I have discussed with the distinguished manager of the bill, the Senator from Rhode Island (Mr. PELL), the Senator from New York (Mr. JAVITS), the Senator from Colorado (Mr. DOMINICK), and the Senator from Arkansas (Mr. MCCLELLAN).

TITLE I PART B

This is a simple amendment. It would simply restore part B of title I to the status it has in present law, while retaining the additional authority authorized in the part B amendment offered by Senator DOMINICK and agreed to by the Senate last week.

Mr. President, part B is a small but very important part of our title I effort. It provides special incentive grants to States which make high efforts in support of public education.

States which exceed the national effort index—presently 4.07 percent—in financing public education are eligible for special incentive grants. The national effort index is determined by the ratio of non-Federal expenditures for elementary and secondary education to total personal income in the United States. For each 100th of a percent by which a State surpasses the national effort, it may receive a maximum of $1 per eligible title I student. No State may receive a special incentive grant in excess of 15 percent of the total amount available for grants under part B. In fiscal year 1973, special incentive grants totaling $18,014,274 were made to States.

During the 3 years part B has been funded, 28 different States have received grants. In 1972, 22 States received a total of $7.3 million under this program; in 1973, 21 States received $18 million; in 1974, 26 States received $17.9 million.

The distinguished Senator from Colorado (Mr. DOMINICK), has been a forceful and creative leader on behalf of part B of title I for many years, and I am pleased that he is the joint sponsor of this amendment.

Senator DOMINICK sponsored an amendment in committee this year, which was adopted, increasing the repayment rate from $1 to $1.50 per each 100th of a percent by which a State's effort exceeds the national effort. Last week he amended the McClellan amendment to title I, which originally deleted part B entirely, to provide a separate line item authorization of $75 million for this program.

My only purpose in offering this amendment today is to assure part B the automatic appropriation status at the $1 rate and $50 million authorization it has under current law. My amendment would also maintain the more generous and realistic payment rate the Senator from Colorado has fought for throughout consideration of this bill, by retaining a separate line item appropriation each year at the rate of 50 cents with a separate authorization of $25 million.

Mr. President, what this does is to build on the Dominick amendment. For many years, the Senator from Colorado (Mr. DOMINICK) has been leading the fight to reward States which make efforts above the national average from their own State and local resources, the idea being when such a State goes out of the way to make such an effort they should receive some reward for doing so.

Early in the deliberations on this bill, the Senator from Colorado successfully had adopted an amendment for $75 million in authority under his formula, which would require an appropriation, and he did so because the part B formula was knocked out as a result of the adoption of the McClellan amendment.

My amendment would restore the old part B formula and then continue that part of the Dominick amendment needed to get up to the $1.50 per title I student in those States authorized under the Dominick formula, for incentive grants.

Since such a modest amount is involved I hope that the committee might accept the amendment.

Mr. PELL. Mr. President, am I correct in saying that the Senator from Arkansas (Mr. MCCLELLAN) has accepted it?

Mr. MONDALE. I have discussed it with the Senator from Arkansas (Mr. MCCLELLAN) in light of the fact that it affects his amendment, and he said he has no objection to the amendment, and I am authorized to make that representation to my colleagues.

Mr. PELL. What is the view of the Senator from Colorado?

Mr. DOMINICK. Mr. President, I wish to clarify the RECORD. I appreciate the comments made by the Senator from Minnesota. If this amendment is adopted, am I correct in saying that each State will have at least as much taken off the top as they had last year?

Mr. MONDALE. The Senator is correct, provided a State's effort index remains the same in relation to the national effort index.

Mr. DOMINICK And in addition, the Senator is keeping the additional 50 cents reflecting inflation in the authorization level so that if the Committee on Appropriations sees fit they can also refund that 50 cents?

Mr. MONDALE. The Senator is correct. In that way we retain the Dominick initiative and the ability to fund the remainder.

Mr. DOMINICK. I thank the Senator. I think that this is a good amendment and I am happy to go along with him on this change in the proposal I originally introduced.

Mr. JAVITS. Mr. President, there had been heretofore maintained in this bill a complete balance between part B and part C. They both came off the top. Now, the Senator is changing that with respect to part B; that is, the incentive for high expenditures on education by the States. He is not changing it with respect to part C. Obviously, he cannot because he probably cannot get the agreement of the chairman of the Committee on Appropriations for that purpose.

In conference there will be a strong push to put both amendments on the same level because this is a matter open to conference with the other body, and that would result in some change different from the situation now in respect to part C. I have little doubt that an effort will be made to conform B and C. I wanted to notify the mover of the amendment as to that. I have no objection to the amendment, per se.

Mr. MONDALE. I thank the Senator.

The PRESIDING OFFICER. Is all time yielded back?

Mr. MONDALE. I yield back my time.

Mr. PELL. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is agreeing to the amendment.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum, without the time being charged to either side.

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

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. MONDALE. Mr. President, I ask unanimous consent that Nancy Polisky be granted privileges of the floor during the consideration of the bill.

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

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

The PRESIDING OFFICER. Does the Senator ask unanimous consent that the time be equally distributed?

Mr. MONDALE. I ask unanimous consent that the time be equally divided.

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

The clerk will call the roll.

Mr. EAGLETON. 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. EAGLETON. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The amendment of the Senator from Missouri will be stated.

The assistant legislative clerk proceeded to read the amendment.

The amendment is as follows:

On page 378, following line 14, insert the following new subsection:

"(c)(1) The Office shall be headed by a Director who shall be placed in grade 17 of the General Schedule set forth in section 5332 of title 5, United States Code.

"(2) In addition to the position created by subparagraph (1), there are created for the purpose of assisting in carrying out the provisions of this section, three positions to be placed in grade 16 of such General Schedule.

"(3) The positions created by this subsection shall be in addition to the number of positions placed in the appropriate grade under section 5108 of title 5, United States Code.

Mr. EAGLETON. Mr. President, section 706 of title VII of the bill establishes in the Office of Education an Office of Reading Improvement to administer this newly authorized reading improvement program and to coordinate all other Federal education programs relating to the teaching of reading.

The amendment which I now offer specifies that the Office shall be headed by a Director compensated at the level of GS–17. In addition, the Office is authorized to have three positions at the GS–16 level, in addition to those already assigned to the Office of Education.

The Right to Read Office, which will be superseded by this new Office, is now head by a Director at the GS–17 level. We are not upgrading the positions, merely insuring the continuation of the status of the Office.

Although I am reluctant, as has been the committee in the past, to legislate organizational structure of the Office of Education, I believe that it is necessary in this instance to assure that the reading improvement program has the necessary top level leadership and sufficient staff to coordinate the Federal reading commitment. Establishing the structure in the legislation will prevent personnel freezes and other changes in hiring practices from eroding the importance of this new office.

Mr. President, I am hopeful that the Senate will accept this amendment, which is cosponsored by the Senator from Maryland (Mr. BEALL) in addition to myself, he being the sponsor of the other reading legislation considered by the committee.

Mr. PELL. Mr. President, I think there is a great deal of merit in keeping the rank of the top man here at the present grade.

I am a little concerned with the provision of paragraph (2), providing that there shall be three positions at grade 16 below him. I think that we are really getting into the nitty-gritty, which could lead to specifying that there shall be so many typewriters. I would hope we would give favorable consideration to the other portion of the amendment, but not have paragraph (2).

Mr. EAGLETON. Mr. President, I ask unanimous consent that subsection (2) be deleted from the amendment.

The PRESIDING OFFICER. The Senator has a right to modify his amendment. The amendment is so modified.

Mr. PELL. Mr. President, with that modification, I would recommend to my colleagues on the minority side that it be accepted.

Mr. DOMINICK. Mr. President, I may suggest to the Senator from Missouri that, as one who has been interested in the right to read and the principal cosponsor of it, I can understand what he is trying to do. He does the same thing, as I understand it, as what we just did a few minutes ago. We raised the level of the Director of Career Education from 16 to 17.

Personally, I do not think we ought to be messing around with the bureaucracy at all, trying to tell them how to run their lives. However, I will not object, because I told the chairman of the committee I would not as long as the consolidation amendment went through. So I will not

object, but I still think we are making a mistake in trying to organize the HEW, which as I said before is not organizable to begin with.

Mr. EAGLETON. I thank the Senator from Colorado. I share somewhat his reluctance to do it by legislation, but I thought it was necessary, to prevent the downgrading of this office, to merely continue the same grade, which is 17.

Mr. JAVITS. Mr. President, in view of the fact that that office is provided for and in view of what we did with the other office in the amendment of the Senator from Maine (Mr. HATHAWAY), I cannot see how we could do less on this one, and I do not object.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. PELL. Mr. President, I yield back my time.

Mr. EAGLETON. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment of the Senator from Missouri, as modified.

The amendment, as modified, was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. EAGLETON. Mr. President, we have heard a great deal from officials of the Office of Education about "accountability." By that they mean the need to assure that education programs are responsive to the people they are intended to serve. If the term "accountability" is taken to mean the necessity for the Office of Education to be responsive to the Congress which authorizes its activities and appropriates the funds necessary to conduct them, however, it is all too clear that the Office of Education has never heard the word "accountability" and does not comprehend its meaning.

The status of the library and related programs of the Office of Education is a prime example. The school library program is a case in point. Beginning in fiscal year 1975, the administration has proposed what it calls "consolidated education grants," which would include a "support services priority." Under the so-called support services priority, the administration claims—

> School officials would have greater flexibility in allocating Federal funds to those services which need to be strengthened—whether this be the school library, the audio-visual program, or the assistance of curriculum specialists from the State Department of Education.

S. 1539 provides for three types of consolidation, rather than just one as proposed by the administration. But without waiting to see how Congress approaches the subject of consolidation, the Office of Education has gone ahead and planned to decimate the staffing of its Division of Library programs. USOE plans for fiscal year 1975 include elimination of the entire staff now carrying out the school library program. The 1975 budget states that the proposed consolidation "would provide for continuation of activities currently provided under the programs proposed for consolidation" including ESEA title II, the school library program. Yet at the same time, the fiscal year 1975 budget calls for elimination of all the title II staff. "Continuation of activities" in the area of school library programs is imposible, I submit, if all the staff responsible for administering these activities is summarily eliminated.

The other library programs, too, would be severely curtailed by the staffing plans of the Office of Education. The public library construction staff is to be eliminated, as are over a third of the staff administering the college library resources, training, and demonstration programs authorized by title II of the Higher Education Act.

This apparent lack of understanding as to the importance of the library unit in the U.S. Office of Education is incomprehensible to me, but it has a history that goes back several years. On January 7, 1972, Dr. S. P. Marland, Jr., who was then Commissioner of Education, wrote to me outlining what he called his efforts "to strengthen the visibility and importance of libraries and educational technology activities within the Office of Education." I ask that his letter be made a part of the RECORD at this point in my remarks.

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

EXHIBIT A

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
OFFICE OF EDUCATION,
Washington, D.C., January 7, 1972.

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

DEAR SENATOR EAGLETON: This will report on progress of our efforts to strengthen the visibility and importance of libraries and educational technology activities within the Office of Education. Since our discussion on November 19, I have sought the views of representatives of the library and educational technology communities. As a result, we have made additional program modifications which are responsive to concerns expressed by some of the affected groups.

We now plan to establish a new Bureau of Libraries and Learning Resources which will have the capacity to work effectively in the following three major areas:

COMMUNITY LIBRARY AND INFORMATION SERVICES

The Bureau will focus on improving the availability of information and learning materials to communities in order to enhance the educational opportunities of residents, assist in solution of community problems, and further life-long learning. Major emphasis will be placed on new uses of print and non-print materials and utilization of media in providing services. The library programs authorized by the Library Services and Construction Act and library demonstrations funded under the Cooperative Research Act will be assigned to the Bureau to support this initiative.

SCHOOL LEARNING RESOURCES

The Bureau will strengthen the use of print and nonprint materials and media, and the use of instructional resources in elementary, secondary, and post-secondary schools. To carry out this mission, it will administer the School Library Resources program, Title II of the Elementary and Secondary Education Act and the instructional equipment program authorized under Title III of the National Defense Education Act. The Bureau will also have responsibility for parallel library resources and instructional equipment programs for higher education authorized under Title II and Title VI of the Higher Education Act. These programs are all complementary.

LIBRARY AND MEDIA PERSONNEL DEVELOPMENT

The Bureau will strengthen the capability of library and media personnel in applying and using media and resource materials in learning environments of various kinds. Although the new National Center for Educational Technology will have primary responsibility for technology training, the new Bureau will participate in one aspect of the program: training of media specialist professionals for libraries and instructional resource centers. The librarian training program funded under Title II–B of the Higher Education Act and funds from the Education Professions Development Act will support the Bureau's personnel development.

We believe the establishment of the Bureau will provide a new national focus for libraries and learning resources in the educational process. It will concentrate authority and financial responsibility for libraries and learning resources of all kinds previously scattered throughout the Office of Education. The transfer of ESEA Title II and NDEA Title III programs from the Deputy Commissioner for School Systems to the new Bureau under the Deputy Commissioner for Higher Education will not alter these programs either in terms of staffing or their existing relationships with state departments of education.

The telecommunications and instructional television programming functions of the present Bureau of Libraries and Educational Technology are scheduled for transfer to the Deputy Commissioner for Development to form the nucleus of a new National Center for Educational Technology. This new center will focus on broad initiatives in technology and how new technologies can be applied to achieving educational renewal and reform. The Center will administer the ETV facilities program as well as the Sesame Street and Electric Company programs, and the bulk of media specialist training under EPDA. The National Center and the Bureau of Libraries and Learning Resources will coordinate on programs of mutual interest.

In conclusion, I am convinced that these steps will strengthen our capacity for new leadership in expanding the uses and benefits of libraries and educational technology. I believe from discussions with constituency representatives that these plans amply meet the concerns they had expressed earlier. We are grateful to you for the constructive role you played in encouraging this accommodation, which we now intend to implement.

Sincerely,

S. P. MARLAND, Jr.,
U.S. Commissioner of Education.

Mr. EAGLETON. Mr. President, what Commissioner Marland promised was indeed done—and then it was undone by his successor, Dr. John R. Ottina. Accordingly, on September 28, 1973, a letter was addressed to the then Commissioner of Education by me and my colleagues, Messrs. PELL, WILLIAMS, RANDOLPH, KENNEDY, MONDALE, CRANSTON, HATHAWAY, and STAFFORD. We wrote to express our concern at hearing reports that the Bureau of Librarians and Learning Resources was to be dismantled by the Office of Education and reduced to the lesser level of a division and made subordinate to the higher education activities of the Office of Education notwithstanding its responsibilities for elementary and secondary education and for public and other libraries as well as those in institutions of higher education.

In that letter, Mr. President, we nine Senators of both parties asked that no action be taken until "complete information on its implications has been devel-

oped and provided to Congress and to affected parties." I ask that our letter be included in my remarks at this point.

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

U.S. SENATE,
Washington, D.C., September 28, 1973.

Hon. JOHN R. OTTINA,
Commissioner, U.S. Office of Education, Washington, D.C.

DEAR MR. COMMISSIONER: It has been brought to our attention that the Office of Education intends to dismantle the Bureau of Libraries and Learning Resources, and to place the duties formerly performed within the Bureau in a new division of institutional support under higher education.

We are deeply concerned to learn that the Office of Education is considering terminating the Bureau. We believe it is vital to retain a separate structure to insure the efficient administration of the program now within the Bureau.

We are further concerned that the Office of Education has not provided the Congress with a comprehensive analysis of the pros and cons of retaining the Bureau as it exists, and of the specific reasons for the proposal to terminate it.

Any decision on the future of the Bureau should be made only after complete information on its implications has been developed and provided to Congress and to affected parties.

We thank you for your serious consideration of these points and urge that you immediately provide Congress with the documentation required to fully understand the implications of the proposed change prior to taking any action.

Very truly yours,

Claiborne Pell, Harrison A. Williams, Jr., Thomas F. Eagleton, Jennings Randolph, Edward M. Kennedy, Walter F. Mondale, Alan Cranston, William D. Hathaway, Robert T. Stafford.

Mr. EAGLETON. Mr. President, no response to this letter was received by me, and as far as I know no other Senator has received the information sought by nine members of the Subcommittee on Education. Now we are advised that the Bureau has been downgraded to a division under the Bureau of Postsecondary Education, and that almost half the staff is to be eliminated in fiscal year 1975.

This administration has repeatedly sought to terminate some of the programs of the Office of Education that aid libraries and to reduce the scope of others. Again and again, Congress has rejected these proposals. Both the authorizing legislation and the appropriations actions have been very clear and specific with respect to these programs. But this has not deterred the Office of Education. Its leadership insists on utterly disregarding the will of Congress and ignoring its administrative duty to comply with the mandates given it by Congress.

Moreover, these actions have been taken in a high handed and discourteous manner. Promises made to Senators by one official are not kept by his successor. The case of the Bureau of Libraries and Learning Resources is perhaps a small example, but it is an all-too-characteristic one, of the flagrant disregard for, and disrespect to, the Congress of the United States by officials who have sworn solemnly to uphold the Constitution and execute the laws.

S. 1539 comes to grips with this problem, Mr. President, by providing statutory authority for the Bureau of Libraries and Learning Resources (title V, section 508 on page 324). In light of this administration's record of dismal disregard if not outright hostility toward the library programs, Congress has no choice but to provide such statutory authority. In closing, I want to reaffirm my wholehearted support for the library programs, and for the statutory authority this bill provides to assure their effective administration so that all Americans will have access to library service of high quality.

I ask unanimous consent that the justification of appropriations estimates for the Committee on Appropriations, fiscal year 1975, be inserted in the RECORD.

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

JUSTIFICATIONS OF APPROPRIATION ESTIMATES FOR COMMITTEE ON APPROPRIATIONS, FISCAL YEAR 1975, U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SALARIES AND EXPENSES—OFFICE OF EDUCATION

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	1974	1975	Increase or decrease
Office of Institutional Development and International Education:			
Division of Library programs:			
Public libraries:			
Services	9	9	
Interlibrary cooperation	2	2	
Construction	2		−2
School libraries	9		−9
College libraries:			
Resources	7	5	−2
Training	5	3	−2
Research	4	2	−2
Undergraduate instructional equipment	2	1	−1
Equipment and minor remodeling	1		−1
Division of International Education:			
International activities	25	25	
Language training and area studies	9	9	
Fulbright-Hays	11	11	
Foreign visitors	4	4	
Ethnic heritage	5	2	−3
Educational activities overseas	4	4	
Total	575	611	+36

The Bureau of Postsecondary Education is responsible for Federally supported postsecondary education programs for both students and institutions and also includes international programs. The fiscal year 1975 request includes a net increase of 36 positions for this bureau, primarily made up of increases for the Basic Opportunity Grants program and decreases for library and facilities programs. The fiscal year 1974 figures for this bureau include 52 positions for the Guaranteed Student Loan program included in the fiscal year 1974 supplemental request, which is discussed in greater detail in the accompanying special analysis.

Major objectives of this bureau include:

Full-funding of the Basic Educational Opportunity Grants program, which will result in funding for the first time support for all four classes. In the previous two years support was limited to first-year full-time and second-year full-time students;

Termination of support for the Incentive Grants and Veterans Cost of Instruction programs;

A phase out of library, Higher Education Facilities, and University Community Services programs;

Increased support for the advanced/developed portion of the Developing Institutions program and continued support for the basic program; and

Increased support for review and operation of the Cooperative Education program.

	1974 base		1975 estimate		Increase or decrease	
	Positions	Amount	Positions	Amount	Positions	Amount
Program administration	3,063	$86,461,000	2,949	$101,484,000	−114	+$15,023,000

NARRATIVE

Program purpose

Authorized under Sec. 400(c) of the General Education Provisions Act, this activity provides for salaries and expenses necessary to enable the Commissioner to carry out the purpose and duties of the Office of Education. The major duties of the Office are to collect statistics showing the condition and progress of education in the United States, to disseminate such information, to aid in the establishment and maintenance of efficient school systems, and otherwise promote the cause of education throughout the country.

Plans for fiscal year 1975

The budget request for program administration for fiscal year 1975, although incorporating a request for an increase of $15,023,000, represents a net decrease of 114 positions. The increase is primarily made up of a charge for rent, $3,953,000 which is included in our budget for the first time this year, a $2,464,000 net increase in ADP to continue improving management of the Guaranteed Student Loan Program, and $9,255,000 to annualize personnel costs for authorized positions funded for only part of FY 1974.

Some 300 fewer positions are needed for categorical programs that are being folded in to the Consolidated Education Grants programs, and about 150 fewer are needed for positions associated with programs for which decreased support is requested. To offset these decreases the Office is requesting that about 350 of the positions be reprogrammed to areas for which increases are requested and to provide technical assistance in the implementation of Grants Consolidation. Detailed descriptions of these changes, follow for each major organization unit. The organizational units are those resulting from a reorganization of the Office of Education completed in fiscal year 1974.

Accomplishments in fiscal year 1974

During 1974 the Office of Education was reorganized to create a more flexible, efficient and effective organization.

The reorganization was prompted by changes occurring in several programs after implementation of the Education Amendments of 1972 and by the need to streamline the Office generally. After the establishment of the Office of Assistant Secretary of Education and the National Institute of Education, several units under the Deputy for External Relations and the Deputy for Development were transferred to those new offices. The legislative creation of the Office of Indian Education, the Bureau of Occupational and Adult Education, the Basic Opportunity Grants Program, and the placement of the Teacher Corps in the immediate Office of the Commissioner further pointed up the need to shift some units, disperse the functions of others, and make the operations of the Office more efficient.

A major effort is proposed in a fiscal year 1974 supplemental request to strengthen and improve the administration of the Guaranteed Student Loan program. The supplemental request to support 250 new positions and related expenses has been included in the fiscal year 1974 column of this budget justification.

OFFICE OF THE COMMISSIONER

	1974	1975	Increase or decrease
Immediate office	25	25	
Right to read	24	26	+2
Teacher Corps	32	32	
Office of Public Affairs	48	48	
Regional liaison staff	7	7	
Total	136	138	+2

In addition to providing central direction of program objectives to maintain coordinated and cohesive management, this Office also includes the Right to Read program, the Teacher Corps and the Office of Public Affairs. With the reorganization of the Office of Education, coordination of the ten regional offices has been transferred to the Office of the Commissioner and will be under the Executive Deputy Commissioner. For fiscal year 1975 an increase of two positions is requested for the Right to Read program, which has as objectives for the coming year:

To eliminate functional illiteracy in the country to the extent that by 1980, nearly all of the population over 16 years old will be functionally literate;

To encourage educational institutions, governmental agencies and private organizations to improve and expand their activities relating to reading; and

To develop an adult literacy television program.

The Office of Public Affairs will support a general program dissemination effort, for which the budget requests $500,000. Planned projects include, among others, a film on changing attitudes about, and new opportunities for women and minorities in the field of education, a series of radio and television spots on student financial aid, and distribution of selected films.

The Teacher Corps will continue at last year's level.

REGIONAL OFFICES

	1974	1975	Increase or decrease
Regional commissioners and staff	158	158	
School systems:			
Office of Director	26	26	
Title I, ESEA program	11		−11
Emergency school assistance and civil rights	147	119	−28
School assistance in federally affected areas	33	33	
Postsecondary education:			
Office of Director	22	25	+3
Higher education facilities	24	21	−3
Basic opportunity grants	49	65	+16
TRIO programs	35	35	
Insured loan program	265	337	+72
Library programs	12	2	−10
Occupational and adult education:			
Office of the Director	21		−21
Vocational education	26		−26
Adult education	15		−15
Development programs	24	24	
Consolidated education programs		28	+28
Total	868	873	+5

Coordination of activities of the ten regional offices is now under the Executive Deputy Commissioner in the Office of the Commissioner. A net increase of five positions is requested for fiscal year 1975. The total decreases requested, 114 positions, correspond to programs proposed for inclusion in the Education Grants consolidation program (Title I of ESEA, School library programs, and Occupational and adult education programs) and to programs for which decreased support is requested. Increases requested are to support technical assistance for Grants Consolidation and to strengthen areas in Postsecondary Education for the Basic Opportunity Grants Program and the insured Loan program. The fiscal year 1975 request for the regional offices anticipates a new consolidated education grant legislative program for Vocational and Adult Education, and reflects a corresponding decrease of 62 positions. In the event that this new legislation is not enacted, positions for 1975 will be requested to support existing legislative authorities for which funds will be requested.

The 1974 positions for the regions include 180 positions requested in the 1974 supplemental request for the Guaranteed Student Loan program.

BUREAU OF POSTSECONDARY EDUCATION

	1974	1975	Increase or decrease
Immediate office	33	38	+5
College and University Unit	6	7	+1
Community College Staff	6	7	+1
Accreditation and Institutional Eligibility Staff	20	23	+3
Consolidated education programs		4	+4
Office of Student Assistance: Immediate office	10	12	+2
Division of Basic Grants: Basic opportunity grants	58	110	+52
Division of Insured Loans:			
Insured loans	134	134	
Student loan insurance fund	25	25	
Reserve fund advances	1	1	
Division of Student Support and Special Programs:			
Supplementary educational opportunity grants and work-study	32	32	
Student loans	26	26	
Loans to institutions	3	3	
Teacher cancellations	2	2	
Talent search	5	5	
Special services in college	5	5	
Upward Bound	4	4	
Educational opportunity centers	5	5	
Incentive grants	6		−6
Veterans cost of instruction	7		−7
Office of Institutional Development and International Education:			
Immediate office	10	12	+2
Division of Institutional Development: Developing institutions	37	40	+3
Division of Training and Facilities:			
State administration and planning	4		−4
Construction (HEFA III)	15	13	−2
Construction (community colleges and technical institutes)	1	1	
Construction (other undergraduates)	2	2	
College teacher fellowships	3	3	
Training programs (EPDA, pt. E)	2	2	
Institute programs (EPDA, pt. E)	1	1	
Land-grant colleges	1		−1
Cooperative education	4	14	+10
University community services	8	3	−5

BUREAU OF SCHOOL SYSTEMS

	1974	1975	Increase or decrease
Immediate office	47	97	+50
Consolidated education programs		58	+58
Office of Equal Educational Opportunities:			
Immediate office	5	4	−1
Division of Program Operations	34	24	−10
Division of Program Development	26	19	−7
Office of Compensatory Educational Programs:			
Immediate office	7	7	
Division of Education for the Disadvantaged:			
Title I	62		−62
Migrant	10		−10
Division of Follow-Through	31	31	
Division of Bilingual Education	40	40	
Office of State and Local Educational Programs: Immediate office	6	6	
Division of Supplementary Centers and Services			
State plans	26		−26
Discretionary grants			
Division of State Assistance (title V)	27		−27
Division of Technology and Environmental Education: Environmental education	4		−4
National Center for Educational Technology:			
Immediate office			
Education broadcasting facilities	21	21	
Emergency school assistance/educational TV			
"Sesame Street" (title III)			
Division of Drug Education—Nutrition and Health Programs:			
Drug education	12		−12
Nutrition and health	6		−6
Division of School Assistance in Federally Affected Areas	54	54	
Office of Programs for the Handicapped:			
Immediate office	30	30	
Division of Innovation and Development	16	16	
Division of Personnel Preparation	31	31	
Division of Educational Services	54	39	−15
Total	549	477	−72

SUPPLEMENTAL FACTSHEET AND SPECIAL ANALYSES

PROGRAM ADMINISTRATION—POSITION INCREASES AND DECREASES, FISCAL YEAR 1975

	1974	1975	Increase or decrease
Decreases from fiscal year 1974 level:			
Categorical programs included in the consolidated education grants program:			Change
Elementary and secondary education:			
Disadvantaged: Educationally deprived children			−83
Handicapped: Grants to States			−15
Support services:			
School library resources			−9
Educational equipment			−1
Strengthening State departments of education			−27
Innovation:			
Supplementary services			−26
Dropout prevention			−4
Nutrition and health			−6
Environmental education			−4
Subtotal, Elementary and Secondary Education			−375
Vocational education			−97
Adult education			−49
Subtotal, consolidated education grants program			−321
Programs phased out or with decreased support:			
Drug-abuse education			[1] −12
Emergency school aid			[2] −60
Education professions development			[2] −26
Incentive grants for State scholarships			[1] −6
Higher education construction			[2] −5
University community services			[1] −5
Aid to land-grant colleges			[1] −1
State postsecondary education commissions			[1] −4
Veterans cost of instruction			[1] −7
Ethnic heritage studies			[1] −3
Library programs			[1] −19
Career education and education professions development support positions			[2] −1
Subtotal, phased out and decreased support positions			−149
Total, decreases			−470

[1] Phased out.

[2] Decreased support.

ORDER FOR ADJOURNMENT TO 9:45 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:45 a.m. tomorrow.

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

ORDER FOR RECOGNITION OF SENATORS TOMORROW

Mr. ROBERT. C. BYRD. Mr. President, later today I will have the names of four Senators who wish to participate in a colloquy tomorrow, so I ask unanimous consent at this time that, following the remarks of Mr. BARTLETT on tomorrow, for which an order has already been entered, there be a 15-minute order for each of four Senators whose names I will announce later today when I have them at hand.

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

ORDER OF BUSINESS

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

Mr. ROBERT C. BYRD. I yield.

Mr. JAVITS. Is the Senator able to tell us what will be on for tomorrow or the rest of the week?

Mr. ROBERT C. BYRD. I am sorry, may I say to the distinguished Senator, I am not able at this point to state that.

Mr. JAVITS. I thank the Senator.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, it appears that all amendments that have been anticipated, with the exception of the Bentsen amendment, have been disposed of.

Under the agreement, Mr. BENTSEN was to have been recognized at any time after 3:30 p.m. today to call up his amendment. It is my further understanding that he is coming in on the plane and will not be here until 3:30 p.m.

I, therefore, respectfully ask unanimous consent that the Senate now stand in recess awaiting the call of the Chair with the understanding that the recess not extend between the hour of 3:30 p.m. today and that the time for the recess be charged equally against both sides on the bill.

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

Thereupon, at 2:44 p.m., the Senate took a recess subject to the call of the Chair.

The Senate reassembled at 3:22 p.m. when called to order by the Presiding Officer (Mr. BARTLETT).

EDUCATION AMENDMENTS OF 1974

The Senate continued with the consideration of the bill (S. 1539) to amend and extend certain acts, relating to elementary and secondary education programs and for other purposes.

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. KENNEDY. 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 368, after line 24, add the following:

"(4) to provide financial assistance to promote literacy among youth and adults."

On page 382, between lines 2 and 3, insert the following new section:

"READING ACADEMIES

"SEC. 711. (a) The Commissioner is authorized to make grants to and to enter into contracts with State and local educational agencies, institutions of higher education, community organizations and other nonprofit organizations, having the capacity to furnish reading assistance and instruction to youths and adults who do not otherwise receive such assistance and instruction.

"(b) Grants made and contracts entered into under this section shall contain provisions to assure that such reading assist and instruction will be provided in appropriate facilities to be known as 'reading academies'.

On page 382, line 4, strike out "Sec. 711" and insert in lieu thereof "Sec. 712".

On page 382, line 10, strike out "Sec. 712." and insert in lieu thereof "Sec. 723.".

On page 383, after line 23, insert the following:

(h) There is authorized to be appropriated to carry out the provisions of section 711, relating to reading academies, $10,000,000 for the fiscal year ending June 30, 1975, $15,000,000 for the fiscal year ending June 30, 1976, $20,000,000 for the fiscal year ending June 30, 1977, and $25,000,000 for the fiscal year ending June 30, 1978.

Mr. KENNEDY. Mr. President, the amendment is offered on behalf of myself and the Senator from Missouri (Mr. EAGLETON) as primary sponsors, as well as Senator WILLIAMS and Senator Moss.

Mr. President, what is the time situation now?

The PRESIDING OFFICER. Ten minutes to a side.

Mr. KENNEDY. Mr. President, at 3:30 do we start with the Bentsen amendment?

The PRESIDING OFFICER. Not before 3:30.

Mr. KENNEDY. Mr. President, I yield myself 15 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, this amendment we offer today simply adds a second front to the attack on illiteracy provided for in this legislation. S. 1539 as reported from the Labor and Public Welfare Committee, now contains the national reading improvement program as title VII, which aims at improving literacy within the schools, while this amendment targets attention on youth, particularly dropouts and adults.

This program was a compromise between bills introduced originally by Senator EAGLETON and myself and by Senators BEALL and DOMINICK. I believe the provisions of title VII represent the first firm evidence of a congressional commitment to insure that the next generation of young people leaving our schools will

be able to read adequately to compete in and contribute to our society.

However, the current bill does not emphasize the need to expand our efforts in promoting literacy among youths and adults. Therefore, I am introducing this amendment for myself, Senator EAGLETON, Senator WILLIAMS, and Senator Moss to provide a new focus for the right to read program on the hundreds of thousands of young people who have dropped out of school without the ability to read and to those adults who have not acquired the basic skills of literacy.

It was estimated by the Office of Education that 90 percent of the 700,000 students who drop out of school annually are classified as poor readers. OE also estimated that more than 50 percent of unemployed youths in urban areas cannot read at all.

These statistics, when added to the knowledge that nearly 19 million adult citizens are either totally or functionally illiterate, represents a sad commentary on our past educational efforts. It also represents a vast reservoir of human resources which has been wasted.

Five years ago, then Commissioner of Education James Allen addressed this challenge in a thoughtful and determined way. He knew what the obstacles were. He knew what resources had to be expended to overcome those obstacles. And he felt that we were capable of mobilizing those resources to end illiteracy in this Nation by 1980.

Five years later, instead of the promise of $200 million a year, this administration actually requested only $1.5 million in fiscal year 1971, $1.75 million in fiscal year 1972, and $12 million in the following 3 fiscal years. Thus, in 5 years, the total resources committed by the administration to the right to read program has been less than $40 million.

If it were not so tragic, the contract between the goal of removing illiteracy by 1980 and the level of expenditures of this administration in pursuit of that goal would be absurd.

The amendment I am proposing would permit the establishment of reading academies across the country in community centers, churches, libraries, union halls, industrial plants, and other facilities designed to attract young people and adults not being served by traditional educational institutions.

Not only would these academies be designed to provide a setting for instruction for these individuals, but it would provide a central point for the training of volunteer tutors to carry the program forward.

It is my understanding the VISTA already is in contact with the right to read office indicating its desire, once the academies are in operation, to have VISTA volunteers participate in the effort to promote literacy. Also, the AFL–CIO has indicated a willingness to explore ways in which its members can participate in this campaign as well.

I believe this amendment not only is compatible with the national reading improvement program as reported by the committee, but it complements that effort in a way that improves our chances of reaching the goal of promoting full literacy in America.

There is $10 million authorized for fiscal year 1975, $15 million for fiscal year 1976, $20 million for fiscal year 1977, and $25 million for fiscal year 1978.

Mr. President, I have had a chance to review this matter with the chairman of the committee, as well as the Senator from Colorado (Mr. DOMINICK). I think he is familiar with it and has been extremely interested in the program, as has the Senator from Maryland (Mr. BEALL), and I hope it will be accepted.

Mr. PELL. Mr. President, I have great respect for the proposer of the amendment. The proposal has a broad range of support.

My enthusiasm is with respect to another $60 million in the bill is not so great. However, we recommend it be added to the measure and we hope our colleagues will agree to it.

Mr. EAGLETON. Mr. President, I am very pleased to join with Senator KENNEDY in offering this amendment to the national reading improvement program title of the bill.

Although the legislation focuses on the early elementary grades, aiming at a preventive rather than a remedial approach, there is certainly a great need to assist young people and adults who have reading deficiencies. The facts presented during the hearings of the Education Subcommittee on reading programs were startling; for instance, 90 percent of the annual 700,000 elementary and secondary school dropouts are classified as poor readers; a Harris poll reported that 11 million Americans cannot read well enough to obtain a driver's license; and the U.S. Office of Education estimates that some 18½ million adults are functional illiterates.

I believe adoption of this amendment will provide the necessary incentive to the public and private sector as well to establish reading and literacy programs.

The Right to Read Office has heartily endorsed this concept, and is now working with a number of large corporations to set up academies for their employees. Xerox has instituted such an academy, and I understand that it is very successful. This amendment will allow other segments of the society to participate in a similar program to make a concerted effort to eliminate illiteracy in the country.

Mr. KENNEDY. Mr. President, I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Rhode Island yield back his time?

Mr. PELL. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 1312

Mr. BENTSEN. Mr. President, I call up my amendment No. 1312 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. BENTSEN. 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 358, between lines 22 and 23, insert the following new section:

"EQUALIZATION INCENTIVE GRANTS TO STATES

"SEC. 535. (a) The Congress finds that the Federal Government has an obligation to provide incentives for each State to assist them in equalizing the resources available within that State so that an opportunity to obtain an education appropriate to individual need will be available to all children regardless of their place of residence within the State. It is, therefore, the purpose of this section to provide financial assistance in the form of incentives to the States to encourage them to equalize educational opportunity.

"(b) The Commissioner is authorized to make grants to States in accordance with the provisions of this section. Incentive grants received under his section may be used to improve the quality of elementary and secondary education among the local educational agencies within each State, in such areas as the State deems vital.

"(c)(1) A State is eligible to receive a grant under this section only if the State educational agency provides assurance that—

"(A) the quality of education provided to a child within that State is not the result of the wealth of the school district of the local educational agency in which the child attends schools, but reflects the wealth of the State as a whole;

"(B) amounts commensurate with their needs are expended on children with greater educational needs, including, but not limited to, educationally disadvantaged, gifted, talented, handicapped, and vocational education students; and

"(C) amounts commensurate with the education costs are expended in local educational agencies within the State with greater costs, including costs attributable to sparsity of population, high density of population, and high living costs.

"(2) The Commissioner is authorized to establish general guidelines for defining the principles set forth in clauses (A), (B), and (C) of section 534 (a)(1) and in this subsection. No guidelines established under this paragraph shall be based upon a formula requiring a mathematical equality of educational expenditures among school districts.

"(d) Any State desiring to receive a grant under this section shall submit an application to the Commissioner at such time in such manner, and accompanied by such information as the Commissioner may reasonably require. Each such application shall—

"(1)(A) describe the State equalization program that meets the requirements of subsection (c);

"(B) describe, in the case of a State equalization program already in effect, a description of that program which meets the requirements of subsection (c);

"(2) provide assurances that the State will make substantial progress to carry out the State equalization program;

"(3) provide for making periodic reports to the Commissioner evaluating the effectiveness of the State equalization program assisted under this section and such other reports as the Commissioner may reasonably require to perform his functions under this section.

"(e) The Commissioner shall approve an application which—

"(1) meets the requirements of subsection (d), and

"(2) contains provisions that demonstrate that the State does not equalize by removing existing funds from wealthy educational agencies within that State in order to carry out its State equalization program.

The Commissioner shall not finally disapprove an application of a State except after reasonable notice and opportunity for a hearing to a State.

"(f) Whenever the Commissioner, after reasonable notice and opportunity for a hearing to any State, finds that there is a failure to meet the requirements of this section, the Commissioner shall notify the State until he is satisfied that the requirements that further payment will not be made to the State until he is satisfied that the requirements have been met.

"(g) Unless inconsistent with the purposes of this section, the General Education Provisions Act shall apply to the equalization incentive grant program authorized by this section.

"(h)(1) There are authorized to be appropriated to carry out the provisions of this section $50,000,000 for the fiscal year ending June 30, 1976, $75,000,000 for the fiscal year ending June 30, 1977, and $100,000,000 for the fiscal year ending June 30, 1978.

"(2) No State may receive more than 10 per centum of the funds available for making grants under this section for any fiscal year. Funds appropriated to carry out the provisions of this section shall remain available for the succeeding fiscal year after the year in which they were appropriated."

On page 358, line 24, strike out "SEC. 535." and insert in lieu thereof "SEC. 536.".

On page 123, in the Table of Contents, redesignate item "Sec. 535." as "Sec. 536." and insert immediately after item "Sec. 534." the following:

"Sec. 535. Equalization incentive grants to States.".

Mr. BENTSEN. Mr. President, I ask unanimous consent that my staff member, Ron Katz, may be granted the privilege of the floor.

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

Mr. BENTSEN. Mr. President, I send a modification of the amendment to the desk and I ask unanimous consent that further reading of the modification of the amendment be dispensed with.

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

The amendment, as modified, is as follows:

Intended to be proposed by Mr. BENTSEN as a modification of his amendment No. 1312 to S. 1539, a bill to amend and extend certain Acts relating to elementary and secondary education programs, and for other purposes, viz:

On page 4, delete the dash following the word "which" on line 4, delete the quotation marks on line 5 and the number "(1)" on line 5. Beginning with the word "meets" on line 5, insert the rest of that sentence up through the letter "(d)" to follow the word "which" on line 4.

On page 4, delete the word "and" on line 6 and further delete all of lines 7 through 10.

Mr. BENTSEN. Mr. President, the reason for the modification is that the administration has objected to my amendment on the grounds that it would prohibit States that want to redistribute funds from wealthier school districts to some of the poorer ones in trying to achieve equal educational opportunity.

I think they have made a good point so I have modified my amendment so that there is more flexibility for the States. I understand now there are about 4 States using that procedure and some 10 States locked up in court cases where it may be that some of the wealthier school districts will later have to carry the burden of the poorer school districts.

Mr. President, the amendment at the desk would establish a program to provide incentive grants to the States which adopt statewide plans to equalize educational opportunity by increasing aid to poorer school districts.

The problems of school finance have occupied educators and the courts for several years now, and they culimated in a Supreme Court opinion that affected my own State of Texas. In San Antonio School District against Rodriquez, the Supreme Court, on a narrow 5-to-4 vote, ruled that inequalities in educational support among school districts in San Antonio did not constitute a violation of the equal protection clause in the Constitution.

However, Mr. Justice Stewart, in concurring, noted that our present method of financing public education within the States are "chaotic and unjust". The Rodriquez decision by no means stilled the debate on school finance, and some State courts have ruled that the tax system with their States is a violation of either State or Federal constitutional principles.

Despite the Rodriquez decision, several States have undertaken plans to overhaul their plans for providing aid to schools in order to bring more fairness in the distribution of State funds. These States include, among others, California, Colorado, Florida, Illinois, Kansas, Maine, Michigan, Minnesota, Montana, North Dakota, Utah, and Wisconsin. Some States have moved in recognition that there is an inherent unfairness to poor school districts when the variations in taxing abilities of individual school districts within a State have ranged as high as 84 to 1 in Texas, 52 to 1 in Louisiana, and 30 to 1 in Michigan.

This year's Elementary and Secondary Education Act takes note of the public policy decision of many States to move toward an equalization of school district expenditures. Section 534 of the bill provides up to $1 million per State in planning funds to assist States in developing a plan which works in the direction of greater equity in school financing. My amendment, in a new section following this one, is a logical next step in that it provides incentives for States which establish and maintain plans to equalize educational opportunity through State plans to finance education more equitably.

It should be clear, Mr. President, that my amendment does not mandate equalization plans. It is not punitive. It does not compel States to participate. However, it offers incentives to and rewards those States which move to adopt statewide plans for school financing, which adopt general criteria assuring that State wealth, not local school district wealth, will determine educational quality; that children with greater educational needs, such as the handicapped, receive funds commensurate with their needs; that take into account the higher costs of educating children in areas with higher living costs and other factors contributing to increased educational expenditures.

The amendment purposefully does not require a mathematical equality of spending for education among school districts. That would be counterproductive, since many State equalization plans do not provide for such a procedure. In fact, some plans use a so-called "foundation" approach, in which a State merely guarantees a certain level of per pupil expenditure among school districts, but leaves the districts free above that level to provide for themselves.

The aim of this amendment, then, is not to compel equal spending, but to move the States in a direction in which they adopt statewide policies to insure that make substantial progress toward a more equitable distribution of funds.

It would have been possible to draw the amendment with very precise language detailing the need for mathematical equality in spending and compelling the States to comply, but even the committee recognized the difficulty of such a task. Not only would such an amendment run counter to the Rodriquez decision, it would nullify the efforts of several States, which, by a variety of methods, have sought to upgrade their financial aid plans to provide greater equity in funding.

No single plan for equalization need be the only model a State can follow. In a field as complicated as this one, variety of efforts should be welcomed.

The amendment provides no funds until fiscal 1976, to give the States more time to develop their plans. In fiscal 1976, $50 million would be authorized, in fiscal 1977, $75 million; in fiscal 1978, $100 million. No State could receive more than 10 percent of the funds in a given fiscal year.

I believe this amendment can provide a change in policy direction and a recognition by the Federal Government that there are glaring inequities in school finance that must be corrected.

I hope that the managers of the bill will accept this amendment and carry it to the conference.

I hope the managers of the bill will accept this amendment as it has been modified and carry it to conference. I withhold the remainder of my time.

Mr. President, I believe that the amendment of the Senator from Texas has some merit and should be adopted.

The field of equalization of State expenditures for education, so that a child's education is not dependent on the wealth of the school district in which he lives, is a highly complex one. The Subcommittee on Education heard testimony on the subject of equalization, and witnesses differed as to the best means of achieving what all agreed was a desired result.

For this reason, the committee decided against including any wide-scale equalization program in S. 1539. Instead, up

to $1 million per State is authorized by the committee bill, to assist States in drawing up plans to equalize their expenditures according to their individual situations.

The Senator's amendment proposes an incentive for the States to take the next step and implement such plans. The administration has expressed concern that the amendment's requirement that funds for poorer districts not be taken from wealthier districts would require States to assume a greater role in education funding, which some States are reluctant to do. This may be true. However, as I understand the Senator's amendment, it is an incentive to equalize, not a punishment for those that choose alternative routes of school finance.

The Senator's amendment adds $225 million to the total cost of the bill. I am highly reluctant to increase the cost of the bill by such a substantial amount. However, I feel that the principle of equalization is important, and for that reason I would support the amendment.

I ask unanimous consent to insert in the RECORD at this point a discussion of the equalization in the in the impacted areas program provision contained in the committee bill.

EXPLANATION OF SECTION 5(D) OF PUBLIC LAW 874, 81ST CONGRESS

Mr. President, I have received an inquiry from Joe W. Fleming, Esq., concerning the meaning of a certain phraseology in the proposed section 5(d) of Public Law 874, 81st Congress, in S. 1539. By way of explanation, I would say that existing law, section 5(d)(2) of such Public Law 874, 81st Congress, prohibits Public Law 874 payments to any local educational agency in any State which takes such payments into consideration in its program of State aid for free public education or which distributes State aid money in such a manner that any local educational agency receives less money in State aid than it would receive were such local educational agency not receiving Public Law 874 payments.

This language was adopted in 1968 to prevent the States from substituting Federal funds for State funds in State aid programs.

In recent years States have been adopting State programs of aid for free public education which are designed to achieve equalized expenditures among local educational agencies. The prohibition in section 5(d)(2) of Public Law 874, 81st Congress, has, in some instances, resulted in windfalls for local educational agencies receiving Public Law 874 payments. For this reason the committee is recommending a very narrow exception to the existing rule under such section 5(d)(2). Under that recommendation a State may, in its State aid program, take into consideration Public Law 874 payments for two purposes—

First, in determining the relative financial resources available to local educational agencies in that State; and

Second, in determining the relative financial need of such agencies for the provision of free public education.

A State could be eligible for the exemption only if—

One, the State presently has in effect a program of State aid for free public education which is designed to equalize expenditures for free public education among the local educational agencies of the State; and

Two, such program was adopted after 1972.

In Mr. Fleming's letter, the question of State aid programs adopted prior to June 30, 1972, was posed. My understanding of the problem is: What is the interpretation of the word "adopted." After reviewing the situation, I have come to the conclusion that any State aid equalization program which complies with existing law and which is revised to take advantage of the exemption created in the committee language would have to be revised extensively. Such revision would be so extensive that it would constitute the adoption of a substantially different State aid program from that which complies with existing law. Such a revision would in effect constitute the adoption of a new State aid program within the meaning of the new language. I hope that this explanation for the record and for the purposes of legislative history clarifies this point.

I ask unanimous consent that the letter from Mr. Fleming be inserted at this point in the RECORD.

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

FLEMING AND KREVOR,
Washington, D.C., April 10, 1974.

Hon. CLAIBORNE PELL,
Chairman, Subcommittee on Education, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR SENATOR PELL: I am writing on behalf of the Education Commission of the States, which our firm represents, to seek clarification of language in S. 1539, as reported by the Committee on Labor and Public Welfare, pertaining to the treatment of payments under Public Law 874 under state equalization programs. As you are aware, ECS has been active in encouraging and assisting the reform of school finance systems in the states. The current prohibition in Section 5(d)2 of P.L. 874 has posed an impediment to the formulation of equalization programs by the states. Testimony on this issue was presented on behalf of ECS by State Representative Tom Jenson of Tennessee and Governor Calvin L. Rampton of Utah during the hearings on S. 1539.

In response, the Committee included in S. 1539, as reported, a modification of Section 5(d)2 of Public Law 874 to permit states to take into account payments under Public Law 874 to local educational agencies in establishing the financial resources and need of such agencies for state aid under equalization programs. The language in the Committee bill allows impact aid funds to be so regarded by state law "if the state has in effect a program of state aid for free public education for any fiscal year, which program was adopted after June 30, 1972, and is designed to equalize expenditures for free public education among the local educational agencies of that state. . . ."

The reference to June 30, 1972 is apparently derived from Section 11 of Public Law 93-150 which was enacted in 1972 to accommodate the states of Kansas and North Dakota, which had enacted new school finance laws. At least two other state equalization plans, adopted since June 30, 1972, take into account impact aid payments in determining local educational agency resources and computing state aid. Both of these would be covered by the Committee bill.

The language in the Committee bill does, however, pose a problem for states which adopted equalization programs prior to June 30, 1972. Because of the present prohibition in Section 5(d)2 these plans do not recognize impact aid payments as resources of local educational agencies with the effect that impacted districts generally receive disproportionately high state aid to the prejudice of other districts in the state. The state of Minnesota, which totally revised its school finance system in 1971, is a good example.

If the term "adopted" in Section 5(d)2, as it would be revised by the Committee bill, is construed to foreclose modifications to equalization plans adopted prior to June 30, 1972, it is patently unfair to states which have been leaders in school finance reform. If, on the other hand, "adopted" is intended by the Committee to cover any amendment of a state school finance system which is designed to move toward equalized expenditures (as defined in the bill), the effect is far more equitable and rational. This interpretation would permit states to amend existing equalization plans to iron out the disequalizing effects created by Section 5(d)2 as it currently exists.

It would be very helpful to have an indication of the Committee's view on this issue.

Sincerely yours,

JOE W. FLEMING.

Mr. DOMINICK. Mr. President, will the Senator from Rhode Island give me a little time?

Mr. PELL. Yes, I yield the Senator from Colorado such time as he may require.

Mr. DOMINICK. I am not sure, after listening as carefully as I could to the Senator from Texas, that I am going to go along with this amendment. We had three amendments on equalization which were offered by our colleagues, the Senator from Minnesota (Mr. MONDALE), the Senator from Rhode Island (Mr. PELL), and the Senator from New York (Mr. JAVITS), which is a pretty wide distribution of talents around the country, and we decided not to adopt any of them. We were not sufficiently convinced that we understood the particular requirements of particular States. So we put in section 534.

One of the things the Senator from Texas said was that, in effect, we make this a statewide school district. This is, in effect, what the Serrano case in California held, and that has been a total disaster in California and elsewhere. The effect of it is that if one district had the ability to go ahead and pay more taxes than another district either because of the economic level or because of industry located there, it is not allowed to do it. It has to take that money and equalize it down.

Well, equalization of education down is what I would hate to see, and equalization of education up is what the Senator from Texas just eliminated.

I do not see why we should spend $225 million, which is the aggregate amount over 3 years, for equalization plans when we do not know how many States want to come into it; we do not know how many States really want to go forward with an equalization plan, and we are not any longer under a mandate of the Supreme Court to equalize taxes all the way through.

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

Mr. DOMINICK. I am happy to yield.

Mr. BENTSEN. I would agree with the distinguished Senator from Colorado if we were talking about equalizing down. I do not think that is what it is. In the *Serrano* case, the judge, in talking about it, said that California had been unjust in school finance, but he suggested four or five different methods by which the problem could be rectified.

I have written my amendment to include sufficient flexibility. The amendment does not require only a single approach to school finance. We have given the Commissioner some discretion to determine whether the State has adopted a statewide strategy toward equalization. I share the concern stated by the Senator from Colorado.

Mr. DOMINICK. Well, one of the things which the *Serrano* case held was that a district could not tax more or get more taxes because of increased values in one district than it could in another; therefore, if there is a higher assessed valuation in a district because of economics or property or industry, that district cannot put the same mil levy on that property and therefore raise more money for that district.

Mr. BENTSEN. Mr. President, I could not agree more with the Senator. In fact, a recent law review article notes:

> It will require the fine hand of restraint, so that Congress does not go too far as to leave too little flexibility with State legislatures in their efforts to revise these schemes.

That is what I have done with this amendment. I have tried to provide flexibility, so that judgment can be exercised to meet some of the problems that the Senator has discussed.

Mr. DOMINICK. I have great respect for the Senator from Texas, whether we play tennis together or debate on the floor of the Senate. All I can say is that I do not see why we need $225 million, starting in 1976, when we have already got section 534 which does provide some carrot in order to get the States to go forward with an equalization plan. What more does the Senator from Texas do other than give them more money than we have already spent?

Mr. BENTSEN. Mr. President, what the bill provides under section 534, as I understand it, is that the States should have a maximum of $1 million for planning. In this day and time, I am not sure that is enough to get their attention, in all candor.

In my amendment, we get beyond planning. We are talking about the process itself and rewards for performance. I recognize the Senator's great concern for fiscal responsibility, and that is what we are trying to do. No money is authorized for this program in fiscal 1975. We do not start until fiscal 1976. Then we start with $50 million, then $100 million, and then $225 million over a period of those 3 years, or actually it is over 4 years. I think that will provide the additional incentive that we need to get the States to act.

About 77.5 percent State-aid funds as of a 1968–69 survey, are allocated on the basis of an equalization process. What we are trying to do is to bring more of that to pass and to provide incentives to get the other States to take similar action.

Mr. DOMINICK. Let me ask the Senator from Texas the question which I know will probably strike a chord in his heart. My State has already done this. It already has an equalization program and spends money from its own funds. Why should our State be required to be different from other States?

Mr. BENTSEN. Under this amendment, Colorado could qualify for a part of that incentive, so long as it continues to maintain the efforts it has already started.

Mr. DOMINICK. We have been studying that for some time. We have done it. Because of the low tax base, the State is providing some 50 percent of education funds. As a matter of fact, it is a little less now.

Would not the Senator from Texas accomplish the same purpose if he raised the authorization level in section 534 by a little—maybe to $30 million, instead of the $225 million he has in his proposal, which does not go into effect until later?

Mr. BENTSEN. I do not believe so, because the Senator is talking about money to be spent on planning. In my amendment we are giving the money for distribution as a reward incentive to those States that have taken action.

Mr. DOMINICK. Then, as I understand it, the Senator is providing Federal funds to the local school districts in terms of grant money, while the States put in an equalization program without reference to the number of pupils, and without implementing a program on an individual pupil or student basis.

Mr. BENTSEN. The Senator is correct, except that funds go to the States which have initiated their own programs. There are certain criteria States have to meet, which are in the amendment.

Mr. DOMINICK. The Senator immediately gets into the religion problem.

Mr. BENTSEN. I have tried to follow the judgments of many commentators who have said that we should not draw too fine a line in trying to define an adequate State equalization plan.

The PRESIDING OFFICER. The time of the Senator from Colorado on the amendment has expired. The Senator from Texas has 4 minutes remaining.

Mr. DOMINICK. Mr. President, will the Senator from New York give me 10 minutes on the bill?

Mr. JAVITS. We have 2 hours on the bill. I will yield the Senator 10 minutes.

Mr. DOMINICK. My problem is this: I think we are getting down to what maybe all of us would like to do, which is to provide a general Federal grant to the States to use the money for educational purposes and for whatever other purposes they want to use it; or perhaps what school administrators or school boards would like, which has been ruled, over and over again, to be unconstitutional.

It has been ruled to be unconstitutional because by doing that you have: First, State constitutional provisions and second, Federal constitutional provisions against it. I do not see that we have avoided these problems in the way we have done before by approaching the matter on a pupil basis. We are allowing a larger grant of Federal money that we know nothing about to go through the school districts.

Mr. BENTSEN. I am not going to try to anticipate. The Senator from Texas has not tried to anticipate every detail or every situation that might arise. I think that is a part of the strength of this amendment—that we give such an exercise of discretion and judgment to the commissioner. We are following the recommendation of the court in the Serrano case, who recommended a number of different possible solutions.

Mr. President, will the Senator yield, so that I might suggest the absence of a quorum?

Mr. DOMINICK. Mr. President, I am glad to yield.

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

The PRESIDING OFFICER. On whose time?

Mr. BENTSEN. I ask that the time be charged to the time on the bill.

Mr. DOMINICK. I ask unanimous consent that the time be charged to neither side.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Colorado?

Mr. KENNEDY. Mr. President, I wonder if the Senator will withhold his suggestion of the absence of a quorum. I have an amendment that I think the chairman might accept.

Mr. BENTSEN. Mr. President, may I have my amendment laid to one side for the consideration of the amendment of the Senator from Massachusetts, with the understanding that I will be recognized at the conclusion of his remarks?

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

The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I send to the desk an amendment and ask its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

> On page 353, line 15, after "education" insert ", Indian organizations and Indian tribes."
>
> On page 353, line 19, after "programs." insert the following: "Priority shall be given to Indian institutions and organizations.".
>
> On page 353, line 22, after "education" insert ", Indian organizations and Indian tribes".

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I yield myself 4 minutes.

In the proposed legislation is a provision for the education of Indian teachers. It is a rather modest authorization for some $2 million.

In the draft of the program—the way in which it was drafted—a number of Indian-sponsored, nonprofit groups would be excluded. They have been extremely active in the development of teacher-training for Indians. They are the ones who have recruited Indians and made contracts and arrangements with teacher colleges and universities and, I really think, have been most effective in working out recruitment and programs for Indian teacher training.

Through a technical drafting error, the bill would exclude a number of Indian organizations, including the Coalition of Indian Controlled School Boards, the National Indian Education Association, and the United Southeastern Tribes, which have also become participants in the program. All this amendment would do would be to make those organizations eligible for participation in the program. They would, of course, participate with other groups in sharing whatever resources were available, but it would make them eligible to be sponsoring organizations.

This amendment is supported by all the various Indian groups, and I am hopeful that the chairman of the committee will be able to accept the amendment and take it to conference.

Mr. PELL. Mr. President, I think this is a proper amendment, and fills in something omitted in committee. I am very conscious of the work the Senator from Massachusetts has done, following the work of his brother, in helping those who really are our first citizens, the Indians. I believe the amendment should be accepted by my colleagues, and I am prepared to yield back the remainder of my time. Do I correctly understand it has been cleared with the minority?

Mr. KENNEDY. The Senator is correct.

Mr. PELL. I yield back the remainder of my time.

Mr. KENNEDY. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. BARTLETT). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

The PRESIDING OFFICER. The Senator from Texas is recognized.

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

The PRESIDING OFFICER. On whose time?

Mr. BENTSEN. From the time on the bill.

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

The legislative clerk proceeded to call the roll.

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

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

Mr. PELL. Mr. President, I ask unanimous consent that consideration of the amendment of the Senator from Texas be temporarily laid aside, so that I might engage in a colloquy with the Senator from Kansas.

The PRESIDING OFFICER. Is there objection? The Chair hears none. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, I would like to say to the distinguished floor manager (Mr. PELL) that I am basically very pleased with the title II impact aid provisions of this bill, as they relate to the State of Kansas, and wish to commend the Education Subcommittee for the manner in which it approached this important area.

I do, however, have a few items of concern with respect to "equalization programs," or State treatment of Federal impact aid funds, and hope that they might be clarified without amendment for the purpose of legislative history.

The first of these—of which the distinguished subcommittee chairman is already aware by way of a letter to him from Joseph C. Harder, chairman of the Kansas State Senate's Education Committee—is with the phrase "and is designed to equalize expenditures for free public education among local education agencies of that State," as found in section 203(a)(2) of the bill on page 209 at lines 17 to 19.

The reason for questioning this phrase is that it might be overly restrictive in its interpretation and could result in some comprehensive State school finance equalization programs not qualifying as such, under Federal standards. For example, the expenditures of two school districts with substantial differences in local resources might be equalized under a certain type of program or legislative mandate, but the local effort of the low-resource district might remain much greater than that of the high-resource district.

The result of the latter situation would be to exclude the existing State plan—which permitted the variation—from coverage by the relevant provision in the bill which, I think, purports to include such programs. That is, the school district equalization act in Kansas was designed to equalize both expenditures per pupil within enrollment categories and local effort. However, with low-wealth-per-pupil districts having a greater proportion of their general fund budgets financed from general State aid than do districts with a high wealth per pupil, "expenditures—among the local educational agencies"—of the State would not, technically speaking, be "equalized" by any means.

I certainly do not want Kansas' equalization program to be in noncompliance with section 5(d)(2)—of Public Law 81-874—provisions, by reason of the foregoing discrepancy, and therefore prohibited from considering impact aid funds in determining amounts of State aid to local agencies. I do not feel that the committee would want this to happen either, and accordingly ask that some explanation be made to preclude it.

It appears that the best way to handle this particular contingency would be to delete the said phrase altogether, but perhaps the distinguished floor manager has some other suggestion. I know he has reviewed the Kansas Equalization Act—through testimony before the subcommittee by State Senator Harder, so I would like to ask directly: Is it his impression that Kansas could, under the present language of the bill, consider impact aid funds as local resources?

Mr. PELL. I thank the distinguished Senator from Kansas for his special interest in this matter, and am happy to respond to his inquiries. The language in the bill at the location which he has designated requires only that States have plans which are "designed to" equalize expenditures among school districts, in order to come within the scope of the Public Law 874 exemption. It does not require complete equalization to be effectuated, and there is no intention on the part of the committee to penalize all school districts in a State because of the failures or excesses of one or more of them.

Mr. DOLE. I thank the distinguished floor manager for his response, and bring his attention to a second and similar "interpretation" problem, which could very well arise with the next following subsection—lines 11-13 on page 210—requiring the Commissioner of Education to define by regulation what the terms "State aid" and "equalize expenditures" are to mean as used within the subsection. It seems to me that it would be extremely difficult for him, after analyzing the myriad of State laws enacted for equalization purposes, to come up with one definition with which every present State program would be in conformity.

In other words, many States—Kansas included—could conceivably be forced to alter their school finance plans as a result of such proposed regulation, even though their equalization systems might be working quite fairly and effectively. I notice in the committee's report that it, too, recognized the need for flexibility in this area, in order to respond to the unique situations in the various States, and was itself reluctant to rigidly define the said terms in this legislation.

I question the propriety, however, of expecting the Commissioner to come up with a formula by regulation which we ourselves are unwilling or unable to accomplish by statute. Problems would inevitably arise, I think, which could not be adequately reconciled.

It seems to me that a more advisable approach on this matter initially might be to grant the Commissioner the latitude he needs by requiring him only to determine individually whether or not a State has an "equalization program," taking into account the major aspects relating to both expenditures and local effort. At the same time we could instruct him to review all State programs to establish the feasibility of drafting a single Federal standard or "definition."

In this way we could effect a better transition toward eventual uniformity in "equalization" criteria, and allow States to make adjustments, if necessary, over a somewhat gradual period, based on suggestions and guidelines which come out of those feasibility studies. Perhaps the necessary guidelines for "equalization" criteria under section 203 could be

developed in the same manner as stipulated in section 534. But what would be the committee's response to this notion?

Mr. PELL. Section 5(d)(2) does not require the States to install equalization plans. That provision merely creates an exception to the general prohibition against States penalizing 874 districts. The exception is made in order to permit the States to take 874 payments into consideration in determining relative need and relative resources.

I think it ought to be made clear that, under existing permanent law, States may not take any 874 payments into consideration. We are not attempting to define "equalize expenditures." We are only attempting to create an exception designed to eliminate "windfalls" for 874 recipient school districts.

With regard to the Senator's suggestion regarding possible guidelines in this area, I would say that there is no explicit connection between the exception with respect to equalization under Public Law 874, and assistance under section 534 of this bill, to enable States to develop equalization programs. However, the coincidence in language and intent is such that the two provisions, when read together, are intended to encourage State equalization programs.

Mr. DOLE. I understand, and again thank the distinguished Senator for his explanation. I would finally like to inquire as to the retroactive or strictly prospective intent of the "assistance to States for equalization plans" set out in that latter section 534. As presently worded, the provision seems to contemplate reimbursement of the costs of developing only future such plans. This would, of course, be discriminatory and unfair to States like Kansas which have already taken the initiative, and gone to considerable expense, to construct their own respective equalization programs in advance of this legislation.

I would just like to insure, therefore, that the committee meant for that section to apply to any State plan, regardless of when adopted, so long as it is consistent with the principles expounded therein. I think many of my colleagues from other States, which, like Kansas, have "pioneered" in this area, would feel as I do that such compensation for past efforts is certainly deserving, and I hope that we can have that assurance.

Mr. PELL. The Senator is correct. There is no provision for retroactive reimbursement for equalization plans.

Mr. DOLE. In that case, I would like to send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 355, line 24, after the words "pursuant to," insert the following: "or which meets the requirements of,"

Mr. DOLE. Mr. President, this amendment, very simply, will allow States which already have equalization plans in effect to apply, under the provisions of section 534 of this bill, for reimbursement of the costs sustained in developing such plans—just as many States which have yet to adopt theirs.

My proposal will involve only a very few States, of which Kansas is one, and I wonder whether the committee would agree to such an amendment?

Mr. PELL. That is absolutely agreeable. I think the Senator's amendment is a fair one, for there are only about three States involved which have already taken action. I see no reason for them to be omitted, and recommend approval of the amendment of the Senator from Kansas.

Mr. DOLE. Mr. President, before acting on my amendment, I wish to thank the distinguished subcommittee chairman again for his participation in this discussion, and to point out once more the importance of the "equalization" portion of this bill to the State of Kansas. For, if I interpret his responses correctly, it will mean that the State may indeed receive the some $8 million in impact aid funds to which it is entitled. At the same time, of course, it means that Kansas taxpayers will be saved this additional tax burden.

This whole matter became one of great concern to Kansas when, under pressure of a court order to equalize expenditures in the State, it last year adopted its current equalization program. The new power equalization formula met the specifications of the court mandate, but was in conflict with the applicable provisions of the Federal impact aid law, which at that time prohibited the consideration of such payments in determining the level of State assistance to a federally-impacted school district.

As a result, the State was declared ineligible for the aforementioned $8 million in Federal aid. We were finally able to receive those Federal payments only after the Senate approved an amendment which I had offered to the school lunch bill. However, that amendment waived the requirements of the Federal law—thereby allowing the State to receive the said funds—just for 1974.

I very much appreciated the support given that latter amendment, both by my colleagues in the Senate and later by the House conferees. Since its passage, I have been working again with the Senate—as well as with the House—Education Committees to insure that language be included in the elementary and secondary education bill to avoid the problem of impact aid eligibility arising in future years. I feel that now, for the most part, that goal has been achieved.

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

The PRESIDING OFFICER. Does the Senator from Rhode Island yield back the remainder of his time?

Mr. PELL. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. BARTLETT). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Kansas.

The amendment was agreed to.

The PRESIDING OFFICER. The question recurs on agreeing to the amendment of the Senator from Texas. The Senator has 4 minutes remaining.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the unanimous-consent agreement temporarily laying aside my amendment be vacated, and I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. BENTSEN. From the time on the bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HATHAWAY. 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. HATHAWAY. Mr. President, I have an amendment to the amendment of the Senator from Texas.

The PRESIDING OFFICER. That amendment would not be in order until all the time of the Senator from Texas has been exhausted.

Mr. BENTSEN. Mr. President, I send to the desk a further modification of my amendment, as follows:

On page 5, after line 8, insert the following: "In making distribution under this section the Commissioner shall consider an equitable geographical distribution."

The PRESIDING OFFICER. The amendment will be so modified.

The question is on agreeing to the amendment, as modified, of the Senator from Texas (Mr. BENTSEN). Does the Senator yield back the remainder of his time?

Mr. BENTSEN. Mr. President, let me summarize my amendment for the benefit of Senators who may not have been present during the debate.

Basically, the amendment is an incentive program; it gives incentives to States which develop plans to finance education more equitably through a statewide strategy to help those school districts in need with greater State aid.

It is carefully worded and based on testimony before the Congress, on criteria that are not restrictive but which give general guidelines to the States in upgrading State financing programs for education. It attempts to attack one of the most basic problems in educational inequality—the inability of poor school districts with inadequate tax bases to provide the quality of education their children deserve.

As an incentive program, it does not punish States which do not participate. It encourages them to develop plans and rewards them if the plans are approved. It establishes a Federal policy saying that school district wealth should not be the gage of support for the education of schools within that district. It allows the States to utilize a variety of approaches to equalization and does not mandate any one approach. And it does not allow the Federal Government to require a mathematical equality of spending in school districts by the States. Indeed, such a requirement would be counterproductive, for school districts with high densities of population, with high living costs, and even with very sparse population densities have different educational needs which must be taken into account. The amendment directs that this be done.

I believe it is a step long overdue. This Government should be on record encouraging the States to provide more equitably for their poorer school districts. I do not believe the ideas in this amendment can do much to set such a policy direction in the States. I urge that it be done now, and I hope my colleagues will support my efforts in this regard.

Mr. HRUSKA. Mr. President, I rise to speak in favor of the amendment offered by the distinguished senior Senator from Texas.

I agree completely with his finding that many institutions of higher education have fallen short of the goal of equal opportunity in intercollegiate athletics. The Senator is correct, that we must expect new demands on available athletic funds to expand intercollegiate athletic activities for women. But, as the distinguished Senator has pointed out, any rules promulgated by the Department of Health, Education, and Welfare which undermine the financial base of intercollegiate sports would be like throwing the baby out with the bath water.

Many of my constituents are seriously concerned, Mr. President, about the scope and force of the regulations which the Department of Health, Education, and Welfare plans to issue shortly in draft. Two who have commented command special respect not only in Nebraska but throughout the Nation.

Athletic director Bob Devaney of the University of Nebraska put the matter in his customary direct fashion:

So far our Women's Athletic Department does not wish to go in for a high-powered program. But if this law [i.e. regulation] goes through, they could be pushed by outside pressures to forgo their present thoughts of a limited and reasonable program.

President Durward B. Varner of the University of Nebraska wrote to me on March 28, 1974, to state his concerns. I ask unanimous consent that the text of his letter be included at this point in the RECORD.

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

THE UNIVERSITY OF NEBRASKA,
Lincoln, Nebr., March 28, 1974.

Hon. ROMAN L. HRUSKA,
U.S. Senator,
Washington, D.C.

DEAR SENATOR HRUSKA: During the past several days I have had a number of contacts in my office expressing consternation at the prospect that the Department of Health, Education and Welfare is in the process of establishing an interpretation of Title IX relative to intercollegiate athletics for women. Bob Devaney has spoken directly to me, and I have had contacts from a variety of other sources.

Our people are unanimous in their view that the regulations which are in process of being shaped in the Department of Health, Education and Welfare would be unreasonable and almost impossible to implement. The cost would be prohibitive and there are grave doubts about the degree of interest on the part of women in participating in the whole range of intercollegiate athletics which are now provided for men.

I am sure you have heard of this situation, and I will not belabor the issue. I am writing to respectfully urge that you take what action is available to you to cause HEW to reconsider its proposed guidelines and, better yet, to have a revision in Title IX as now drawn.

If there are any specifics on which I can provide information, don't hesitate to write me.

Yours truly,
D. B. VARNER, *President.*

Mr. HRUSKA. Of course, Mr. President, the Tower amendment does not answer all questions which have arisen in the wake of title IX of the Higher Education Act and the Department of Health, Education, and Welfare efforts to draft regulations. It does forestall what could become at worst financial chaos in intercollegiate athletics and at best a period of great confusion and uncertainty about the proper use of athletic revenues. In either case, we would not have the climate which each higher education institution needs for a careful appraisal of its proper responsibilities for assuring equal athletic opportunities for women and the most effective ways of meeting those responsibilities.

Mr. BENTSEN. Mr. President, I yield back the remainder of my time and ask for consideration of the amendment.

The PRESIDING OFFICER. All time on this amendment has been yielded back.

The question is on agreeing to the amendment as modified of the Senator from Texas (Mr. BENTSEN).

The amendment as modified was agreed to.

Mr. JAVITS. Mr. President, a parliamentary inquiry. Will the time to present amendments of all kinds expire at 4:15 p.m. today?

The PRESIDING OFFICER. Under the agreement, the time will expire for the introduction of amendments at 6 p.m.

Mr. JAVITS. Six p.m. Amendments may be introduced before that time then? I wish to give notice that I may possibly have an amendment respecting a ceiling on the receipt of allocations from title I of the act but I will temporarily withhold the amendment so that the chairman of the Appropriations Committee may look into the question. I just wanted to be sure that it could be submitted before the time for the final vote should I decide to present it.

Mr. President, I ask unanimous consent that I may suggest the absence of a quorum without the time being charged to either side.

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

Mr. JAVITS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR ADJOURNMENT TO 9:15 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until 9:15 a.m. tomorrow.

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

ORDER FOR RECOGNITION OF SENATORS BEALL, AIKEN, AND BARTLETT TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, after the two leaders or their designees are recognized tomorrow, the distinguished Senator from Maryland (Mr. BEALL) be recognized for not to exceed 15 minutes; that he be followed by the distinguished Senator from Vermont (Mr. AIKEN) for not to exceed 15 minutes; and that he be followed by the distinguished Senator from Oklahoma (Mr. BARTLETT) for not to exceed 15 minutes.

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

ORDER FOR RECOGNITION OF SENATOR ROBERT C. BYRD TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, following the colloquy which is to be divided among four Senators tomorrow, for which the order has already been entered, I be recognized for not to exceed 15 minutes.

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

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, without amendment, the bill (S. 2835) to rename the first Civilian Conservation Corps Center located near Franklin, N.C., and the Cross Timbers National Grasslands in Texas in honor of former President Lyndon B. Johnson.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, has there been any morning business today?

The PRESIDING OFFICER. There has not been.

Mr. ROBERT C. BYRD. I ask unanimous consent that there now be a period for the transaction of routine morning business of not to exceed 5 minutes.

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. METCALF) laid before the Senate the following letter, which was referred as indicated:

AUDIT REPORT OF FUTURE FARMERS OF AMERICA

A letter from the Chairman, Board of Directors, Future Farmers of America, transmitting, pursuant to law, an audit report of that organization, for fiscal year ended June 30, 1973 (with an accompanying report). Referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations, without amendment, and reported adversely:

S. 1485. A bill to establish an International Commerce Service within the Department of Commerce (Rept. No. 93-859).

By Mr. SPARKMAN, from the Committee on Foreign Relations, with amendments, and without recommendation:

S. 1486. A bill to authorize the Secretary of Commerce to engage in certain export expansion activities, and for related purposes (Rept. No. 93-860).

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:

Robert E. Hauberg, of Mississippi, to be U.S. attorney for the southern district of Mississippi.

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

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. TOWER:

S. 3513. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Nueces River Project, Texas, and for other purposes. Referred to the Committe on Interior and Insular Affairs.

By Mr. CHILES (for himself, Mr. ROTH, Mr. MUSKIE, Mr. GURNEY, and Mr. BROCK):

S. 3514. A bill to distinguish Federal grant and cooperative agreement relationships from Federal procurement relationships, and for other purposes. Referred to the Committee on Government Operations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CHILES (for himself, Mr. ROTH, Mr. MUSKIE, Mr. GURNEY, and Mr. BROCK):

S. 3514. A bill to distinguish Federal grant and cooperative agreement relationships from Federal procurement relationships, and for other purposes. Referred to the Committee on Government Operations.

FEDERAL GRANT AND COOPERATIVE AGREEMENT ACT OF 1974

Mr. CHILES. Mr. President, I am today introducing on behalf of myself, the Senator from Delaware (Mr. ROTH), the Senator from Maine (Mr. MUSKIE), the Senator from Florida (Mr. GURNEY), and the Senator from Tennessee (Mr. BROCK), a bill to distinguish Federal grant and cooperative agreement relationships from Federal procurement relationships and for other purposes.

BILL PROVISIONS

This legislation would implement two key recommendations made by the Commission on Government Procurement after its 2½-year study:

First, establish Government-wide standards for selection of appropriate legal instruments to achieve uniformity in the use by the executive agencies of such instruments, a clear definition of the relationships they reflect, and a better understanding of the responsibilities of the parties; and

Second, require a study of Federal/non-Federal relationships in the Federal assistance programs and the feasibility of developing a comprehensive system of guidance for the use of grant and cooperative agreements in carrying out such programs.

NEED FOR THE LEGISLATION

Federal grant-type activities have become a vast and complex collection of assistance programs, functioning with little central guidance in a variety of ways that are often characterized as being consistent only in their inconsistency. Similar programs or projects are often left to "do their own thing," in their own way, in a manner that can only lead to confusion, frustration, and uncertainty.

The Commission on Government Procurement report outlined several major causes for this disarray. They were:

Confusion of grant-type assistance relationships and transactions with procurement relationships and transactions;

Failure to recognize that there is more than one kind of grant-type relationship or transaction, and

Lack of Government-wide guidance for Federal grant-type relationships and transactions.

The present situation gives Congress only a skimpy, confused, unfocused picture of programs which disbursed $40 billion of taxpayers' money to State and local governments in fiscal year 1971, which is projected to grow to $52 billion in fiscal year 1975, nearly equalling funds spent on contract for procurement. These grant-type program disbursements have been growing at an annual rate of 17 percent for the past 5 years.

FEDERAL-AID EXPENDITURES BY AGENCY

[In millions of dollars]

Agency	1973 actual	1974 estimate	1975 estimate
Funds appropriated to the President	1,103.1	1,080.5	718.4
Department of:			
Agriculture	4,332.5	5,542.7	6,324.5
Commerce	261.1	262.6	311.8
Defense—Military	53.4	42.3	42.7
Defense—Civil	3.0	3.0	3.0
Health, Education, and Welfare	18,219.6	20,083.7	20,587.3
Housing and Urban Development	2,970.5	3,289.2	3,684.0
Interior	408.2	484.9	573.2
Justice	526.3	707.7	747.2
Labor	2,878.1	2,585.4	2,580.6
State	6.3	8.3	8.5
Transportation	5,272.4	5,239.8	5,656.5
Treasury	6,822.6	6,351.7	6,384.0
Environmental Protection Agency	745.1	2,085.1	3,470.9
District of Columbia	181.5	190.0	231.5
Washington Metropolitan Area Transit Authority	75.8	182.9	184.4
Other	102.9	152.9	222.9
Total expenditures for Federal grants	43,962.5	48,293.0	51,731.5

Source: "The Budget For Fiscal Year 1975," special analyses, table N-1, p. 205.

The need for a study for developing a Government-wide system for guidance for Federal assistance programs is analogous to the need for the Office of Federal Procurement Policy for procurement. The primary concern is to get a "handle" on the entire process for Federal assistance and to provide guidance and uniformity where there is none.

The complexity of the situation is found even in the terminology and the practices of the executive agencies involved in the process of awarding grants. In fact, grants and contracts are often used interchangeably with agencies and among agencies for the same type of project.

According to the Commission on Government Procurement report, some agencies admit that they use grants instead of contracts to avoid certain requirements, such as advance payment justifications. Some agencies use more grants in June to obligate funds before the end of the fiscal year because grants are quicker to process than contracts. Some program officials who have responsibility for negotiating and administering grants, but not contracts, tend to shift to contracts when they are busy in order to place the workload elsewhere. These practices may give Federal agencies administrative discretion not intended by Congress.

Confusion even exists as far as Federal statutes are concerned. Enabling and appropriation statutes for grant programs cause confusion. As a group they lack consistency in requirements, terminology, level of detail and emphasis. Agencies are often left to their own devices in attempting to spell out essential details.

The statutes are inconsistent in specifying the circumstances under which they require the use of grants. Most agencies generally prefer to use grants for transactions that require minimal agency participation during the performance as in the case of the Office of Education in its grants for construction of educational facilities; USDA in its grants for water and sewer planning; and Law Enforcement Assistance Administration, LEAA, in its grants for information system demonstration projects. These are only some of the examples, Mr. President.

Because of uncertainty as to what the roles and responsibilities of the agencies and the recipients should be; because

agencies are, many times, confused over the exact meaning of essential terms in this area; and because the Federal Government spends over $100 billion a year through contracts, grants, and similar arrangements, this legislation is badly needed. Those who are knowledgeable in this area agree that order has to come, that clear definitions have to be spelled out, that this Federal guidance will be an asset to all concerned: Executive agencies, State and local governments, other recipients, and the taxpayer.

I would urge my colleagues to join in supporting and cosponsoring this legislation.

Mr. President, 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. 3514

A bill to distinguish Federal grant and cooperative agreement relationships from Federal procurement relationships 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 "Federal Grant and Cooperative Agreement Act of 1974".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) there is a need to distinguish Federal assistance relationships from Federal procurement relationships and thereby to standardize usage and clarify the meaning of the legal instruments which reflect such relationships;

(2) uncertainty as to the meaning of such terms as "contract", "grant", and "cooperative agreement" causes operational inconsistencies, confusion, inefficiency, and waste for recipients of awards as well as for executive agencies; and

(3) the Commission on Government Procurement has documented these findings and concluded that a reduction of the existing confusions, inconsistencies, and inefficiencies is feasible and necessary.

(b) The purposes of this Act are—

(1) to characterize Federal/non-Federal relationships in the acquisition of property and services and in the furnishing of assistance by the Federal Government;

(2) to establish Government-wide standards for selection of appropriate legal instruments to achieve uniformity in the use by the executive agencies of such instruments, a clear definition of the relationships they reflect, and a better understanding of the responsibilities of the parties; and

(3) to require a study of Federal/non-Federal relationships in Federal assistance programs and the feasibility of developing a comprehensive system of guidance for the use of grant and cooperative agreements in carrying out such programs.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "State government" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, any agency or instrumentality of a State, and any multi-State, regional or other interstate entity;

(2) "local government" means any unit of government within a State, a county, municipality, city, town, township, local public authority, special district, intrastate district, council of governments, sponsor group representative organization, other intrastate government entities, and any other instrumentality of a local government;

(3) "other recipient" means any person other than a State or local government who is an authorized recipient of Federal funds and includes any charitable or educational institution;

(4) "executive agency" means any executive department as defined in section 101 of title 5, United States Code, a military department as defined in section 102 of title 5, United States Code, an independent establishment as defined in section 104 of title 5, United States Code (except that it shall not include the General Accounting Office), a wholly-owned Government corporation, the United States Postal Service, and the Postal Rate Commission; and

(5) "grant or cooperative agreement" excludes direct payments, subsidies, loans, loan guarantees, or insurance.

USE OF CONTRACTS

SEC. 4. Each executive agency shall use a procurement contract as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient—

(1) whenever the principal purpose of the agreement is the acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government; or

(2) whenever an executive agency determines in a specific instance that the use of a contract is appropriate to acquire property or services intended for ultimate public use.

USE OF GRANT AGREEMENTS

SEC. 5. Each executive agency shall use a grant agreement as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient—

(1) whenever the principal purpose of the relationship is the transfer of money, property, services, or anything of value to the State or local government or other recipient in order to accomplish a public purpose authorized by Federal statute, rather than the acquisition, by purchase, lease or barter, of property or services for the direct benefit or use of the Federal Government: and

(2) whenever no substantial involvement is anticipated between the executive agency, acting for the Federal Government, and the State or local government or other recipient during performance of the contemplated activity.

USE OF COOPERATIVE AGREEMENTS

SEC. 6. Each executive agency shall use a cooperative agreement as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient—

(1) whenever the principal purpose of the relationship is the transfer of money, property, services, or anything of value to the State or local government or other recipient to accomplish a public purpose authorized by Federal statute, and not the acquisition, by purchase, lease or barter, of property or services for the direct benefit or use of the Federal Government; and

(2) whenever substantial involvement is anticipated between the executive agency, acting for the Federal Government, and the State or local government or other recipient during performance of the contemplated activity.

AUTHORIZATIONS

SEC. 7. (a) Notwithstanding any other provision of law, each executive agency authorized by law to enter into contracts, grant or cooperative agreements, or similar arrangements shall use contracts, grant agreements, or cooperative agreements as required by this Act.

(b) The authority to enter into grant or cooperative agreements shall include the discretionary authority, when it is deemed by the head of an executive agency to be in furtherance of the objectives of such agency, to vest in State or local governments or other recipients, without further obligation to the Federal Government or on such other terms and conditions as the agency deems appropriate, title to equipment or other tangible personal property purchased with such grant or cooperative agreement funds.

STUDY OF FEDERAL ASSISTANCE PROGRAMS

SEC. 8. The Director of the Office of Management and Budget, in cooperation with the executive agencies, shall undertake a study to develop a better understanding of alternative means of implementing Federal assistance programs, and to determine the feasibility of developing a comprehensive system of guidance for Federal assistance programs. Such study shall include a thorough consideration of the findings and recommendations of the Commission on Government Procurement relating to the feasibility of developing such a system. The Director shall consult with representatives of the executive agencies, the Congress, the General Accounting Office, State and local governments, other recipients and other interested members of the public. The results of the study, together with recommendations for administrative or statutory changes, shall be reported to the Committees on Government Operations of the Senate and House of Representatives at the earliest practicable date but in no event later than two years after the date of enactment of this Act.

REPEALS

SEC. 9. (a) The Act entitled "An Act to authorize the expenditure of funds through grants for support of scientific research, and for other purposes", approved September 6, 1958 (72 Stat. 1793; 42 U.S.C. 1891, 1892, and 1893), is repealed, effective one year after the date of enactment of this Act.

(b) Nothing in this Act shall be construed to render void or voidable any contract, grant, cooperative agreement, or other arrangement entered into up to one year after the date of enactment of this Act.

ADDITIONAL COSPONSORS OF BILLS

S. 1844

At the request of Mr. ABOUREZK, the Senator from Indiana (Mr. HARTKE) was added as a cosponsor to S. 1844, the American Folklife Preservation Act.

At the request of Mr. JAVITS, the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 2665, a bill to authorize the Fourth Replenishment of the International Development Association.

S. 2877

At the request of Mr. TOWER, the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 2877, the Meeting House Preservation Act.

S. 2901

At the request of Mr. ALLEN, the Senator from New York (Mr. BUCKLEY) and the Senator from Alabama (Mr. SPARKMAN) were added as cosponsors of S. 2901, a bill to change the date of Veterans' Day from the 4th Monday in October to November 11.

S. 3207

At the request of Mr. KENNEDY, the

Senator from Ohio (Mr. METZENBAUM) was added as a cosponsor of S. 3207, to amend the Sugar Act of 1948 to terminate the quota for South Africa.

S. 3330

At the request of Mr. HARTKE, the Senator from Texas (Mr. TOWER) and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 3330, a bill to provide severance pay for noncommissioned officers.

S. 3339

At the request of Mr. HUMPHREY, the Senator from Illinois (Mr. STEVENSON) and the Senator from Michigan (Mr. HART) were added as cosponsors 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. 3434

At the request of Mr. HUGH SCOTT, the Senator from North Dakota (Mr. YOUNG), the Senators from Utah (Mr. BENNETT and Mr. MOSS), the Senator from Indiana (Mr. BAYH), the Senator from Montana (Mr. METCALF), the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from California (Mr. TUNNEY) were added as cosponsors of S. 3434, to establish university coal research laboratories and to establish energy resources fellowships.

S. 3458

At the request of Mr. MCGOVERN, the Senator from Washington (Mr. MAGNUSON) and the Senator from Kentucky (Mr. COOK) were added as cosponsors of S. 3458, a bill to amend the Agriculture and Consumer Protection Act of 1973, the Food Stamp Act of 1964, and for other purposes.

S. 3459

At the request of Mr. MCGOVERN, the Senator from Maine (Mr. HATHAWAY), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Washington (Mr. MAGNUSON), and the Senator from Kentucky (Mr. COOK) were added as cosponsors of S. 3459, a bill to amend the National School Lunch and Child Nutrition Acts to increase the level of Federal assistance for child nutrition programs, and for other purposes.

S. 3490

At the request of Mr. MCCLURE, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 3490, a bill providing that funds apportioned for forest highways under Sec. 202(a), title 23, United States Code, remain available until expended.

SENATE RESOLUTION 327—SUBMISSION OF A RESOLUTION EXTENDING THE TIME FOR THE FILING OF THE FINAL REPORT OF THE SELECT COMMITTEE ON PRESIDENTIAL CAMPAIGN ACTIVTIES

(Ordered placed on the Calendar.)

Mr. ERVIN. Mr. President, I ask unanimous consent that I may be permitted to submit at this time a resolution. I ask unanimous consent that it be placed on the Calendar until it is called up in order.

The PRESIDING OFFICER. Without objection, the resolution will be placed on the Calendar.

Mr. ERVIN. Mr. President, I ask unanimous consent that the text of the resolution be printed at this point in the RECORD.

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

S. RES. 327

Resolved, That Section 5 of Senate Resolution 60, which was adopted February 7, 1973, is hereby amended to read as follows: "The Select Committee shall make a final report of the results of the investigation and study conducted by it pursuant to this resolution, together with its findings and such legislative proposals as it deems necessary or desirable, to the Senate at the earliest practicable date, but no later than June 30, 1974. The Select Committee may also submit to the Senate such interim reports as it considers appropriate. After submission of its final report, the Select Committee shall have three calendar months to close its affairs, and on the expiration of such three calendar months shall cease to exist: Provided, however, in case the judicial action brought by the Select Committee against the President to obtain specified taped recordings of conversations in which the President and his former aide, John W. Dean, participated is not finally adjudicated before the expiration of such three calendar months, the Select Committee shall continue in existence thereafter until thirty days subsequent to the occurrence of one of these alternative events, namely, the judicial action is finally adjudicated adversely to the Select Committee, or the specified taped recordings are actually received by the Select Committee pursuant to the final adjudication of such judicial action or otherwise. In case the last event occurs, the Select Committee is empowered to report to the Senate an addendum to its final report setting forth findings and legislative recommendations based on what the taped recordings disclose."

SENATE RESOLUTION 328—SUBMISSION OF A RESOLUTION TO INCREASE THE SUMS ALLOTTED TO THE SELECT COMMITTEE ON PRESIDENTIAL CAMPAIGN ACTIVITIES

(Referred to the Committee on Rules and Administration.)

Mr. ERVIN. Mr. President, I ask unanimous consent that the text of a resolution I have submitted, and which will be referred to the Committee on Rules and Administration, be printed in the RECORD for the information of the Senate.

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

S. RES. 328

Resolved, That section 6 of Senate Resolution 60, which was adopted February 7, 1973, is hereby amended to read as follows: "The expenses of the select committee during the full period specified in section 5 of the resolution as amended shall not exceed $2,000,000, of which amount not to exceed $70,000 shall be available for the procurement of the services of individual consultants or organizations thereof. Such expenses shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the select committee."

ADDITIONAL COSPONSOR OF A RESOLUTION

SENATE RESOLUTION 324

At the request of Mr. HUMPHREY, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of Senate Resolution 324, relating to the condemnation of terrorist acts.

MILITARY PROCURMENT AUTHORIZATIONS, 1975—AMENDMENT

AMENDMENT NO. 1346

(Ordered to be printed and to lie on the table.)

Mr. MCGOVERN submitted an amendment intended to be proposed by him to the bill (S. 3000) to authorize appropriations during the fiscal year 1975 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty and duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads, and for other purposes

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 1194

At the request of Mr. GURNEY, the Senator from Utah (Mr. BENNETT), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from South Carolina (Mr. THURMOND), and the Senator from Tennessee (Mr. BROCK) were added as cosponsors of Amendment No. 1194 to the bill (H.R. 10710) to amend the Trade Reform Act for cooperation in locating personnel missing in action as a result of hostilities in Indochina.

AMENDMENT NO. 1305

At the request of Mr. MATHIAS, the Senator from Utah (Mr. MOSS), the Senator from Kentucky (Mr. COOK), the Senator from Tennessee (Mr. BROCK), and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of Amendment No. 1305 intended to be proposed to S. 1539, the Education Amendments of 1974.

AMENDMENT NO. 1326

At the request of Mr. RIBICOFF, the Senator from Rhode Island (Mr. PASTORE) was added as a cosponsor of amendment No. 1326 to the bill (H.R. 8217) to repeal the oil depletion allowance.

AMENDMENT NO. 1331

At the request of Mr. DOMENICI, the Senator from North Dakota (Mr. YOUNG) and the Senator from California (Mr. TUNNEY) were added as cosponsors of Amendment No. 1331 to the bill (S. 3267) to provide standby emergency au-

thority to assure that the essential energy needs of the United States are met.

ANNOUNCEMENT OF HEARINGS BY DISTRICT OF COLUMBIA COMMITTEE

Mr. EAGLETON. Mr. President, the Senate Committee on the District of Columbia, on Wednesday, June 5, 1974, at 9:30 a.m., in room 6226, Dirksen Senate Office Building, will hold public hearings on the following bills:

S. 3475 and S. 3478, relating to payment of defense counsel for indigent defendants;

S. 3474, to amend the District of Columbia unemployment compensation law;

S. 3476, to remove requirement that race be listed on marriage licenses; and

S. 3477, extension of fare subsidy for schoolchildren.

Anyone wishing to present testimony on any of these bills should contact Robert Harris, staff director of the District of Columbia Committee, room 6222, Dirksen Senate Office Building, by the close of business on Friday, May 31, 1974.

ANNOUNCEMENT OF HEARINGS ON S. 2008, S. 1029, S. 1772, AND S. 2587

Mr. WILLIAMS. Mr. President, I wish to announce that the Subcommittee on Labor of the Committee on Labor and Public Welfare will hold hearings in Minneapolis, Minn., on Friday, June 14, 1974, and in Washington, D.C., on Tuesday, June 18; Wednesday, June 19; and Thursday, June 20, 1974, on S. 2008, S. 1029, S. 1772, and S. 2587. S. 2008, which I introduced with Senator JAVITS, will provide minimum Federal standards for State workers' compensation programs. S. 1029, introduced by Senator TAFT, S. 1772, introduced by Senator SPARKMAN, and S. 2587, introduced by Senator HUMPHREY, all will provide compensation for various respiratory diseases.

The hearings in Washington will be held in room 4232, Dirksen Office Building, at 9:30 a.m. If there are any questions, please contact Donald Elisburg, counsel, Subcommittee on Labor, extension 3674.

NOTICE OF HEARINGS BY SENATE INDIAN AFFAIRS SUBCOMMITTEE

Mr. JACKSON. Mr. President, the Senate Indian Affairs Subcommittee will hold hearings in Mobridge, S. Dak., on May 25, 1974, on the subject of jurisdiction and in Vermillion, S. Dak., on May 28 on the subject of the way Indians are depicted in the educational curriculum of public schools and colleges.

In addition, testimony will be heard from the Devils Lake Sioux Tribe regarding S. 598, providing for the transfer of lands to that tribe, and S. 3455, providing for greater land management flexibility for the Devils Lake Sioux Tribe.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Norwood Carlton Tilley, Jr., of North Caroline, to be U.S. Attorney for the Middle District of North Carolina for the term of 4 years, vice William L. Osteen, resigned.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Monday, May 27, 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.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Otis L. Packwood, of Montana, to be U.S. attorney for the district of Montana for the term of 4 years, reappointment.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Monday, May 27, 1974, any representations or objections they may wish to present concerning the above nomination, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE OF HEARINGS ON FOOD RETAILING AND PROCESSING PRACTICES

Mr. HUMPHREY. Mr. President, the Subcommittee on Consumer Economics of the Joint Economic Committee, which I am privileged to chair, will hold a hearing on May 21 on food processing and retailing practices that unnecessarily increase the price or lower the quality of food to the consumer.

In the past year increased farm prices have been blamed almost exclusively for rising retail food prices. Yet, when farm prices fall, as they have in the last 2 months, retail prices are slow to follow, and rarely fall by the same amount.

Why is the farm-retail price spread for meats and other items so slow to respond to declines in farm prices?

What is the effect of domination by three or four processing firms in the cereal, soup, or canned fruits and vegetable industries on consumer prices?

Is there adequate competition among retail food stores, or do a very few chains dominate in metropolitan areas?

How is food quality affected by the current structure of food manufacturing and marketing?

We expect our witnesses to explore these and other questions as the subcommittee launches a continuing investigation into retail food quality and prices.

The following witnesses have been invited to testify:

Tuesday, May 21, room 6202, Dirksen Senate Office Building, 10 a.m.

Don Paarlberg—Director, Office of Agricultural Economics, U.S. Department of Agriculture.

Russell Parker—Bureau of Economics, Federal Trade Commission.

James Hightower and Susan DeMarco—Agribusiness accountability project.

ADDITIONAL STATEMENTS

CHURCH, STATE, AND FREEMASONRY

Mr. ROBERT C. BYRD. Mr. President, on October 16, 1973, our colleague, Senator SAM J. ERVIN, JR., made an address before the Supreme Council, 33d degree of the Ancient and Accepted Scottish Rite of Freemasonry in Washington, D.C., bearing the title "Church, State, and Freemasonry." After his address, the Supreme Council conferred upon him the Dignity of the Grand Cross of the Court of Honour.

Senator ERVIN'S speech merits wide dissemination. As a consequence, I ask unanimous consent that it be printed in the RECORD.

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

CHURCH, STATE, AND FREEMASONRY

This evening I would like to explore with you what Freemasonry in America affirms respecting religion and civil government. In discussing religion, I will present the teaching of the Symbolic Degrees of Freemasonry and the Scottish Rite, which are based on faith in a Supreme Being, rather than the teachings of the York Rite, which are founded on faith in a particular religion, i.e., Christianity.

Freemasonry bases its affirmation concerning religion upon its observations of the universe and man, and the revelations of the holy writings upon its altars.

Freemasonry looks at the universe and beholds with wonder the life-giving sun which rises in the east in the morn, travels across the sky by day, and sets in the west at eventide; the galaxies of stars which twinkle in the infinite heavens; the clouds which bring the soil-refreshing rain; the majestic mountains with hills at their knees; the rivers, which water pleasant valleys and fertile plains and run endlessly to the sea; the tall trees, which lift leafy arms heavenward to pray; the arbutus and dogwood, which brighten springtime, and the marigolds and roses, which ornament summer; the glory of the leaves and ripened crops of autumn; the crystal snowflakes, which descend so gently in winter; and the other beautiful things which adorn the earth.

Freemasonry notes with awe the order and regularity of the processes of life and nature as the tide ebbs and flows, as the harvest succeeds the seed time, and as the heavenly bodies move in their orbits without mishap, in conformity with natural laws.

Freemasonry observes with reverence that despite the feet of clay on which he makes his earthly rounds, man is endowed with the capacity to obey conscience, exercise reason, study holy writings, and aspire to righteous conduct in obedience to spiritual laws.

On the basis of these things, and the revelations of the holy writings upon its altars, Freemasonry affirms with complete conviction that the universe and man are not the haphazard products of blind atoms

wandering aimlessly about in chaos, but, on the contrary, are the creations of God, the Architect and Master Builder of the Universe, conforming to designs first traced upon the divine trestleboard.

For these reasons, Freemasonry requires every man who seeks admittance to its Lodges, whether prince or peasant, to confess his faith in God.

Further than this, however, Freemasonry does not go. While theocratic in faith and philosophy, it does not attempt to define or limit any Freemason's conception of the divine. It leaves to each the freedom to fashion his own theology. As a consequence, men of all religions kneel in Brotherly Love at the altars of Freemasonry.

While it is founded on faith in God, Freemasonry is not a religion, and does not seek to supplant or control religious institutions.

Freemasonry is interested in man and all that pertains to man. Hence, it is interested in the problems of society. But it is not in any sense a political party and does not participate as a fraternity in any political movements. Moreover, it accords to every Freemason absolute independence of action as a citizen in all the affairs of State.

Freemasonry is ancient, patient and wise, and recognizes that the betterment of society is dependent entirely on the ministrations of good men. As a consequence, Freemasonry accepts as its sole collective task the making of good Freemasons, knowing, as it does, that good Freemasons are good men who acquit themselves well in all relationships and responsibilities.

To this end, Freemasonry admits to its Lodges men of faith from all walks of life, seats them around its altars, and teaches them by allegory, precept and symbol the love which makes them brothers and the truth which makes them free.

While it is neither a religion nor a political institution, Freemasonry is dedicated to the principle that the minds and spirits of men of right ought to be free from civil and ecclesiastical tyranny, and for this reason cherishes the system of government established by the Constitution of the United States.

It is not strange that this should be so. The Constitution was in substantial part conceived by the minds and drafted by the hands of George Washington, Benjamin Franklin and other Freemasons who were delegates from the original States in the Convention of 1787. Besides, the institutions of government the Constitution creates and the basic freedoms the Constitution secures have been nourished throughout all succeeding generations by Freemasons past numbering.

Freemasonry has been taught by bitter experience in many nations and many generations the everlasting truth that political freedom cannot exist in any land where religion controls civil government and that religious freedom cannot survive in any land where civil government dominates religion.

As a consequence, Freemasonry esteems most highly the words of the First Amendment which decree that government "shall make no law respecting an establishment of religion or prohibiting the free exercise thereof."

These words were designed to enshrine in the Constitution of the United States for the benefit of all Americans of all generations the principles enunciated in the historic Statute of Virginia for Religious Liberty, which was drafted by Thomas Jefferson and piloted through the Virginia Legislature of 1785 by James Madison.

The Statute of Virginia for Religious Liberty proclaims that "Almighty God hath created the mind free" and declares that fidelity to the following principles is essential to keep it so:

That "no man shall be compelled to frequent or support any religious worship, place or ministry whatsoever" or suffer any civil penalties "on account of his religious opinions or beliefs."

That "all men shall be free to profess and by argument to maintain their opinion in matters of religion, and that the same shall in no wise diminish, enlarge, or affect their civil capacities."

That "to compel a man to furnish contributions of money for the propagation of opinions in which he disbelieves is sinful and tyrannical."

The Supreme Court rightly has ruled on many occasions that the Religious Clauses of the First Amendment incorporate in the Constitution of the United States the principles enshrined in the Statute of Virginia for Religious Liberty. This is conclusively demonstrated by the following interpretations placed by it on these Clauses:

The "establishment of religion" clause of the First Amendment means at least this: Neither a State nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another. Neither can force nor influence a person to go to or remain away from church against his will or force him to profess a belief or disbelief in any religion. No person can be punished for entertaining or professing religious beliefs or disbeliefs, for church attendance or nonattendance. No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion. Neither a State nor the Federal Government can, openly or secretly, participate in the affairs of any religious organizations or groups and vice versa. In the words of Jefferson, the clause against establishment of religion by law was intended to create "a wall of separation between Church and State." (*Everson* v. *Board of Education* (1947), 330 U.S. 1, 15–16.)

The Free Exercise Clause of the First Amendment "was intended to allow everyone under the jurisdiction of the United States to entertain such notions respecting his relations to his Maker and the duties they impose as may be approved by his judgment and conscience, and to exhibit his sentiments in such form of worship as he may think proper, not injurious to the equal rights of others, and to prohibit legislation for the support of any religious tenets, or the modes of worship of any sect." (*Davis* v. *Beason* (1890), U.S. 333, 342.)

When all is said, Justice Robert H. Jackson was certainly right when he stated:

"This freedom [i.e., religious freedom] was first in the Bill of Rights because it was first in the forefathers' minds; it was set forth in absolute terms, and its strength is its rigidity. It was intended not only to keep the states' hands out of religion, but to keep religion's hands off the state and, above all, to keep bitter religious controversy out of public life by denying to every denomination an advantage from getting control of public policy or the public purse." (*Everson* v. *Board of Education* (1947), 330 U.S. 1, 26–27.)

In conclusion, it seems not amiss to observe that the Religious Clauses of the First Amendment are in complete harmony with this Biblical injunction: "Render therefore unto Caesar the things which are Caesar's; and unto God the things which are God's."

As an American and a Freemason, I pray: So mote it ever be.

WORLDWIDE INVESTMENTS NECESSARY TO MEET ENERGY NEEDS

Mr. BARTLETT. Mr. President, on Monday, April 29, 1974, the Washington Post printed an article which credited to Representative ASPIN the charge that 12 major oil companies' plan to invest $536 million in the Middle East this year runs completely counter to the Nixon administration's goal of national energy independence by 1980.

I have no idea if the Post was correctly representing the views of Congressman ASPIN, but I would like to point out that there is no basis, in my opinion, for any claim that these investments are counter to the Nixon administration's goal of national energy independence by 1980. In fact, our efforts to achieve energy self-sufficiency in the United States depend upon a delicate balance of petroleum investments worldwide.

Even with the proper commitment by Congress toward incentives that are needed to achieve domestic self-sufficiency, we will need to import crude oil for many years. And whether those imports will be at reasonable prices will depend on political decisions by OPEC and on whether a balance between worldwide supply and demand is maintained.

The article fails to mention that in 1973 more than 85 percent of the increase in profits of the 30 largest oil companies resulted from profits realized outside the United States. The 30 major multinational oil companies, from a study by the Chase Manhattan Bank, earned in 1973 $4.354 billion in the United States and $7.368 billion in the rest of the world. Compared to 1972 that was only a 19.1 percent increase domestically and a substantial 130 percent increase in profits from the rest of the world.

Much of the profit from foreign operations is being reinvested in domestic operations. Over the past 5 years expenditures domestically by the "Chase study group" of companies have exceeded domestic profits by 80.6 percent. The same companies expended on foreign investments 47.7 percent more than their foreign profits. It can readily be seen that the ratio of expenditures to profits demonstrates that investments by the major petroleum companies is favorable to increasing domestic production. It can be said that profits from foreign operations are to a significant extent subsidizing domestic investments.

Whether or not world prices can be stabilized and possibly reduced will depend to a great extent upon the ability of our American major and multinational oil companies to earn sufficient capital to continue their role in helping to increase domestic production and to provide a major share of the capital and expertise needed to keep the supply of oil worldwide up to the demand.

Make no mistake, it has been to our benefit in the past, and will be in the future, to have American oil companies in the forefront of foreign oil and gas production activities.

I agree that a commitment by Congress and our multinational oil companies toward increasing domestic energy supplies has the highest priority, but it would be shortsighted to contend that significant investments by the American oil companies in the Middle East are not to this country's advantage.

INTERNATIONAL DEVELOPMENT ASSOCIATION

Mr. PELL. Mr. President, I have the following compelling reasons for sup-

porting S. 2665 authorizing U.S. participation in the fourth replenishment of the International Development Association, an affiliate of the World Bank:

Man in the final quarter of the 20th century is at a crossroad of decision that can determine his continued survival, that is, whether he will follow the road of international collaboration or of narrow nationalism in seeking solutions to global problems no one nation can successfully resolve on its own.

A vote for IDA is a vote for the first road.

There can be no lasting stability in an individual country nor in the world as a whole where a large mass of the population is afflicted by poverty, frustration and despair.

IDA through its lending authority and policies is geared to help the poorest countries ameliorate and eventually eliminate these afflictions that bear the dragon seeds of violence.

U.S. foreign assistance can be extended more objectively and effectively through sound, practical multilateral institutions.

IDA is such an institution.

IDA is not a giveaway program of hard-earned U.S. tax dollars.

Its so-called soft loans—long-term credits at low interest rates—are for well-evaluated, economically justifiable projects in areas most directly affecting people-agriculture, education, transportation and energy.

When high prices and unemployment at home combine with increased domestic needs, people ask why help those abroad? Aside from traditional U.S. humanitarian generosity and the self-interest of a have nation in world stability, foreign aid helps stimulate U.S. business.

Approximately 60 percent of our contribution to IDA, for instance, will return directly to the United States through procurement or local expenditures. Harder to specify are the additional returns to U.S. business because of recipient countries increased ability to grow and trade.

Oil rich countries must and are getting organized to help disadvantaged countries, who are also the ones worst hit by the rise in the cost of petroleum products. Given the magnitude of the need, this fact does not justify no or less help from the industrialized countries.

It does not justify the U.S. abandonment of a successful institution like IDA, that was essentially a U.S. initiative.

I hope that the Senate will give IDA its solid support in the passage of S. 2665. There is every reason for doing so: reasons of self-interest, trade and economics, humanitarian tradition, world stability, and human survival.

TO THE REPUBLIC—WHERE IS IT?

Mr. HELMS. Mr. President, this past Wednesday evening, I had the honor and pleasure to serve as the speaker at a testimonial dinner honoring one of America's great teachers and constitutional authorities, former dean of the Notre Dame Law School, Clarence Manion.

Not only has Clarence Manion served as a dedicated public servant for several Presidents, but also he has been a successful and well-respected attorney. His radio program, the Manion Forum, has been heard on several hundred radio stations for more than 20 years.

When I describe Dean Manion as a teacher, I mean more than his classroom duties. For, in a much larger sense, Dean Manion has been a teacher to the Nation. As such, he has helped keep alive the miracle of America. He has held high the truth that freedom's survival depends on man's willingness to live by principle, honesty, sacrifice, personal responsibility, and most of all, with faith in our Creator.

On Wednesday evening, Dean Manion spoke of the need in this Nation for a rededication to the principles and goals set out in the Declaration of Independence—the 200th anniversary of the signing of which this country will celebrate in 1976.

Mr. President, we could not rededicate ourselves to a more noble political document than our own Declaration of Independence. And I cannot remember when I have heard a more cogent and forceful reminder of the lasting value of this great declaration than I did on Wednesday evening in Dean Manion's remarks.

Mr. President, so that the Members of this body may have the benefit of this outstanding teacher's wisdom, I ask unanimous consent that Dean Manion's address, entitled "To the Republic—Where Is it?" be printed in the RECORD at the conclusion of my remarks.

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

TO THE REPUBLIC—WHERE IS IT?

(By Dean Clarence Manion)

This will be the first speech I ever made in response to a subpoena. I wasn't asked to come here tonight; I was ordered to come. Nor was I promised immunity in exchange for this testimony at my own testimonial. Neither do I have access to the Fifth Amendment.

I don't know what Judge Sirica would think of such a witness, but I want to assure him and everybody else that I did not break into the Mayflower! I have been brought in, and any plans or secrets of the Liberals that I have in my possession came from the public domain, namely, the newspapers.

But next—and more seriously this time—let me say that while I do not deserve it, and tried my best to prevent it, I am nevertheless overjoyed by this beautiful tribute. My gratitude for it is so deep that I dare not trust my notoriously weak emotional restraints by trying adequately to express that gratitude now to Phyllis Schlafly, Senator Helms and all of the wonderful men and women in the great patriotic organizations and publications who conceived, sponsored and produced this memorable occasion.

So permit me to detour around a possible crack-up by simply expressing the hope that the Good Lord will richly bless all of these unselfish sponsors and all of you, too, my dear friends, for this comforting manifestation of your great charity. From my long experience with Him, I am sure that He will do just that.

During this dinner I have been making a person to person visual canvass of this remarkable audience. My conclusion now is that, by and large, we have here tonight the most distinguished, learned, heat-tempered, case-hardened group of patriotic conservatives ever assembled in this country. No doubt the reporter whom I observed identifying each of you as you arrived has now gone back to his press room convinced that here tonight there has just arrived, and most appropriately in the Mayflower, mind you, the vanguard of the long awaited "Seven Days in May." He will probably report that each of you arrived armed with a big "piece of the rock"—the Plymouth Rock, of course.

Your conservative learning and experience emancipates me from a chronic obligation that I habitually assume on the radio in trying to convert at least a part of the listeners to an appreciation of some facet of conservatism as the saving grace of American freedom. Fortunately, all here tonight understand that sweet mystery of life as well as I do. So, at long last, I am free to say a few, although not entirely unrelated, words about something else.

To me, the stubborn persistence of the Manion Forum through the years invariably recalls the outstanding, enduring character described in Carlyle's dramatic story of the French Revolution, the mercurial but dedicated Abbe Sieyes.

The Abbe was the only clergyman who turned up in the first French Revolutionary assembly in 1789. He joined the revolutionary movement with an iron-clad determination to draw up a strong constitution for the New Free France modeled on the one that had just been adopted in America. For ten turbulent, frustrating years, the Abbe kept his long nose to that rough grindstone—straight through the ruthless reign of terror while the busy guillotine was washing the streets of Paris with the blood of hundreds of his fellow revolutionary leaders, and right up to 1799 when Napoleon Bonaparte quieted everything down with his long promised blast of grape-shot.

Many, many years later, a very young Frenchman asked the aged Abbe Sieyes to tell him all that he had accomplished during the big revolution. Replied the Abbe, "I survived."

I am more than ever convinced now, at this perilous point in time, so to speak, that it is critically important for learned and concerned conservatives to give studious attention to this critical key concept called "Survival."

For instance, there is a great debate going on now about the moral propriety of employing extraordinary methods for keeping a sick human being alive beyond the point when all hope of his or her recovery is gone. Now, let's face it; similar questions are currently plaguing many conservatives about the hope of reviving what often appears to be the moribund conservative cause. Their question is, "Can the conservative cause survive?" And, beyond that, under our presently depressed and demoralized political circumstances, should it any longer survive?

But let me quickly submit that this is not the basic question. The basic question is can and should the American Republic survive? Has our unique system of constitutional government, which was designed for our federated nationally independent country, now outlived its usefulness? This basic question tells us exactly what the conservative cause is all about. The fact is that what we conservatives have always been and still are trying to conserve is the National Independence and Constitutional Government of the United States of America.

We have sometimes allowed ourselves and others to forget that political conservatives are the real, authentic American conservationists. Political conservatives are dedicated to the preservation of the truly basic, irreplaceable resources of this country, namely, its moral, spiritual and legal resources. Patriotic Americans who are seriously interested in preserving the basic national resources

implicit in our traditional climate of freedom with its safe environment of law and order, should quit listening to Ralph Nader and start reading the American Declaration of Independence. There—in our official declaration of national purpose—is where our basic store of these indispensible resources are enshrined.

Fortunately, unlike the Constitution of the United States, the Declaration of Independence has not had to suffer the slings and arrows of recent Supreme Court misconstructions. The American Civil Liberties Union has not sought—not yet, at least—to get Federal Court injunctions against the public reading or schoolroom explanations of the great Declaration. This is only because little if any of that is now being done. Nevertheless, in their recent decisions, Federal judges have openly invited the A.C.L.U. to present, on behalf of its atheistic clientele, such injunctive petitions when and if such reading, recitation or study of the Declaration becomes popular.

Unlike the Constitution, the Declaration is not what the judges say it is. On the contrary, it is the unchanging voice of self-evident truth speaking with the first breath of new life of "the Republic for which it stands." So, in our search for the Republic, that remarkable Nation under God which the flag represents and which we all saluted so proudly at the outset of this dinner, we must turn to the Declaration which preceded our Federal Constitution, and which so conclusively rationalized all of the principles, purposes and procedures of our entire constitutional system.

At its outset the Declaration states that we trace our title to our national independence to Almighty God Himself. Then, before we are ten lines deep into the document, we find that "We hold these truths to be self-evident: (1) That all men are created;".

Please pause here to note that expressly this holding is not advanced as a logical conclusion. Deliberately, no evidence is offered to support it. For the members of the Continental Congress, no evidence was needed. They all joined in the Declaration unanimously. They knew that Almighty God exists—not merely as a matter of their great religious faith but as an obvious matter of fact. Everyone of them believed these self-evident truths as confidently as he knew that he was alive when he subscribed to them. Thus our Declaration of Independence was, and remains today, one of the most profound acts of religious faith in all history.

The signers went on to declare that all men are "created equal"—equal in the sight of God, their Creator, that is, and therefore equal before the law of the new land that they had brought into existence then and there. All men are thus equal before God and before the civil law, and they are otherwise unequal, different, that is, in every conceivable way. The Declaration does not say that all men are born equal, because obviously they are not. Our Creator gives each of us a special, different personality that is apparent from our looks and actions and is finally certified by your fingerprint, your God-given individuating trade mark which distinguishes you and each of us from every other person who now lives or who has ever lived on the face of the earth.

This is the vital point and place where Abbe Sieyes' French constitution-makers cracked upon their man-made, atheistic rock called "liberty, equality and fraternity." Our God-fearing political ancestors went the French Revolutionaries one better: they insured the success of our constitutional system by latching it into eternal God-made truth.

If all men were identical, if they had been geared like the lower animals—to do the same thing under the same circumstances at the very same time—and had been left without the individual incentives, ambitions and aptitudes that have collectively pulled human civilization steadily forward, no one would have ever made "two blades of grass grow where one grew before." That being so, the human race would have starved to death thousands of years ago.

The Declaration goes on to say that all men are endowed, not by the civil government but by God himself, with "certain unalienable rights" and that the one over-riding purpose of all civil government is to secure and protect each person's God-given life and liberty while that person is making his particular contribution to the general good by using his personal talents to provide for his own welfare.

The Declaration makes it clear that civil government is never our master. On the contrary, such government is merely man's agent for the protection of God's gifts. All of this makes our Declaration of Independence the greatest theo-political document ever published in the world. It is the most perfect orientation of man to his God, to his government, and to his fellow man to be found anywhere in all literature outside of Holy Writ.

It speaks eloquently and directly to the point of all our present political discouragements and disconsolations, but, apparently nobody is listening to the Declaration of Independence. And, unfortunately, the people who are most completely deafened to its voice are a majority of the Justices of the United States Supreme Court.

In the beginning of our history, Supreme Court Justices were continuously construing the letter of the Constitution in the spirit of the Declaration of Independence, and said so. But, unfortunately, our recent generation of Justices have short memories. They remember and rely entirely and without question upon the ruling of Tom Clark, Hugo Black, Earl Warren, Arthur Goldberg and William O. Douglas. They apparently have no official recollection of Justices Marshall, Moody, Brewer, Hughes and Cardoza, or of their periodic face-to-face castigations by Felix Frankfurter.

And so, fifteen years ago, while the Federal Trade Commission wasn't looking, the errant Justices climaxed their insulated wisdom by gratuitously merging the first eight amendments into the 14th Amendment, and thus effectively wiped out the basic separation of powers between the States and the Federal Government that the Founding Fathers had used as the warp and woof of our Federal system.

Since that time, our Supreme Court picks up the entire Constitution only when and where, if ever, the 14th Amendment leaves off. Thus, and right while the Congress and the Presidency have been making Brownie points about the sacredness of the separation of their respective powers, the Supreme Court and its deputy District Federal Judges have taken over the administrative supervision of state insane asylums, state prison reform, state school busing, state abortion and pornography laws, and, among other things, state legislative, school and Congressional districting. At the same time, Federal judicial over-site has blanketed and preempted the whole field of state crime and punishment.

Over the Manion Forum microphone a few weeks ago, the able Attorney General of Indiana, Theodore Sendak, complained and cited numerous examples to show that in the last few years the Federal courts have decided that they are to legislate. They now make new laws instead of deciding cases and controversies under existing laws. He said that by the current use of so-called equity powers, the Federal courts have carried their jurisdiction to the point where they are now all three branches of government in one.

The remedy that our Chief Justice Burger proposes for the resulting over-crowded and conjested Federal Court dockets is more Federal judges. To the layman it appears that if we could get the Federal judges out of state schools, insane asylums and prisons, we might find ourselves with more of them than we need.

One hundred and twenty-five years ago, in deciding for the Supreme Court of the United States that the Federal courts should not intervene in state political controversies, the Court's distinguished Justice Woodbury said this:

"If the people in the distribution of powers under the Constitution should ever think of making (Federal) judges supreme arbiters in political controversies when not selected by nor frequently amenable to the people, they (the people) will dethrone themselves and lose one of their own invaluable birthrights; building up in this way slowly but surely a new sovereign power in the republic in most respects irresponsible and unchangeable for life—and one more dangerous than the worst elective oligarchy in the worst of times." (Luther V. Borden, 7 Howard 51–53–1849)

Not as slowly, but just as surely, as Justice Woodbury prophesied, the separation of powers, which for so long constitutionally characterized our Republican form of government, has been wiped out by the new consolidated power of the Barons of the Federal Bench.

But the most significant result of its gratuitous consolidation of the First Amendment with the 14th came when the Court held that the First Amendment's "no religious establishment" clause was now suddenly an indissoluble part of the 14th Amendment and thus now and forevermore a restriction upon the States. Consequently, henceforth the States could not any longer permit students in its public schools voluntarily to say together, out loud:

"Almighty God, we acknowledge our dependence upon Thee and we beg Thy blessings upon us, our parents, our teachers and our country." (Engle v. Vitale, 370 U.S. 421, 1962) That was in 1962. Since then, under the prodding of professional atheists, the absolute divorce of God from the Government of the States and of the United States has been affirmed every time that a case in point could manage to get itself before the Supreme Court for decision.

The irony of this contrived, official anti-God twist in the Supreme Court's version of our constitutional history is disclosed in the Congressional Record. The Court has insisted that this ruthless separation of God from government was written into the First Amendment by Congress. However, the Congressional Record reveals that on September 24, 1789, the very same day on which it approved the First Amendment, Congress called upon President Washington to proclaim a National Day of Thanksgiving and Prayer to Almighty God.

Wasn't the Supreme Court able to find the record of that Congressional call in 1962, or did it ignore it?

Back in 1917, Vice President Tom Marshall suddenly interrupted and cooled down a heated Senate debate on the pressing needs of the Nation. Said Marshall: "All this country needs is a good five-cent cigar." If Marshall came back to look us over today, he would probably say that all this country needs now is a good exorcist! Old-timers like Marshall would undoubtedly see a lot of deviltry in our American way of life and strife today. The kidnappings, burglaries and blackmail merely headline the constantly rising currents of crime, cruelty, amorality and wide-spreading popular fear.

For the first time in a hundred years, Congress is challenging the right of the President to complete his term of office. The easy excuse is to blame all of the turmoil on the

stubborn iniquity of Richard Nixon, but in the perspective of our troubles, that explanation doesn't stand up. Mr. Nixon's publicized deficiencies are among the effects rather than the causes of our troubles.

Vice President Marshall would undoubtedly say that our present plethora of troubles is a Divine judgment that we have brought upon ourselves. He would read the Declaration of Independence and then look at the present anti-God decisions of the United States Supreme Court. He would want to know how resounding was the roar of protest from the Bar, the State judges, the colleges, the churches, when these no-prayer, anti-God decisions were announced?

Was it popular ignorance or popular apathy that accommodated our people to this new proclamation of neutrality for our Government in the battle between God and the devil? He would ask what kind of a face will this put upon our upcoming celebration—or will it be a cremation—of the Declaration of Independence on July 4, 1976? He would remember that John Adams, who signed the Declaration of Independence, wrote to his wife the next day that the great event should be solemnized by future generations with pomp, parade and bonfires from one end of the country to another with acts of devotion to God Almighty from this time forward forevermore.

Marshall would have missed what President Coolidge said about the Declaration on its 150th anniversary in 1926, but he probably heard about that, too. Listen to it:

"There is a finality about its self-evident truths that is exceedingly restful . . . No advance, no progress can be made beyond these propositions. If anyone undertakes to deny these truths, the only direction in which he can proceed historically is backward to the time when there were no rights of the individual . . . These principles have their source and roots in religious convictions. Unless the faith of the American people in these religious convictions is to endure, the principles of the Declaration of Independence will perish."

Now, at this point, we would be forced to tell Marshall the hard truth. During the last eight years Presidents Johnson and Nixon have appointed three commissions which have spent millions of dollars doing nothing about the upcoming 200th anniversary of the Declaration. Are they afraid that they may be enjoined or arrested or something if this precious, priceless document is publicized?

Remember that it is the 200th anniversary of the Declaration of Independence that we are to celebrate in 1976. We are not celebrating our national independence itself—that was not confirmed until 1783. We will be celebrating the survival of the American Republic as it is defined and previewed in this prospectus for our constitutional government.

I thus hope and pray that political conservatives will move at once and en masse to occupy the disgraceful vacuum that now surrounds this upcoming bicentennial. Let all conservatives who aspire to be President, Senator, Congressman, Governor or State Legislator, adopt the Declaration of Independence as the base and bottom of their platform, with the Ten Commandments next. This is the key to the survival of the conservative cause, and for the Republic for which we stand.

God and Country—one and inseparable—then, now and forever.

SENATOR GOLDWATER ON AIRSHIPS

Mr. BARTLETT. Mr. President, on May 13, the distinguished ranking minority member of the Aeronautical and Space Sciences Committee addressed the 36th annual meeting of the Aviation/Space Writers Association in Washington, D.C. His subject was "Airships?"

The Senator from Arizona said that transportation problems in the United States may shortly become so critical that the Nation will have to look at dirigible-type airships to help ease the crunch.

Moreover, he told his audience some of the thoughts that occurred to him in the wake of the energy crisis and the shortage of boxcars and transportation problems that are afflicting a growing and more demanding population. This speech raises an important question for the future of the Nation and I commend it to my colleagues.

Mr. President, I ask unanimous consent that the remarks of the distinguished Senator from Arizona be printed in the RECORD.

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

AIRSHIPS?

Thank you for inviting me to speak before the 36th Annual meeting of the Aviation/Space Writers Association. It is a great feeling to be among so many friends.

Over the past 36 years there has been a lot to write about:

Aviation played a decisive role in a global war.

Routine air travel was established across the oceans and around the world.

The sound barrier was broken and supersonic flight became routine.

And man set foot on the moon.

The advancement in technology has been staggering and the benefit to mankind incalculable. The writing professions have been an integral and necessary part of this saga.

This morning, I would like to share a few thoughts with you concerning airships.

During the past year, there has been renewed interest in blimps, dirigibles and hybrids. It might be called a lighter-than-air-boom. Articles have appeared in large circulation magazines and in specialized professional and trade magazines. The term "Helium Horse" was coined.

A growing awareness of ecological and energy problems in transportation may be partly responsible for this resurgence. A sentimental journey by Americans back to the decade of the 1930's may have contributed. And, then, there is man's natural desire to find better ways of doing things.

At the outset, we must recognize technical problems which are generally common to lighter-than-air vehicles: First, there is the basic problem of mooring a neutrally buoyant vehicle. Second, ballasting requirements during load transfers. Third, the fact the aerodynamic thrust is small—compared to potential gust loading—and is generally not vectorable for adequate station-keeping.

Let us have a look at some of the apparent advantages of airships as compared to conventional aircraft:

1. Outsized and heavy payloads can be lifted.

2. Less pollution resulting from lower power requirements.

3. Public annoyance reduced through low noise levels.

4. Stay aloft for extended periods of time.

5. Operate where there are no airports.

6. Hover for extended periods of time especially in a hybrid mode combining static and dynamic lift.

7. Safety resulting from sizeable mass and slow speeds. The foregoing characteristics suggest some intriguing applications.

The Navy could certainly use airships for improved anti-submarine capability. Airships have a much better station-keeping ability than the conventional aircraft now used for submarine detection. Moreover, the airship could overtake or outdistance existing nuclear submarines, which most naval surface vessels are unable to do.

The Air Force might use a fleet of airships as a launching platform for intercontinental ballistic missiles with the obvious advantages of dispersal and station-keeping.

The civilian economy might be helped by the ability of the airship to carry huge and outsized payloads. Entire homes and buildings might be moved from factory to construction sites. Whole tree farming could become a reality. Heavy machinery for oil well drilling could be lifted to remote areas.

Within the past few days, the Navy let a contract for $85,000 to the All American Engineering Company of Wilmington, Delaware, to study a concept known as the Aerocrane.

Aerocrane is a hybrid vehicle which looks like a spherical balloon with four rotors attached 90 degrees apart. The balloon part of Aerocrane has a diameter of 150 ft. Each rotor is 112 ft. long. On each roter there is a turbo-prop engine developing 1250 horsepower.

The entire vehicle turns at 10 revolutions per minute with a tip speed of 196 ft. per second. Forward operational speed would be a maximum of about 52 miles an hour. Favorable weather conditions are required.

Aerocrane is said to combine the advantage of static and dynamic lift, and the small version would be able to lift a 50-ton sling load. A later stretch version would be able to lift as much as 200 tons.

The Navy believes a vehicle like Aerocrane could help with small craft and aircraft salvage, ship repair, submarine rescue operations, amphibious assault, and harbor improvement. Navy planners have to take into account political instability in much of the world, which can make the future availability of a specific port questionable.

Since 1972 Aerospace Developments, Ltd. of London has been working on a giant airship under contract to the Shell Oil Company.

When I say giant, I mean an airship 1800 feet long, 300 feet in diameter, and with a 100 million cubic feet capacity. (I don't know who started the rumor that the British think small.)

The purpose of this vehicle would be to transport natural gas in a gaseous state.

I understand that Shell Oil Company is satisfied with the economics of this airship. As you no doubt know, the cost of a liquid natural gas tanker is approximately $100 million. The cost of a liquid natural gas plant is upwards of $450 million. When you combine the ship and the plant costs Shell believes the airship will show a savings of at least 30%.

Nationalization, the threat of nationalization, and political instability are making the oil companies reluctant to make capital investments where these conditions exist. A giant natural gas airship is a neat solution.

Shell's determination is simply demonstrated by its instructions to Aerospace Developments. These instructions say in effect: Keep going until you run into a technical problem you can't solve.

In 1973, there were 40 nuclear power plants in operation. According to one industry estimate, there will be 150 units in 1980, and the curve will rise to 1000 units by the year 2000.

In the past, nuclear power plants had to be located near large bodies of water for cooling purposes. With improved cooling tower technology, nuclear power plants can now be located away from lakes or rivers.

But, there is a transportation problem. Components in the 50-400 ton range must be moved from the factory to the plant site.

Where the components can be barged by water all is fine, but what happens if the plant site is inland?

It is a fact that Combustion Engineering of Hartford, Connecticut, has entered into an agreement with a large aerospace company to jointly study the airship as a way of moving large nuclear plant components.

Clearly, commercial markets for airships can be identified—markets where there is a need to move large, bulky cargo.

There may be another market—one that is hard to identify. But, ask yourself this question:

How many of the things we manufacture are limited by constraints which we take for granted?

I don't mean to tell this audience about the weight and size limitations of air cargo.

But let's take a look at the more mundane surface transport constraints.

If you are moving cargo on a railroad, you are limited by the size of a flatcar which is 89 ft. 4 in. long by 10 ft. 8 in. wide.

Moreover, your railroad flatcar has to go through underpasses that are 22 ft. high by 16 ft wide. But that's not all. Your cargo will have to pass through railroad tunnels that have a vertical wall height of 15 ft. 7/8 in. to which you can add 6 ft. at the arch center.

If you're moving cargo by truck you are going to be confronted by 14 ft. underpasses near cities and 16 ft. underpasses in outlying areas. Moreover, you'll find width constraints averaging 12 ft. depending upon the areas.

Nearly everything that flies from an airport is subject to the same constraints.

It doesn't take much imagination to see what might happen to the economy, if the weight and size constraints built into our surface transportation system were removed.

There are only two ways to get around the underpass and tunnel problem: barge and aircraft.

Further, ask yourself this question: How are we going to build houses, pipelines, power plants, office buildings, ten or fifty years from now?

I don't think we will be building houses by stacking lumber, nails, pipe, and siding at the building site—and, then putting it all together piece by piece.

Again, part of the answer has to be aviation.

While airships have been enjoying renewed interest especially in the past year, it behooves the prudent to cast a wary eye.

Airships have both technical and political problems.

The technical problems involve first of all economics which don't appear to be fully understood today, or at least, not by me. For example, I have heard cost per ton mile figures ranging on the low side from one cent to 45 cents on the high side. There seems to be a very definite need to refine economics of airship transportation.

On the engineering side, there are problems concerning materials, attitude control, and landing.

When the Hindenburg landed at Lakehurst, New Jersey, on May 6, 1937, a ground crew of 230 men was needed—most of them to handle mooring lines. I doubt that this method of landing would be acceptable in 1974, because of the huge cost involved—not to mention consternation among the next of kin.

And the bureaucrats who administer the Occupational Safety and Health Act would have a field day.

On the political side, or if you prefer, the P R side, there are two factors that stand out:

First, the poor reputation of dirigibles resulting from what might be called the Hindenburg syndrome.

Second, what might be termed the "giggle factor"—which means what happens to you when you mention dirigibles to those who think they won't work.

The picture of the Hindenburg going up in flames is firmly etched in the memory of anyone old enough to have seen the newspaper pictures. It was a terrible disaster, but as you know, it resulted from the fact that the Germans had to use hydrogen for lift.

Detractors of lighter-than-air technology point out that the zeppelin had great difficulty in operating in foul weather. They correctly point out that success of the zeppelins was as much a result of the high quality of the skippers as of the craft's essential air worthiness.

But, let us look at the other side of the coin:

The zeppelin's skipper had no on-board weather radar.

He couldn't take advantage of space-age weather forecasting.

His airship was under-powered.

He had to have a crew continually adjusting and repairing his craft.

He was denied the safety of helium.

With modern materials, avionics, and propulsion—unknown in the zeppelin days—I believe a dirigible could be built that would be at least as safe as existing fixed-wing aircraft. Economics is the driving consideration.

The "giggle factor" is harder to counter, because it is based on a gut reaction.

I can understand why some people feel that blimps are ludicrous. They are big, and they are slow.

To some extent, the "giggle factor" is abetted by those who have a romantic interest in lighter-than-air. Some exaggerated claims, backed by skimpy technical information, have been made for dirigibles.

For example, I don't see the United States government or private industry financing a R & D effort in airships to take passengers on moonlight cruises up the Amazon River. On the other hand, the romantics have proposed that large airships could be used to take entire hospitals to disaster areas. That strikes me as an idea worth considering.

If passenger airships ever come about, I believe it will be an adaptation of an airship developed for other purposes.

Meanwhile, let's not kick the romantics around. The tremendous strides made in aviation is partly attributable to their dreams—without their dreams it might never have happened.

Airships deserve a second look for the promise they hold in meeting real transportation needs. If our national aeronautical R & D effort is to merit public support, part of the effort must be devoted to meeting the discernable everyday needs of people.

If our Nation has a chronic boxcar shortage, what can aviation do about it?

If better and more efficient methods of distributing goods are needed, how can aviation help?

A clue in solving our transportation problems may be found in looking at the total system. What are the choke points? What are the artificially created constraints? What needs to be done to overcome them?

In the overall picture, airships are likely to be only a part of the future aeronautical R & D required by the Nation. To meet our future needs:

We must push advanced propulsion.

We must build modern aeronautical research facilities.

We must pursue research in supersonic and hypersonic aircraft.

We must put as much emphasis on performance as we do on pollution and noise.

The economic and spiritual well-being of the Nation demand that we push the frontiers of knowledge and technology. Through our renewed commitment to doing a better job, we can assure a healthy aerospace industry.

Most important of all, we can provide a better and fuller life for all Americans.

Thank you.

FORESTRY RESEARCH

Mr. HASKELL. Mr. President, the Rocky Mountain West has long contributed an important part in the development of the United States. The mountain west has a vast amount of natural resources—timber, energy sources, and minerals—which it has shared with the Nation. It is now apparent that these resources are going to play an even greater role in our Nation's growth and development. It is also quite apparent that the increased development of these natural resources is going to create many new social, legal, ecological, and economic problems for this region.

A key to dealing with these problems is knowledge—knowledge of the consequences of the development so that public officials can make sound, responsible decisions to maintain a high-quality environment.

In 1972, 10 Western institutions—nine universities and the Rocky Mountain Forest and Range Experiment Station—USDA—formed the Eisenhower Consortium for Western Environmental Forestry Research. The consortium gathers a broad spectrum of research talent and expertise to find solutions for these man-environment problems and share this knowledge with commissions, planning boards, and agency administrators in the Rocky Mountain region.

The Forest Service is requesting $800,000 for fiscal year 1975 to provide funds for the Eisenhower consortium's research. I support this request because it will mean much to the orderly development of the Rocky Mountain West.

Mr. President, I ask unanimous consent that a statement by the Eisenhower consortium on their program be printed in the RECORD for the consideration of all Senators.

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

A PROGRAM OF WESTERN ENVIRONMENTAL FORESTRY RESEARCH

Forestry is one of our nation's most basic industries and has contributed materially to our countries development. We must prepare now for even greater contributions to the nation's welfare than ever before. Housing materials, fiber, paper products and forest based recreational and residential services are increasingly demanded to meet the needs of our growing population, to meet world market demands (including our own needs for foreign exchange) and to provide a human release valve for an increasingly complex mode of living.

The Rocky Mountain West has contributed its share to the nation's development. Because the region is such a vast storehouse of natural resources—timber, minerals, recreation and energy sources—it is very apparent that it is now going to be called upon by the entire nation to contribute an increasing share. The inevitability of rapid growth and development in this region is equally apparent. Moreover, this development must be planned and accommodated under quite different conditions than those which have obtained in the past. Physical constraints imposed by fragile environments coupled with legal and social constraints imposed by environmental concerns dictate new approaches to resource management and development.

The planned massive energy production facilities and more complete exploitation of the extensive natural resources promise a further surge of population. Localities that are now rural and thinly populated will become industrialized and urbanized. Consequently, an additional wave of new building and sharply increased demands for renewable resources and outdoor recreational opportunities are in prospect.

The impacts of ever-increasing numbers of people on the fragile western environments can be disastrous unless methods of controlling and mitigating these impacts are developed. Land in the West is slow to recover from disturbance because of short, cool growing seasons and generally limited rainfall. Soils are thin and unstable in many localities. Thus, heavy use can result in accelerated erosion, heavy sedimentation and contamination of waterways, sharp reductions in fish and wildlife populations, and destruction of the esthetic and amenity values of the open spaces of the West.

Energetic attempts are being made to plan land use and land management to minimize and control effects of increased activities and new developments, but the process is seriously hindered by lack of information of effects on vegetation, soils, water and air quality, wildlife and fish population and distribution, esthetic quality, and amenity values of open land. Main sources of impacts are residential and industrial developments, recreational sites and activities, transportation systems and resource exploitation.

Planners and decisionmakers need specific information on environmental and socioeconomic effects of current and prospective activities to determine the available alternatives and to choose those that will optimize benefits to society and minimize both adverse environmental effects and economic costs. Therefore, we propose a program of research to:

1. Determine the environmental, ecologic, and socioeconomic effects of new and expanded residential and industrial developments, recreational sites and acivities, and transportation systems.

2. Develop methods and techniques for monitoring and controlling changes in environmental and ecologic factors, for managing use of natural environments, and for reducing adverse consequences.

3. Analyze constraints of current laws and institutional arrangements on maintenance of a high-quality environment, and identify and evaluate needs for new legislation and modified or additional institutional arrangements.

4. Improve methods for achieving broad public understanding of man's interrrelationships with, and needs for, products and experiences from forests and associated wild lands.

Progress toward timely solution of environmental problems of the central and southern Rockies and the adjacent high plains requires an array of scientific and technical disciplines and research skills not found in sufficient quantity in any one institution. Therefore, nine universities in the region and the Forest Service, through the Rocky Mountain Forest and Range Experiment Station, in 1972 formed the Eisenhower Consortium for Western Environmental Forestry Research to mobilize and coordinate the array of research experience and skills available in these institutions. The universities are: University of Wyoming, University of Colorado, Colorado State University, University of New Mexico, New Mexico State University, University of Arizona, Arizona State University, Northern Arizona University, and Texas Tech University. The consortium is able to coordinate regionwide, multidisciplinary research on regional problems. This capability has been demonstrated in the consortium's first two years of research, which has made outstanding progress with very limited funds.

Currently, the consortium has been joined by the Institute of Ecology in a natural resource problem assessment of the entire Rocky Mountain West, mobilizing the efforts of more than 200 experts from industry and Federal and State agencies, as well as universities. The National Science Foundation and the Environmental Protection Agency are helping fund this problem assessment project. We estimate that a minimum of $4 million annually will be required for the program, and we propose its implementation over a 5-year period.

Protection of soil and water quality is fundamental not only to maintenance of productivity for commodities but also to preservation of recreational esthetic, and amenity values. Soil loss is an irreversible change of the ecosystem; plants and animals are fewer in species and number and smaller in size than in the undamaged system. Thus, soil loss makes an area less attractive, less useful, and less productive. Eroding soil also carries with it organic material and mineral elements, so that aquatic life suffers from excessive sediment, reduced oxygen, and sometimes harmful levels of mineral elements. The same constituents also mar the attractiveness of the watercourses for recreational activities and reduce the usefulness of the water for irrigation, industry, and human consumption. The results are reduced revenues from recreation, hunting, fishing, and commodity production, and increased costs of water use.

The research planned for initial implemenation will be aimed at determining: the intensities and modifications of land use and management practices permissible without inducing soil erosion; the water quality-water yield effects of recreation and residual developments and of various land uses; and the recreation carrying capacity in terms of impact on the land, the limiting effect of human interactions on the recreational experience, and in relation to demands for outdoor recreation.

The Rocky Mountain Forest and Range Experiment Station and the nine universities mentioned earlier are already cooperating in a number of exploratory studies aimed at environmental problems in the central and southern Rockies and adjacent high plains. An additional $800,000 is needed as a first increment to the current effort to mount an effective attack on these problems. Approximately one-half of new funds allocated to the program will be used to support research by the Rocky Mountain Forest and Range Experiment Station and one-half will support complementary research by the participating universities.

NORTH CAROLINA JOURNALIST HONORED FOR REPORTING ON NEW RIVER

Mr. ERVIN. Mr. President, as the Senate knows, I have introduced legislation in this Congress to save the New River in North Carolina from the destruction which would be wrought by the "Blue Ridge Power Project." The bill, S. 2439, which would designate a segment of the New River as a potential component of the national wild and scenic rivers system, was favorably reported to the Senate by the Interior Committee on May 2, 1974.

Thus, I am especially proud that Mr. Charles Osolin, Washington correspondent for the Winston-Salem Journal, has been presented with an Edward J. Meeman Conservation Award for his coverage of the controversy over the "Blue Ridge Power Project" on the New River. The Meeman Conservation Awards, sponsored annually by the Scripps-Howard Foundation for reporting on conservation issues, were presented on April 30, 1974, in New York City. Mr. Osolin's award was presented by Matt Meyer, president of the foundation, who said:

> Your hard-hitting, in-depth reporting, and then your eloquent editorial comment, must have great impact and will eventually save the New River from harmful exploitation.

Mr. President, I wish to add to this citation my personal congratulations to Mr. Osolin, and commend him for his outstanding efforts in awakening the people of North Carolina to the grave consequences which now threaten the New River.

INTERNATIONAL DEVELOPMENT ASSOCIATION

Mr. TAFT. Mr. President, my support for S. 2665, the IDA replenishment bill, is based on something more than reading the bill, the committee report and the extensive hearing record before us. It is based on personal involvement in the formulation of the proposal, and personal observation of what IDA is doing in the field.

I served as one of the congressional advisors on the U.S. delegation accompanying Secretary Shultz to the Nairobi Meeting of the World Bank last September, where this IDA agreement was negotiated. We were consulted as the discussion proceeded, and it was clear to me and the other congressional Members that our negotiators came away with a very favorable outcome from the standpoint of the United States.

I and the other congressional delegates also had an excellent opportunity en route to and during the Nairobi meeting to see what our funding for IDA translates into in terms of actual projects.

In Senegal, the delegation saw IDA helping to rehabilitate the Port of Dakar and the railroad network on which most goods move through to the interior. Without such improvements, sound development of the countryside away from the major cities cannot take place and the poverty that grips those rural areas will go on and on.

In Kenya we saw the pioneering work done by IDA in financing small tea farmers, helping them with credit and technical assistance to become independent owners, instead of plantation workers. And we also observed the small livestock cooperative on which for the first time herdsmen would be enabled to build adequate facilities for feeding and disease control, and to get credit to purchase improved breeding stock.

The hard work, the results, and the pride of these people were gratifying to observe, but none of this would have taken place except for the role played by IDA. These herders near a small town in Kenya knew that. And they knew, I might add, that the United States was an important part of making IDA money available.

We are an important part of the IDA process. We are, in fact, an indispensable part of IDA. This replenishment cannot come into effect without U.S. participation. The U.S. share, reduced from 40

percent in the past to 33⅓ percent proposed, along with a stretchedout payment schedule would seem to be an equitable and feasible commitment at this time. Our target, of course, should be an even lower share. I therefore urge most strongly that the Senate give full endorsement to S. 2665.

DR. EDWARD ELSON IN MANHATTAN, KANS.

Mr. DOLE. Mr. President, it is always an honor and a privilege to have a Senate colleague or one who is closely associated with the Senate as a guest in the State of Kansas. This was especially true on May 5 when Dr. Edward Elson, the Chaplain of the Senate, preached the inaugural sermon in the Grace Long Memorial Pulpit Series at the First Presbyterian Church in Manhattan, Kans.

Dr. Elson's reputation as a minister, scholar, and wise observer of contemporary events extends far beyond the Senate Chamber and his own congregation in Washington, so it was not surprising to learn that he had been invited to Manhattan to preach at this important service. The Senator from Kansas was in the congregation that morning and wishes to share the insight and message of Dr. Elson's sermon with the entire Senate. It was a most timely, uplifting, and thoughtful message which merits widespread attention and prayerful reflection in this time of challenge to ourselves and our institutions.

Therefore, I ask unanimous consent that the text of Dr. Elson's sermon be printed in the RECORD.

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

TURBULENCE IN THE BIG ROOM

[A Sermon by Edward L. R. Elson, D.D., S.T.D., Chaplain, U.S. Senate]

OPENING REMARKS

It is a great honor to be here today as the first preacher in the Grace Long Memorial Pulpit series. I trust that in the future this annual event may be a high point in the Church year.

I am happy to be back again in this State which gave to the Nation and the world my friend and parishioner, Dwight D. Eisenhower. We also appreciate the great career of Senator Carlson, a leader of the Senate Prayer Breakfast Group and the primary influence in establishing the annual National Prayer Breakfast first attended by President Eisenhower and now an established program for the President and the leaders of our government.

I am pleased to note that Senator Carlson's successor, Senator Robert Dole, a thoroughly competent, hard-working Senator is in the congregation this morning. Senator Dole was wounded while serving as a soldier in the 75th Infantry Division in World War II. The 75th Infantry Division was unique because it was the first all teen-age division of draftees—the average age on activation being nineteen years plus. Although while in Europe I served with another organization I have always cherished the memory of being the first division chaplain when the division came into being at Ft. Leonard Wood.

It is a special source of happiness to be the guest of your distinguished pastor, Rev. John Graham, who entered the ministry from membership in The National Presbyterian Church of Washington and is the most versatile and effective representative of the thirty-one young people to go into the ministry from that congregation since 1946.

"TURBULENCE IN THE BIG ROOM"

"Thou hast set my feet in a large room." Psalm 31:8.

We do not know what time it is. We are not certain where we are in human history. We put a date at the top of our letters but we are not sure of what it means. We do not even know whether it is the last century of a departing civilization or the first century of a new civilization. Change is the only certainty.

Some time ago I stood in the Explorers Hall of the National Geographic Society and looked at a miniature of our cosmos. Yonder were the great constellations—Jupiter, Saturn, and vast galaxies millions of light years away from the tiny ball called Earth—just a wee bit of a golf ball beside an enormous basketball. Yet this tiny globe is the home of man, and our western heritage has said man is God's highest creation.

Today man makes his home on this little orb, but he voyages in space ships to the vast regions beyond and returns to tell us of the incomparable wonder that yet remains in the beyond. Yet with all his new knowledge and his ability to travel, to see, to hear, to know, man himself is lonely, fearful, contentious, anxious and unsure. Vexed and disconsolate, modern man roams about in this big universe where he has not yet learned to be at home. In this vast, incomparable, wall-less, dimensionless arena there is turbulence, ferment and a scramble for values. In the uncertainty new idols are erected, synthetic gods arise, finite values take on infinite meanings, and men reject half-truths because the other half is not yet known. Max Picard, looking at the scene, says "The missing element is overwhelmingly present." The missing element is a sense of the transcendent and eternal.

Now this is not the first time men have been baffled, bereft and lonely. Many times in human history, in the face of new discoveries, new theories, unfamiliar data, men have felt bewildered, lonely and unsure and have had to go on "believing where they could not prove", as Longfellow's hymn says.

Such a state the psalmist sings about in the 31st Psalm when he says, "Thou hast set my feet in a large room". All sorts of insecurities and uncertainties overwhelmed him—thrones toppled—

False gods had arisen. There were people who felt God had abandoned them. While wrestling with great, dark, furtive powers, the author kept his affirmations. Listen to his song:

"In Thee, O Lord, do I seek refuge.
Incline thine ear to me.
Take me out of the net that is hidden from me.
Into Thy hands I commit my spirit;
Thou hast set my feet in a large room."

How did the writer get into this large room, this bewildering vastness? He affirms that God put him there. That's how he got there. And this is the Psalm Jesus of Nazareth quoted on a cross in the dark hour of his own agony and in the darker hour of world history, when lingering between life and death He found himself in the wall-less room.

Doesn't this give us a clue as to how we can live in this physical universe which seems so incomprehensibly boundless, wall-less, immeasurable, with neither bottom nor top nor sides, where it is so easy to be lonely and powerless? Man has to live in it. If he is to live in it he must make some choices.

Looking at this big room a man can say of it that it is a vast, impersonal, mindless, spirit-less universe where man is caught and controlled by the vast relentless, impersonal forces of nature. Looking at it he can say that man is just a few dollars worth of chemicals, blended into the universe in an undefinable, impersonal way.

A man who makes this kind of choice inevitably must feel unsupported by any transcendent power beyond himself. Moreover, he will never be able adequately to explain or account for what we describe as self-consciousness—awareness—creativity—or self-criticism—which will remain to baffle him. That is one hypothesis from which a man may begin.

The older theologians used to say that if you find a watch ticking away, you conclude that someone must have made it, wound it up and set it going. So you conclude that in this universe with its law and order there must have been a mind, and a mind reposes in a Person. This Creative Person, spelled with capital letters, guides this world in these tumultuous, turbulent, revolutionary days.

Thus a man may choose the God hypothesis and say there is a creative, personal spirit or energy at the center of things which is vital, transcendent and eternal. He can acknowledge the reality of traffic between the seen and the unseen, the inter-action between the visible and the invisible, and that in this communion there is life and growth. If he chooses the God hypothesis he affirms that God is know-able and that prayer is a reality. In this choice he is supported by the data of history. For the record of the mystics saints, prophets and seers, and the person of Jesus validate this hypothesis. Only as a man takes into account these realities is he really an educated man. Only thus does he understand himself. He will learn too that the theistic premise is more likely to integrate and reinforce his personality and give him the plus factor of the transcendent.

In Jean Paul Sartre's "Speech of the Dead Christ from the Building of the World" he describes the terrible vision of a world without God as "finiteness chewing its own cud". The dimension of the infinite, supernatural and eternal is conspicuously absent. It is this missing element that the psalmist puts in life and keeps in life when he says, "Thou has put my feet in a large room". It is God who has put us in this big room, a room without walls or barriers, only open spaces, with vast incredible, incomprehensible possibilities for good or ill. But it is God who put us in this space and time. Then let us get into this big room, get all the way into it, get in with both feet. Don't leave part of yourself in another room, another space and time with its outmoded forms and patterns.

Glibly people talk about a world in revolution. What we do not recognize is that there are some real and there are some false revolutions. There is the authentic revolution, creative and constructive, and some lesser backlash disturbances some folks think are revolutions.

The view which one has of reality determines whether or not he has a sick mind or a well mind. The sick mind is one that will not face reality, which avoids looking at the whole scene as it is, runs from it and tries to escape. The healthy mind admits what it sees, defines the problems, analyzes the issues and brings all possible energies and resources to solving the problems. When somebody writes an editorial saying "America is sick", I wonder what he sees—where is his sense of history, of the transcendent, the eternal? Problems do not make people sick, surmounting problems makes them healthy. This is the difference between real and false revolutions. Most of the problems in our world today are problems of progress. Our problems are not problems of decay but of dynamic change, and we need to get in with the right kind of revolution as we live in this big room.

An old college friend, Dr. John Furbay, points out that living in this big room with its revolutionary complexities is like living

in a house while remodeling it. When you look at the blueprint you see where you are going, what is happening, you have a vision of the finished product. Thus you do not mind the noise, the disorder, the dirt. You are working on solutions, you are a builder. People are always miserable when they see only the dirt. You can live either way in this big room which is our world in our time. You can see the authentic revolution moving toward the coming of a better world, or you can get tangled in the phony revolution and tiny side shows where everything is destructive, where you know all the things that are wrong, where you see only the dirt and debris and not the blueprint. Or you can recognize the turbulence for what it is—the dynamism of a God-released creativity.

Look at our Nation today and its anguish of soul. For some part of each day for 36 days I sat in the Watergate hearings, held in the Caucus Room just above my office. (By the way, both the Chairman, Sen. Ervin and the Vice Chairman, Sen. Baker, are Presbyterian Elders.)

My conviction is that nothing in recent history so confirms that we are a "nation under God" as what is now encompassed by the word "Watergate".

America is troubled because we are aware of God and truth and righteousness. If we did not know in our heart of hearts what is right we would not be troubled by what is wrong. It is precisely because deep in the American consciousness there is a profound sense of righteousness that we are agonizing over what is wrong. Deep in the American soul there is an awareness of God, of truth, and a fixed point of moral reference. This is a deep awareness of God, of right and wrong mediated by many denominations.

It is demonstrably clear that if a man lies or cheats, or steals or bears false witness, covets his neighbor's power or wealth he destroys his personality as surely as bullets destroy the body. "The Ten Commandments will not budge", said Oliver Wendell Holmes. Break them and you break yourself—and if unrepentant and unredeemed you not only destroy yourself but your country and your culture.

"To be under God" as a nation means not only to be under his sovereignty and his guidance, but in the process of history to be under his judgment.

When the painful, cleansing redemptive process is over we will know that our Constitution and our Form of Government works. We will have better election laws and a citizenry which gives primacy to the character of a candidate rather than the party to which he belongs or the platform on which he stands.

Think of the revolution in communications such as radio, television, motion pictures, and the meaning of disseminating the printed word, which have multiplied explosively within a generation or two. The people of the world have been made immediately aware of one another. The whole world is a neighborhood. That is one of the features of living in this big room today.

Some time ago I was strolling through the Rotunda of the Capitol when stopped by two attractively dressed women who said, "You are Dr. Elson, aren't you?" . . . . "We are from New Zealand and we want to thank you for the funeral service you conducted for President Eisenhower. We saw and heard it by Telstar". That single event was heard and seen by more people than any other funeral in the history of the world because, of course, there were more radios and television sets than before. The communications revolution emphasizes what it means for humanity to live in this one big room.

Take the explosion in knowledge abetted by the spread in communications and computer. We are told that if all the knowledge developed in the physical sciences throughout history up to 1900 were given the weight of one unit, another unit had been developed by 1940, and that now scientific knowledge is doubling about every 15 years. Of all the genuine scientists who have lived in the world it is reported that 90% are living today. Although we have more knowledge about life and the physical universe, the challenge of the revolution in knowledge is in the interpretation and use of it.

Look at the revolution in health and life expectancy. This is the first generation to be devoid of epidemics such as flu, diphtheria, smallpox, scarlet fever, mumps, measles, and tuberculosis.

Look at the differences in life expectancy. A young man today can expect to live 50 percent longer than his grandfather. The American Geriatrics Society has predicted that by the end of the century an American may look forward to a life expectancy of 120 years with Social Security beginning at 105 if you choose to retire. That's part of the creative, constructive revolution.

Think of this—the authentic revolution in my life-time. For 15 years of my early life I lived in one house, which went through the metamorphosis from kerosene lamps, to gas light, to modern electricity with all the gadgets—and for heat went through the stages of a fireplace in every room to central hot air distributed and controlled in every area of the house.

Look at transportation. I remember delivering milk from a horse-drawn wagon to a small town route, of pitching hay upon a horse-drawn hay ladder, of working with a hand-hoe, of spreading fertilizer by hand-fork, of helping milk by hand 18 head of cows. Now that farm has a big gas tank and a stable not full of horses, but machinery.

As a boy riding the railroad trains into Pittsburgh, trains which ran about every 30 minutes, I was always fascinated by the horse-drawn trolley waiting for the train at the 30th Street Station. Passengers got off the train and got on the trolley. The horse pulled the trolley up the grade to the crest of the hill. Then the single crew man unhitched the horse, put the horse on the platform, and the car coasted with man and horse back down the hill for the next train. Now the hill has almost been removed and the people zip up in something like a tube.

Think of the revolution in transportation.

Some time ago I preached at both morning church services in Washington, then had Sunday dinner at home. Then, I took a jet to Las Vegas—for some very proper appointments. Upon arrival I settled in a comfortable room where I slept for 3 hours, then I dressed, went to the Convention hall and spoke to 5,000 people at the Kiwanis convention about religion in American life—all on one Sunday.

That's what we do in this world of revolutionary change where God has put us in a big room.

Take the problem of poverty. Poverty is always relative.

Since government officials have only in recent years defined poverty in terms of so many dollars per year, a lot of people are suddenly realizing they grew up in poverty but didn't know it. Some of our greatest leaders today, by their own present definitions, grew up in poverty—but they didn't know it. Indeed they were rich in proportion to the fewness of their wants. They didn't have television and radio and high pressure advertising to tell them what other people had.

Poverty is relative—always relative. Poverty in the United States is affluence in Peru or India. Viewed against the whole world some in the United States are only less affluent than others because the whole nation is affluent. We are the first generation with too much food and we are working on the problem of distribution. That is the authentic revolution because we are working on it. It is true that a lot of people need to be fed better, clothed better, housed better, educated better—but it is coming.

Again, consider the problem of crime. Some people think they are leading a revolution by ganging up on policemen—calling them "pigs," making the custodians of our safety accursed, and the law-breakers the heroes. They are not in the real revolution. There is no great eagerness to help or build or heal in these efforts, only to break down, destroy, injure, kill. The real revolution is with those who strive for better laws, improved correctional methods, more emphatic enforcement. Do you know more teen-agers were lost last year in New York State on drugs than were killed in Vietnam? We are going to have a revolution here that is real—because some of the horrors of drugs will so shock young people they, in their idealism and energy, will rise up and solve them.

Look at the problem of pollution—a real anxiety. How did we get it? Because of progress. We are busy on it! We had better work on it if we are to live in this big room. The biggest amount of polluting is done by individuals. One state last year spent $50 million on one super highway keeping it clean. We will solve much of it when we learn never to throw anything down which someone else must pick up.

Look at religion and the Church. There has been more creative discontent and constructive renewal in the last 10 years than in the preceding 400. Good Pope John XXIII opened the windows to let in the fresh air and with it came a tornado—like Pentecost "the mighty rushing wind" of energy of creativity, of dynamic change which is transforming everything from the Vatican to the Quaker Meeting.

According to the Gallup Poll, 97% of Americans still believe in God. Young people may not have as much enthusiasm for institutions as their parents but they are very religious. My son took the Confirmation course three times and every time deferred Confirmation. But he gets up every morning at 4:30 to pray. Thirty years ago 10% of the colleges had religious departments, now only 10% of all colleges and universities are without religious studies. It's not the absence of religion, it's the freakish, simplistic, irrational, volatile, uncritical, pneumatic religious expressions which make some of us worry. The Church is the most relevant institution of man—it deals with birth, baptism, marriage, home, death—destiny.

Look at how the God-directed authentic revolution has liberated and lifted woman. Now she does everything man does and one thing man doesn't—she still has the babies. At long last nearly every vocation and form of work is open to her somewhere in the world.

We even have Page girls in the United States Senate. A few years ago our denomination for the first time elected a woman Moderator—its highest officer. And recently for the first time in 200 years a highly educated, fully qualified, authentically ordained woman clergyman of a respectable denomination, at my invitation, offered the convening prayer in the United States Senate. The real revoluation is all about us.

Look at the problem of civil rights. The reason there is so much noise about it is that we are doing so much. Most of us have too much guilt.

We sometimes forget that white men have been slaves throughout history—Rome, Babylon, Egypt, Syria. "In Africa there is not a single record of a white man making a slave out of a black man". You will find that sentence in the official school book which children use as a text in Nigeria. The book goes on to say that white slave traders did not leave their ships. Black slave traders captured blacks and sold them.

Never forget we were the second nation to abolish slavery—the British were first. Perhaps we need a little credit and less blame. Although we did not grant full civil

rights when slavery went out legally, we are doing it now. We are not through. Look at the progress of the last 100 years—more especially the last 20 years. Percentage-wise there are more blacks in U.S. colleges and universities than all persons in college in England, Germany and Italy combined, and more blacks in U.S. colleges than in all Africa. We are not through. The authentic revolution goes on.

Look at the problem of war.

The revolution in science produced the atomic bomb and the bomb has made wars obsolete. The balance of terror has at least averted war on a world basis.

But we still have little wars—people get killed just as dead—and little wars are expensive too. Even little wars will become more obsolete as we learn how to use other forms of equivalent power for military power in the implementation of foreign policy and in guiding the destiny of the nations. We are simply going to have to find alternate ways to solve conflicts if we are to live in this big room into which God has brought us. And even here we have promise—frustrations can be worked out in such world organizations as the United Nations.

We have many irritating revolutions—much turbulence because we do not see the big revolution. We do not comprehend the true revolution, because a sense of the transcendence and eternal has gone out of life. We tend to see only the little here and now. We do not see the distant scene, take the long view. The world is better than the phony, destructive revolutionaries say.

You can choose to live in this big room into which God has brought us and flail away in all directions against everything and everybody—or you can see God in the movement of history, believe in His providence, get on with His task.

Our troubles in America are troubles of success, not failure. And the reason we have trouble in America is because the authentic revolution has gotten hold of us. It was first set loose in America on a large scale. It came out of many forces—at the pinacle and convergence of the renaissance, the industrial revolution, the Judean-Christian heritage—primarily cataclysmic 16th century Protestant Reformation saying man is the highest creation, the most valued entity in the universe, he is created by God to be free and every man not equally endowed is equally free under God for maximum growth and well-being. The Declaration of Independence announced it. The Constitution and our institutions confirm and sustain it.

You can try to live in this big room without God—without the infinite or eternal—the transcent—or you can believe it is God who has put us in the big room—and go on with Him.

That's the way Jesus lived in it. And when He died on a cross He quoted this psalm:

"Into Thy hands I commit my spirit;
Thou has set my feet in a large room."

If He could live that way and die that way, isn't that the clue for us?

THE NATIONAL COMMISSION FOR INDUSTRIAL PEACE

Mr. KENNEDY. Mr. President, I always have held the highest regard for the leaders of the American labor movement and the leaders of our business community. Their interaction has meant the growth of the finest work force in the world and the most productive economic machine in the world.

Recently, a report was filed by the National Commission for Industrial Peace which included these leaders. The Commission chairman was David L. Cole. The members included I. W. Abel, president of the United Steelworkers of America; Stephen B. Bechtel, Jr., president of Bechtel Corp.; Frank Fitzsimmons, president of International Brotherhood of Teamsters; Edward W. Carter, chairman of the board, Broadway Hale Stores, Inc.; Paul Hall, president of Seafarers' International Union of North America; R. Heath Larry, vice chairman of the board, United States Steel Corp.; George Meany, president of American Federation of Labor and Congress of Industrial Organizations; James M. Roche, member of the board and chief executive officer of General Motors Corp.; Leonard Woodstock, president of International Union United Automobile, Aerospace and Agricultural Implement Workers of America; and Walter B. Wriston, chairman of First National City Bank.

These Commission members named by executive order a year ago, filed a report recently which I believe deserves the attention of all of us since it focuses on the future of labor-management relations. Their summary of the current situation and their recommendations deserve our attention and I believe our support.

Mr. President, I ask unanimous consent that the report be printed in the RECORD.

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

THE NATIONAL COMMISSION FOR INDUSTRIAL PEACE REPORT AND RECOMMENDATIONS

NATIONAL COMMISSION FOR INDUSTRIAL PEACE,
Washington, D.C., May 3, 1974.

DEAR MR. PRESIDENT: We submit herewith the report of the National Commission for Industrial Peace which was created under your Executive Order 11710 of April 4, 1973.

In broad terms, this Commission was asked to explore methods for the reconciliation of labor-management disputes in the public interest and to make recommendations to you concerning these and related matters. The Commission was also told to establish additional labor-management-public advisory panels with respect to particular sectors of the economy.

It is now approximately one year since this Commission was established, and it seems to its members, including Government officials who are serving as the *ex officio* members, that it is now timely to submit our report and recommendations.

This report and its recommendations reflect the thinking of the Commission members. The members discussed the substance of this report before it was drafted, and they all had the draft for review for some weeks. It was agreed that they would transmit any suggestions or criticisms to the Chairman. Mr. Wriston has asked that it be noted that because of his unfamiliarity with the subject matter he is not joining in this report.

There has been relatively little exception taken to the report as drafted, and any members who would like to do so have been and still are free to express their disagreement or exceptions. We did not take a vote as such, preferring to proceed by discussion and consensus, which has clearly been reached.

Respectfully,

DAVID L. COLE, *Chairman.*

MEMBER NATIONAL COMMISSION FOR INDUSTRIAL PEACE

Chairman: David L. Cole.

LABOR

I. W. Abel, President of United Steelworkers of America.

Frank Fitzsimmons, President of International Brotherhood of Teamsters.

Paul Hall, President of Seafarers' International Union of North America.

George Meany, President of American Federation of Labor and Congress of Industrial Organizations.

Leonard Woodcock, President of International Union United Automobile, Aerospace and Agricultural Implement Workers of America.

MANAGEMENT

Stephen D. Bechtel, Jr., President of Bechtel Corporation.

Edward W. Carter, Chairman of the Board, Broadway-Hale Stores, Inc.

R. Heath Larry, Vice Chairman of the Board, United States Steel Corp.

James M. Roche, Member of the Board & Chief Executive Officer of General Motors Corporation.

Walter B. Wriston, Chairman of First National City Bank.

EX OFFICO

Honorable George P. Shultz, Secretary of the Treasury.

Honorable Peter J. Brennan, Secretary of Labor.

Honorable Frederick B. Dent, Secretary of Commerce.

Honorable John T. Dunlop, Director of the Cost of Living Council.

Honorable W. J. Usery, Jr., Director of the Federal Mediation and Conciliation Service.

THE CREATION, FUNCTIONS, AND ACTIVITIES OF THIS COMMISSION

The National Commission for Industrial Peace was created by the President's Executive Order 11710 of April 4, 1973, a copy of which is appended to this report. The functions of the Commission are set forth in Section 3(a) of the Executive Order. In summary, they are to explore methods by which labor and management may best reconcile their differences through the collective bargaining process consistent with the public interest; to investigate how the Government may be most helpful; to encourage the parties to develop procedures to facilitate constructive bargaining and the resolution of disputes in the public interest; and to make recommendations to the President concerning these and related matters. The Commission was also told to establish additional labor-management-public panels with respect to particular sectors.

From the outset we regarded ourselves as a temporary or ad hoc body to look into the matters referred to us by the Executive Order, and we assumed that we were to confine ourselves to the private sector.

We thought it appropriate to engage in discussions with labor and management representatives in a number of important or basic industries. Because of traditional animosities and the hesitancy of many representatives to appear to be too conciliatory with the other side, we found that the discussions were generally more free and productive when we would speak to them separately and informally. In order to put them at ease many of these discussions were off the record, and this will explain why we refrain from giving the details of specific discussions. Nevertheless, we observed and learned a good deal in the course of such meetings, much of which confirmed impressions we already had.

Some of our explorations of the subjects assigned to us were with joint labor and management groups. We had such discussions, obviously, with the major representatives of management and the union in the steel industry, Messrs. R. Heath Larry and I. W. Abel, who are members of this Commission. We also met with labor-management committees in the railroad industry, which have been meeting for some time on a more or less regular basis to consider matters

which they hope to clear up or correct before their next negotiations.

Because it is necessary to have the leadership of labor and industry overcome the force of old habits and attitudes which developed in the years when there were bitter struggles over the right to organize and be recognized, we deemed it helpful to present papers or to participate in symposiums or conferences in which labor-management relations were being reexamined and analyzed. Our purpose was largely of a missionary or educational nature—to encourage the parties to open their minds to more rational and constructive approaches to the settlement of labor disputes than their customary reliance on economic strife.

In some instances we suggested that the parties give serious thought to setting up a standing committee to engage in discussions of problems well in advance of negotiations, with the view of avoiding crisis or deadline bargaining. It is our thought that such joint committees can also investigate and collate data and facts without which negotiations become more difficult as the contract expiration date approaches. In at least one industry we found that a serious source of friction is a badly bogged down grievance procedure. We urged their joint committee, as a necessary first step to work on ways to make more expeditious and effective the procedures they have set up for handling grievances. We pointed out that such a course has had beneficial effects in other industries in improving the relationship as a whole.

In connection with possible decontrols under the Cost of Living Program, one of our members has obtained assurances in some instances from the parties that they will give serious attention to the setting up of joint committees as a means of avoiding or settling obstinate labor disputes, with such committees to include a mutually acceptable neutral as chairman.

We have solicited the possible assistance of several outstanding labor relations experts who would be willing to act as chairmen on such joint committees if selected by both labor and management.

A new factor was introduced by the energy crisis. This was of sufficient impact on labor relations for the President to announce on January 5, 1974 the appointment of W. J. Usery, Jr. as his special assistant to handle the unusual labor difficulties caused by this shortage. He was also asked to take responsibility for the coordination of all mediation and labor relations activities involving the public and private sectors of the economy, including the transportation industries, and to submit recommendations for the systematic development of long-range governmental programs to promote labor-management peace in all sectors. As one of our members, Mr. Usery has followed closely the activities of our Commission, and he continues to serve as the Director of the Federal Mediation and Conciliation Service.

We believe that the time has arrived for our functions to be turned over to one of the permanent government agencies or branches. We have refrained from building up a staff or organization of any substantial size to develop and administer programs of the kind we have been trying to initiate. It would be sheer waste to duplicate an existing agency active in the same field which has the facilities and competence to perform these functions. We are of the opinion that the Federal Mediation and Conciliation Service is such an agency, and we shall have some recommendations on this subject in the succeeding parts of this report.

OBSERVATIONS OF THE COMMISSION

In Section 3(a) of Executive Order 11710 specified tasks are assigned to this Commission. This section proceeds on the assumption that the collective bargaining process will not be disturbed and will continue as the primary means of resolving labor disputes. This is in keeping with our declared national labor policy.

Studies and programs of the kind contemplated by this Executive Order have been undertaken or engaged in a number of times in the past 15 or 20 years. Some have been under Government auspices, and some have been set up by private non-profit organizations. In connection with the drafting of this report we have reviewed a number of such studies or programs. Those who have participated in these have generally been recognized as highly qualified in the field of labor relations. Some of these programs have been conducted on a tripartite basis, and the others solely by public or neutral experts.

We are confining our analysis to four of these programs, in each of which two or more of the members of our Commission played active parts. Chronologically, the first was the study set up by Secretary of Labor James P. Mitchell to seek improvement in labor-management relations and the strengthening of collective bargaining in the atomic energy field. A report was filed on January 31, 1957 in which a rather full analysis was made of collective bargaining and our national labor policy, most of which is definitely relevant and applicable to the work of our Commission. That committee consisted of five neutrals.

Next in point of time was that conducted under the auspices of the Committee for Economic Development by an independent study group which resulted in a thoughtful report entitled *The Public Interest in National Labor Policy*. This was published in 1961. Again, the study group was all-neutral in composition.

About a year later, in May, 1962, *Free and Responsible Collective Bargaining and Industrial Peace*, a report by the President's advisory committee on labor-management policy, was issued. This advisory committee was tripartite.

The fourth program we desire to mention is that conducted by the American Arbitration Association through its labor-management advisory committee: This program was started in 1971, having been inspired by publicly expressed views of our member, George Meany, President of the AFL–CIO, that the time had come for labor and management to give serious consideration to the use of voluntary arbitration as an alternative to the strike in contract negotiations. He predicated this on the heavy cost and other burdens of strikes and emphasized that it is in the mutual interest of the parties as well as to their individual benefit to agree on a substitute procedure of this kind. This advisory committee is composed of representatives of labor, industry and the public.

The American Arbitration Association program sought to induce in labor and industry a willingness to employ third party assistance when they reach impasse in their direct negotiations. Progress was slow, but there was some encouragement. When President Nixon issued his Executive Order on April 4, 1973, however, it was deemed wise to suspend the activity of the American Arbitration Association committee in deference to our Commission, although it was made clear that it might be reactivated. If it is, we shall assume that there will be no sense of rivalry between the American Arbitration Association and the governmental agency which hereafter administers the national labor relations program on which our Commission has been working.

The approach of the American Arbitration Association as a nongovernmental agency may differ from that of the government agency and it may well be advantageous to have different approaches to programs which have as their objective the improvement of collective bargaining and the promotion of industrial peace. For many years both the Federal Mediation and Conciliation Service and the American Arbitration Association have been administering separate labor arbitration programs. This has not prevented them from cooperating in conferences and other undertakings designed to better meet the needs of the parties who engage in arbitration and to enhance the general acceptance of arbitration.

We shall recommend, in fact, that nongovernmental organizations like the American Arbitration Association be encouraged to conduct programs the purpose of which is to promote constructive and responsible means of resolving labor disputes.

Our review of the above four studies or programs showed that in fundamental principles they are very much alike. In all four there is unqualified acceptance of our national labor policy of relying on collective bargaining as the primary means of resolving labor disputes, and of giving great latitude to the parties in this process. The belief is indicated that better assurance to the public and satisfaction to the parties can be attained under a program in which the parties themselves play the active and determining part. It is also clear that all the experts consider this type of program as most consistent or congruous with our declared national labor policy.

There has been a growing emphasis on the factor of the public interest and of the need of those who engage in collective bargaining to accept this responsibility along with the freedom given them in the manner in which they conduct themselves in collective bargaining.

Despite the dislocations and burdens suffered because of interruptions of operations caused by labor disputes, there has been a surprising amount of understanding and patience. Except on a rare ad hoc basis, in time of peace, strikes or lockouts in private industry have not been legally prohibited. We have brought pressure to bear through mediation and super mediation, we have made all sorts of appeals, we have compelled or induced parties to postpone the shutdown of industries for a moderate period of time, but we have relied basically on the process of collective bargining to end the shutdown or the threat of shutdown.

There is confidence that free collective bargaining will keep improving with the maturing of the labor-management relationships, that it will become more effective as the means of resolving disputes, and that it will become more responsible in the process.

This is so despite the intensity of the conflicts in the more primitive periods when labor was trying to organize and gain recognition, and the fact that habits of suspicion and hostility became strongly ingrained. Such habits are not quickly changed, but we must continue to encourage the respective leadership to do so.

In the Atomic Energy Labor-Management Report, President Eisenhower is quoted with approval for his statement in 1956 that:

"If the government impatiently charges into every major dispute, the negotiations between the parties will become a pointless farce while everyone waits to see what the government will do."

This report also calls attention to President Eisenhower's reference in 1955 to negotiations "without government's unwarranted interference," and his belief that underlying our national labor policy is the assumption "that labor organizations and management will both develop the highest standards of integrity, responsibility and concern for the national welfare."

Six years later, when he received the report of his advisory committee on labor-management policy, President Kennedy called attention to the fact that the public, labor, and management representatives unanimously agreed that collective bargaining is an essential element of economic democracy

and this was "a mark of our progress as a Nation when contrasted with the disagreements on this subject in the not too distant past." He continued by declaring:

"The fact that all agree on the necessity that collective bargaining be responsible and responsive to the public, or common, interest is a symbol of the maturity of the parties to the collective bargaining relationship."

Our Commission finds itself substantially in accord with the essentials of the four studies referred to above. Their thoughts are basically similar to those which we think are still in order. The changes are only in degree or emphasis because of some new developments.

As we see it, there are five propositions which we should all endorse: (1) Collective bargaining should be the primary means of resolving labor-management disputes; (2) Government must not add any laws which impose compulsory arbitration or any other statutory form of coercion on the parties which might dictate to them the substance of their wages or other contract terms; on the contrary, attention should be given to the the advisability of cutting down some of the present statutory involvement of Government in certain types of labor-management disputes; (3) Government's principal function should be to make available to the parties improved mediation services, as well as services for gathering pertinent facts for them; (4) The parties must understand that the public interest is a factor entitled to serious consideration, meaning that collective bargaining must be responsible as well as free, which in turn means that the parties must understand that they may not disregard the effect on the public of the quality of their settlements, let alone the impact of interferences with essential production and services; and (5) Government should conduct periodic national labor-management conferences so that those who engage in labor negotiations may be well informed of the current political and economic circumstances and outlook and therefore better comprehend the context in which they are functioning.

We suggest that the prevention mediation and dispute resolution activities of the Federal Mediation and Conciliation Service be expanded by improving its professional force so that more effective service can be provided in this type of activity.

We regard our missionary efforts among labor and management representatives to induce them to accept more rational and peaceful means of settling their differences, as well as the establishment of joint standing committees with a neutral chairman, to be in the nature of preventive mediation. These activities could be added to those conducted by the Federal Mediation and Conciliation Service in its preventive mediation and dispute settlement programs. This would strengthen these programs and help give them greater scope and effectiveness.

The Federal Mediation and Conciliation Service could improve its services in critical or major industry disputes by reactivating the national advisory labor-management panel called for by the law, and by using this panel as a roster of topflight mediators who would be sent in to set up the efforts of the professional mediators or to reflect the public concern by raising the particular mediation to a higher level. Such prestigious citizens would not be expected to serve as professional mediators, but they could be of great help in selected cases.

We also believe the Federal Mediation and Conciliation Service would do well to set up labor-management advisory panels in its regions. The regional panels, like the national panel, would not only be advisory. They would provide a roster of influential citizens who could be enlisted in important labor disputes of concern to the regions or communities to serve as special mediators or as members of a super mediation panel.

It is gratifying to observe that there seems to be a declining amount of adherence to the proposition that collective bargaining can function effectively only by relying on the strike and lockout techniques. Parties are becoming more receptive to third party assistance, at least for fact-finding or mediation purposes. They find they need no longer regard each other as mortal enemies, that in many respects their individual interests and their mutual interests overlap or coalesce.

We are convinced, however, that by and large both sides oppose any form of legal compulsion as to how they should determine the provisions to be included in their collective bargaining agreements. In fact, if compulsory arbitration became a matter of law, there could well be a strong protest reaction that would set back rather than promote industrial peace.

This would be unfortunate in light of recent developments. Considering the complicated current economic environment as well as that of the past year or two, a gratifying sense of moderation and responsibility has been exhibited. Major industries like trucking and automobiles have worked out important agreements without strikes, and we are pleased that industry and labor representatives in these industries are represented on our Commission.

The strong antagonisms of former years seems to be in the process of being attenuated as the parties learn to deal with each other on a collective basis.

Authoritative and respected leadership now speak more freely of employing means other than shutdowns to resolve differences that arise in negotiations. Three outstanding leaders of labor, who are members of our Commission, Messrs. Meany, Abel and Hall, as well as a number of others, are urging labor organizations to give favorable consideration to voluntary arbitration. They emphasize the costs and burdens of strikes. They also point out the mutual benefit of cooperating with their industry by assuring it of uninterrupted operations or production in the face of increasingly difficult competitive conditions internationally as well as domestically.

We found an appreciative reaction to these thoughts on the part of many leaders of industry. The experiment in the steel industry is being watched closely. Thus far it has worked very well. It could easly become a pattern to be followed in other important industries.

We take no exception to Government's efforts to induce labor and management to develop or accept more effective programs for the peaceful settlement of disputes as they are likely to arise. Quite the contrary, we regard this as a constructive contribution which may expedite rather than impair collective bargaining.

This is to be distinguished, however, from any statutory method by which a given dispute must be decided or concluded, particularly since, as stated above, we are confining our considerations to the private sector. Such a course would reflect a lack of confidence in collective bargaining and in the people who engage in this process, and would be likely to set back the voluntary approach which we regard as far more promising and desirable at this time.

There will be a number of important and difficult negotiations during this year. Millions of employees, some in our most critical industries, will be affected by these negotiations. In such a period we must bear in mind that our best hope for peaceful settlements lies in the ability of the parties to arrive at agreement. We must not look for relief or protection through some miracle formula or technique. There is no substitute in our kind of society for a procedure under which the parties persuade themselves to compose their own differences. As was pointed out in the 1961 Committee for Economic Development Report:

"We must therefore be exceedingly careful not to introduce procedures in our eagerness to provide protection for the public welfare, which will in themselves interfere with the parties' ability to arrive at voluntary agreement. Experience has shown that, at both the state and federal levels, the very existence of legal procedures that can be invoked when the parties fail to agree in collective bargaining tends to promote such failures." [1]

It will contribute toward the effectiveness of collective bargaining to eliminate known sources of friction which are impediments to voluntary agreement. As we have said, a badly functioning grievance procedure, with the sense of injustice this engenders, is one such source of friction.

In the course of discussions within our Commission, it was argued by some of our labor members that some parts of the Labor-Management Reporting and Disclosure Act of 1959 constitute another such source. The point was made that Title I of this law, commonly known as the Landrum-Griffin Act, and the manner in which it has been interpreted and applied has served as a hindrance to responsible labor leadership and consequently to effective collecting bargaining.

This contention has been advanced by labor representatives and has been the subject of debate many times since the enactment of this statute in 1959. It is argued that unions and their officers have been attacked in legal proceedings so many times that they have tended to become shy and not to exercise the leadership and general responsibility necessary in this controversial area, thus making it possible for minorities to impose their wills on majorities and for relatively small numbers of dissidents to prevent settlements and cause unwarranted turmoil.

The other side of the argument is, of course, that this law was an outgrowth of excesses and irregularities engaged in by some union officials, in disregard of the rights of their members.

In a tripartite study made in 1969 by lawyers conversant with the construction industry, some of who represent labor and some management, it was declared that this law has served as an impediment to responsible collective bargaining and recommended that a comprehensive review be made of experience under this Act with a view of seeing whether legislative changes may not be in order.

No such changes have been made nor are we aware of such a comprehensive review objectively made since 1969, when this well informed legal committee made its recommendations.

Considering the sensitive nature of the process of collective bargaining and the promise implicit in the position currently being taken by some of the most authoritative leaders of labor in their efforts to minimize reliance on the strike, we are of the opinion that the 1969 recommendation of the tripartite lawyer's committee is particularly timely and apt at this time, and we join in and review their recommendation.

RECOMMENDATIONS

We offer the following recommendations:

(1) That the functions of this Commission, as set forth in Executive Order 11710, together with the programs in which it has participated, be transferred to the Federal Mediation and Conciliation Service, and made part of the preventive mediation activities of the Federal Mediation and Conciliation Service.

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[1] *The Public Interest in National Labor Policy*, Committee on Economic Development, New York, 1961, p. 99.

(2) That the Federal Mediation and Conciliation Service be given all the financial and other support necessary to enlarge and elevate the standing of its professional and mediation staff to develop and administer these additional functions.

(3) That the Federal Mediation and Conciliation Service activate on both the national and regional levels labor-management panels of the kind suggested in the Taft-Hartley Act, and that the members of these panels serve not only in an advisory capacity but also as rosters of citizens qualified to complement or step up the mediation efforts of the professional mediators in important disputes in which there is a good deal of public interest.

(4) That the Federal Mediation and Conciliation Service encourage non-governmental organizations to institute or continue programs which have as their purpose the improvement of collective bargaining and the promotion of non-punitive means of resolving labor disputes.

(5) That we reaffirm our confidence in collective bargaining as the most desirable means of resolving differences that arise between management and labor.

(6) That the President call attention with approval to the trend we have observed of responsible labor and management leadership seeking on a voluntary basis to find rational and peaceful means of resolving the differences that arise during negotiations, instead of relying primarily on economic strife.

(7) That Government refrain from imposing by any additional statutes compulsory arbitration or any other form of coercive action designed to determine the substance of wage and other contract provisions on labor and management engaged in negotiations, or to restrict the course which such parties may elect to follow.

(8) That Government concentrate its efforts mainly on the improvement and expansion of its mediation services, and on making available to labor and management the data and fact gathering facilities of its various departments or agencies with the view of narrowing the areas in which negotiating parties may face difficult issues; that, consistent with the underlying objective, all possible steps be taken to enhance the influence and responsibility of major leadership of both industry and labor in order that they may thereby play a more effective and constructive part in the labor relations program under discussion.

(9) That Government conduct periodic labor-management conferences to discuss the economic conditions and outlook as well as other matters of importance which have a bearing on or which may be affected by collective bargaining.

(10) That an objective and comprehensive review and examination be made of parts of the Labor-Management Reporting and Disclosure Act of 1959, particularly Title I thereof, to ascertain the effect it has had on the ability of labor organizations to engage in responsible and constructive labor relations, including the manner in which it has been interpreted and administered, to determine whether any changes are indicated for the purpose of improving the process of collective bargaining.

The National Commission for Industrial Peace has the following members:

Chairman: David L. Cole.

LABOR

I. W. Abel, President of United Steelworkers of America.

Frank Fitzsimmons, President of International Brotherhood of Teamsters.

Paul Hall, President of Seafarers' International Union of North America.

George Meany, President of American Federation of Labor and Congress of Industrial Organizations.

Leonard Woodcock, President of International Union United Automobile, Aerospace and Agricultural Implement Workers of America.

MANAGEMENT

Stephen D. Bechtel, Jr., President of Bechtel Corporation.

Edward W. Carter, Chairman of the Board, Broadway-Hale Stores, Inc.

R. Heath Larry, Vice Chairman of the Board, United States Steel Corp.

James M. Roche, Member of the Board & Chief Executive Officer of General Motors Corporation.

Walter B. Wriston, Chairman of First National City Bank.

EX OFFICIO

Honorable George P. Schultz, Secretary of the Treasury.

Honorable Peter J. Brennan, Secretary of Labor.

Honorable Frederick B. Dent, Secretary of Commerce.

Honorable John T. Dunlop, Director of the Cost of Living Council.

Honorable W. J. Usery, Jr., Director of the Federal Mediation and Conciliation Service.

Respectfully submitted:

DAVID L. COLE,
Chairman, The National Commission for Industrial Peace.

Dated: May 3, 1974.

NATIONAL COMMISSION FOR INDUSTRIAL PEACE—THE PRESIDENT, EXECUTIVE ORDER 11710, APRIL 4, 1973

By virtue of the authority vested in me as President of the United States and pursuant to the Economic Stabilization Act of 1970, as amended, the Federal Advisory Committee Act, and section 301 of title 3 of the United States Code, it is hereby ordered as follows:

Section 1. There is hereby established a National Commission for Industrial Peace (hereinafter referred to as the Commission).

Sec. 2. The Commission shall consist of a Chairman to be appointed by the President, and such members representing labor, management, and the public at large as the President may, from time to time, appoint.

Sec. 3. (a) The Commission shall explore methods by which labor and management may best reconcile their differences through the collective bargaining process consistent with the public interest in the outcome of negotiations; investigate means by which the Government may be most helpful in achieving this goal; encourage labor and management representatives in particular industries or sectors to develop and implement procedures to facilitate resolution of disputes and constructive bargaining in the public interest; and make recommendations to the President concerning these and related matters.

(b) The Commission shall establish additional labor-management, public advisory panels with respect to particular sectors of the economy to provide special expertise to the Commission and to develop programs in these particular sectors.

(c) The Commission shall convene at the call of the Chairman or the President or the President's designee.

SEC. 4. The Department of Labor, the Department of Commerce, and the Cost of Living Council, to the extent permitted by law, shall provide support and technical assistance for the Commission; and the Department of Labor shall perform such other functions with respect to the Commission as may be required by the provisions of the Federal Advisory Committee Act (Public Law 92–463; 86 Stat. 770).

Sec. 5. To assist the Commission, the Secretary of Labor, the Secretary of Commerce, the Chairman and the Director of the Cost of Living Council, and the Director of the Federal Mediation and Conciliation Service shall be *ex officio* members available to the Commission for advice and consultation.

Sec. 6. The President's Advisory Committee on Labor-Management Policy is hereby abolished and Executive Order No. 10918 of February 16, 1961, is revoked.

RICHARD NIXON.

THE PRESIDENT, EXECUTIVE ORDER 11729

Amending Executive Order No. 11710 of April 4, 1973, Relative to the National Commission for Industrial Peace.

By virtue of the authority vested in me as President of the United States of America and pursuant to the Economic Stabilization Act of 1970, as amended, the Federal Advisory Committee Act (Public Law 92–463; 86 Stat. 770), and section 301 of title 3 of the United States Code, section 4 of Executive Order No. 11710[1] of April 4, 1973, is amended to read as follows:

"Sec. 4. The Department of Labor, the Department of Commerce, and the Cost of Living Council, to the extent permitted by law, shall provide support and technical assistance for the Commission. The Cost of Living Council shall perform such other functions with respect to the Commission as may be required by the provisions of the Federal Advisory Committee Act (Public Law 92–463; 86 Stat. 770)."

(Signed) RICHARD NIXON.

The White House, July 12, 1973.

(FR Doc. 73–14658 Filed 7–13–73; 12:22 pm)

A MATTER OF SURVIVAL FOR THE HAVASUPAI

Mr. GOLDWATER. Mr. President, the Sierra Club National Board of Directors meeting on May 4 and 5 in Claremont, Calif., revealed anew its ingrown antagonism toward an ancient American Indian people. The Sierra Club once again reaffirmed its total opposition to the steps essential to the survival of the Havasupai Indians, the first inhabitants of the Grand Canyon and its southern rim plateau.

At odds with much of its own membership, the national officers remain adamant in their position that no land—not a single acre—should be returned from National Park and Monument or National Forest status to the Havasupai Tribe, which over a thousand years ago, long before the first white man set foot in the area, was farming in its permanent Canyon-bottom village and spending the winters hunting game and gathering food on the lands of the south rim.

The opposition of the Sierra Club to the needs of the Havasupai people is so intense that they would even banish this diminishing tribe to a permanent lifetime of isolation in the bowels of a small corner of the Grand Canyon. Havasu Canyon, where about 320 tribal members attempt to subsist on a mere 518 acres, is accessible only by an 8-mile horseback ride down a steep trail into the Canyon bottom. At its widest the Havasupai Reservation is about a quarter mile. The only open space is up. The walls of the Canyon rise at least 2,400 feet, nearly straight upwards. Yet, the Sierra Club is using its full powers to prevent the tribe from restoring to its Reservation the one trail that man and horse can negotiate into and out of the Havasupai Village.

Mr. President, it is easy to understand

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[1] 38 FR 9071; Apr. 10, 1973.

why the Havasupai people, speaking through their tribal chairman, Oscar Paya, believe that professional conservationists show more concern for rock and sagebrush than for the human beings who have lived in the area more than 1,000 years, and have not disturbed it. The Havasupai people feel far more deeply for the beauty of this land than the Sunday hiker or professional environmentalist ever can. In Oscar Paya's words:

This land is part of us and we live on it. We are human beings with the right to survive.

Mr. President, this is what is at stake. It is the survival of the Havasupai. It is an opportunity to preserve their heritage as best they can against the invading ways of the outside world. It is a question of granting the tribe at least some of its traditional homelands, especially the cemeteries and sacred places, the areas most used and best known, whose possession as reservation lands may avert the disappearance of a people.

Mr. President, I cannot understand the persistent and unmovable resistance of the Sierra Club to the needs of this fine people. I cannot comprehend the vast ignorance and fundamental lack of understanding of the history and culture of the Havasupai which characterize a majority of the national leaders of the Sierra Club. The only explanation, in my opinion, is the unfortunate fact that the Sierra Club has become a closed society, a self-centered, selfish group, who care for nothing but ideas which they themselves originate and which fit only their personal conceptions of the way of life everyone else should be compelled to live.

My statement does not apply to all, or even a majority, of the individual members of the Sierra Club. I readily admit and welcome the sincere openings which several individuals and local chapters of the Sierra Club have made toward the Havasupai Indians. For example, on December 29 through 31 of last year, a group of Sierra Club people representing the Prescott, Phoenix, and Tucson chapters of the club made a special trip to Havasu Canyon to speak with tribal people and see at first hand for themselves the problems the Havasupai have in being restricted to the canyon bottom.

The State chairwoman, however, refused to come. The southwestern representative of the club also refused the tribal invitation. A former southwestern representative of the club, who still is a regular visitor to Capitol Hill on behalf of the club's programs, would not go and apparently has never been to the tribe's village.

After the club members who did make the visit had left the canyon, they went back to their local groups and discussed their visits. It is interesting that, as a result, the Prescott and Phoenix chapters then passed resolutions supporting return to the Havasupai people of at least those lands which have been continuously used and occupied by the tribe since the creation of its reservation in 1882.

At the State Sierra Club meeting on January 26 of this year, the Arizona executive committee of the club adopted a resolution for the first time moving toward the tribe's desire for the return of some of its historic lands. This resolution was hedged in qualifications, but it was a distinct change from earlier positions, and revealed what would happen if governing officers of the club would be willing to cast off their cloak of superiority and visit the Havasupai people on their home grounds, where one can learn the truth about tribal life and tribal attitudes toward land use.

Another member of the Sierra Club, who is free of the parochial shackles binding a majority of the national Board of Directors, is Alvin Josephy, Jr., a senior editor of American Heritage. Mr. Josephy is contributing the full weight of his reputation as an historian of American Indian Affairs to the cause of the Havasupai.

Unfortunately, the Sierra Club at its national level has not caught up with the growing movement of its own membership toward the Havasupai people. The club officials who actively control matters and who are seen as regular visitors to congressional committees, closed congressional policymaking meetings, and the anterooms and hallways of the Capitol and congressional office buildings, remain prisoners of their own self-centered world.

Dead set in their own assurance that they know best, through non-Indian eyes, what is good for the Indians, they insist that the Havasupais give up their historic desires and cultural ties to specific lands and instead accept other areas, unconnected with their Canyon Reservation, to which the Sierra Club would intern them.

Mr. President, the Sierra Club would play a cruel hoax on the Havasupai people. The club would perpetuate a terrible system under which the Indians now lose all their children after the third grade. If the Havasupai could build homes and live on the rim, families would not have to be separated for long periods as they are now when primary schoolchildren must board at distant Indian or public schools and cannot travel and retravel the gruelling 10-hour trip to and from the Canyon village.

In the words of Dr. Alfonso Ortiz, editor of the Southwest Volumes, Handbook of North American Indians, the forced practice of "confining their families to living within the canyon yearround, in effect, precludes parents and children from seeing one another at all during the long periods in the school year when it is not safe to attempt to enter or leave the canyon, because of the snow. Parents of such children should be permitted to reestablish their homes on the plateau so that during this academic year they and their children can be accessible to one another for school holidays and during emergencies."

Mr. President, the only reason the Sierra Club appears to have for rejecting the pleas of the Havasupais is that they do not trust the Indian's ability to care for the land. The Sierra Club conception of the Havasupai seems to be that the Indians will carelessly destroy the land and the natural habitat of wildlife.

Mr. President, this is a prejudiced view of a wonderful Indian people. It is a view that has been concisely rebutted by the closing words of an excellent television commentary on the Havasupais by the CBS production, "60 Minutes."

You might wonder why all this fuss, this demand by less than 500 Americans for a few more acres of grazing land, when there are so many more burning issues we could be talking about? Well, perhaps we might just pause as we go hell-bent to preserve the bighorn sheep and other endangered fauna and flora and think about preserving some endangered people—who, by the way, had no trouble preserving their environment in this land for many, many centuries.

Mr. President, last year I introduced legislation, S. 1296, sponsored by one-fourth of the Senate, including both the majority and the minority leaders, which would have restored immediately to the Havasupai Indians a large portion of the lands they desired to have returned. This proposal met with a massive, nationwide campaign of opposition by the Sierra Club, which succeeded in pressuring the Senate Interior Committee into drastically altering my proposal.

Then, in a subcommittee of the House Interior Committee, a further amendment was accepted which would completely gut the aspirations of the tribe. This amendment, proposing economic projects rather than an expansion of reservation lands, is identical to an idea first put forth several months ago by two individuals who presented a Sierra Club plan for the Grand Canyon at public meetings held at my home in Arizona.

Mr. President, if the national Sierra Club wins its way there will be no Havasupai people. The Havasupai will disappear—so that the Sierra Club can brag that it has won another power play.

We, all of us in Congress, must not allow this to happen. There is yet an opportunity to save this people, the original inhabitants of the Grand Canyon, when the full House Committee on Interior and Insular Affairs meets to mark up my amended bill soon; and I implore my friends across the Hill who are also friends of the American Indians, to correct the bill and insert language which will be proposed for the immediate expansion of the Havasupai Reservation.

Mr. President, I ask unanimous consent that recent endorsements supporting the cause of the Havasupais by the National Education Association, the League of Women Voters, Dr. Alfonzo Ortiz, and Alvin Josephy, Jr., be printed in the RECORD. I hope Members of Congress will take the opportunity to read these objective materials.

Following these documents, I also ask that a copy of a White House press release announcing President Nixon's support of immediate enlargement of the Havasupai Reservation appear in the RECORD.

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

EXHIBIT A

NATIONAL EDUCATION ASSOCIATION,
Washington, D.C., April 29, 1974.

HON. JAMES A. HALEY,
Committee on Interior and Insular Affairs, Longworth House Office Building, Washington, D.C.

DEAR CONGRESSMAN HALEY: The First American Task Force of the National Education

Association supports the effort of the Havasupai tribe to increase their land base.

Land has long been an intrical part of Indian life. The spiritual sense that the land presents is the foundation upon which is built the essence of life. To encroach upon the right of Indian people not to seek the restoration of the land loss is a strike at the basic freedom we all hold sacred.

The Havasupai must gain tribal trust title to the land now in question.

With tribal trust title restored, the education process of the children would be enhanced. There would be no long trips to attend school or separation from parental guidance. The important cultural training, so necessary in the development of the child's self concept would be assured. The educational impact of an increased land base and trust title will be the ability for the children to retain those tribal identities so necessary in survival of Indian culture.

Sincerely,

LLOYD M. ELM, *Chairman,*
First American Task Force.

EXHIBIT B

THE LEAGUE OF WOMEN VOTERS OF THE UNITED STATES,
May 6, 1974.

WASHINGTON, D.C.—The League of Women Voters of the United States today urged Congress to amend a bill (S. 1296) so that the Havasupai Indian Tribe can get trust title to 251,000 acres of land crucial to the survival of the tribe.

In letters to Representative James A. Haley, Chairman of the House Committee on Interior and Insular Affairs, and Representative Craig Hosmer, ranking minority member of the committee, the League pointed out that the 425-member tribe occupies only 518.6 acres on the reservation because the remainder, with its undependable water supply, is uninhabitable. The small acreage on which the Havasupai live has also contributed to health and educational problems of the tribe.

In response to those who fear that the Havasupai might abuse and exploit the land they are seeking, the League noted the land use plan provided for in their proposed amendment, which would put the land in trust.

The letter concluded: "Moreover, the Havasupai and other Indian tribes were this country's first land use planners. Traditionally, Indians set aside areas for living, hunting and grazing, raising crops and for worship. The Havasupai have taken care of the land for 1,200 years. It is inconceivable that they would initiate projects that would destroy the land which is their home and which they revere so much."

THE LEAGUE OF WOMEN VOTERS OF THE UNITED STATES,
Washington, D.C., May 3, 1974.

Hon. JAMES A. HALEY,
Chairman, Committee on Interior and Insular Affairs, U.S. House of Representatives, Washington, D.C.

DEAR MR. HALEY: The League of Women Voters of the United States wholeheartedly supports the Havasupai Indian Tribe in their efforts to increase their land base so that they can improve and stabilize the socio-economic status of their members. Tribal members have been petitioning members of this Committee and the Congress to amend S. 1296 so that they can get trust title to the 251,000 acres of land for which they now have limited use under the permit issued by the National Park Service.

Land has always been and continues to be a key issue in Indian-federal government relations. The Havasupai Indian Tribe's situation re-emphasizes how crucial a land base is to the survival of Indian tribes. Members of the Committee have heard how the 425 member tribe occupies only 518.6 acres on the reservation because the remainder, with its undependable water supply, is uninhabitable. Already tribal members have been forced to live in outlying towns because there is simply no room in the Canyon to hold them.

Other problems which plague the Havasupai and are in part attributable to the fact that they live in such a confined space are summarized below:

Indian Health Service personnel have attributed some of the major health problems of the Havasupai people to the fact that the canyon is an unhealthful place to live: for example, in some instances people and horses must use the same water.

The isolation of the Canyon reservation means that critically ill persons must be transported out by a helicopter which reportedly will not come to Supai Village after sunset.

The inaccessibility of the reservation and the lack of school facilities beyond the primary grades means that the children must spend 9 months out of the year at the BIA boarding school 350 miles away. If the Havasupai people were allowed to live on the plateau, their children would be able to go to the schools in nearby towns.

It has been proposed that the Havasupai be given not less than 100,000 acres of the permit land in permanent use status. However, the Havasupai have made it clear that this provision is not adequate. Under this status the tribe would still be vulnerable to arbitrary rules, regulations and maladministration. Restrictions currently placed on the permit land prohibit the Havasupai from building homes which they sorely need on the plateau. They can only use the land for grazing purposes. The Havasupai need all 251,000 acres because only a relatively small portion of the rough and rocky terrain is suitable for agricultural uses. Beyond these specific concerns, the Havasupai need a guarantee—which they would have under the condition of trust—that their lands will not be alienated in the future. Under the permanent use status they certainly could be.

The League of Women Voters understands the need to preserve this country's dwindling natural resources. We are deeply concerned about land use and environmental issues ourselves. Those who fear that the Havasupai might abuse and exploit the plateau if it were put into trust for them should note that the Havasupai included language in their proposed amendment providing for a comprehensive land use plan. Moreover, the Havasupai and other Indian tribes were this country's first land use planners. Traditionally, Indians set aside areas for living, hunting and grazing, raising crops and for worship. The Havasupai have taken care of the land for 1200 years. It is inconceivable that they would initiate projects that would destroy the land which is their home and which they revere so much.

Sincerely,

LUCY WILSON BENSON,
President.
MARTHA S. GREENAWALT,
Human Resources Chairman.
RUTH L. SIMS,
Action Chairman.

HAVASUPAI LAND AND S. 1296

Dr. Alfonso Ortiz, associate professor of anthropology, Princeton University and editor, Southwest Volumes, "Handbook of North American Indians."

The Havasupai tribe should be granted trust title to 251,000 acres it presently uses and occupies under federal permit. The actions of the federal government confining the people to Havasu Canyon have had a variety of tragic consequences for them, the major ones of which I should like to enumerate.

First, it is no longer possible for all of the Havasupai to live in the Canyon itself; there simply is not enough living space or agricultural land. For this reason there are already more than 100 Havasupai tribal members living out of the Canyon in towns adjacent to the reservation, only waiting for the day that they can be permitted to rejoin the rest of the Tribe and re-establish their community on the plateau lands. The restriction of the Havasupai to the stark isolation of the Canyon bottom and this separation of families and clans are seriously disrupting a complex web of kinship ties and economic networks.

The stark isolation of the Canyon itself poses very special problems in obtaining health services. Confining the aged and the infirm of the reservation to the Canyon puts their very lives in unnecessary jeopardy. Tribal members tell of instances in recent years when adults and children have died because they could not be gotten out of the Canyon and to medical help on time. Nor would it be at all realistic to expect the old and infirm to relocate in off-reservation towns, since they may have no close relatives to care for them there, and no income to draw upon. Again, the most humane and just alternative would be to give the Tribe trust title to the canyon-top land so that those who need to do so as well as those who wish to do so, can continue to exercise the option of living within convenient, year-round access to modern medical and other facilities.

Yet another consideration is the fact that, at the age of 10, Havasupai children have to be sent to a boarding school 300 miles away from the Canyon to continue their education. Thus, confining their families to living within the Canyon year-round, in effect, precludes parents and children from seeing one another at all during the long periods in the school year when it is not safe to attempt to enter or leave the Canyon, because of the snow. Parents of such children should be permitted to reestablish their homes on the plateau so that during this academic year they and their children can be accessible to one another for school holidays and during emergencies.

Many other considerations could be cited, some economic, some political, and some social, but in the end the most persuasive reason for granting the Havasupais trust title to the use area is the simple one that it is their traditional homeland—land to which their aboriginal rights have never been extinguished. They feel their identity as a people bound up with that area, and there are sacred places there, places to which they believe they must have unrestricted access for individual and tribal well-being. Beyond these general considerations, the Havasupais have, through the centuries, evolved a complex and responsible pattern of everyday usage of the area in question, from gathering medicinal plants and herbs to grazing stock and making their homes and raising their families. It is therefore difficult for them to imagine not having these everyday use rights protected by title, rights which have never resulted in any despoilation of the land. For this reason alone, in the name of simple justice, they should be granted trust title to the 251,000 acres.

EXHIBIT D

THE GRAND CANYON BILL: AN APPEAL FOR JUSTICE

(By Alvin M. Josephy, Jr.)

Senior Editor, American Heritage, Author of The Patriot Chiefs and The Indian Heritage of America, formerly Consultant to the Department of Interior on conservation issues.

In its consideration of S. 1296, the 93rd Congress has a priceless opportunity to afford simple justice to the Havasupai Indians of Arizona, who are now confined to the bottom of the Grand Canyon, and to grant them the opportunity to enjoy their full rights as citizens. This is their last best chance.

The tragic history of the Havasupai people, since the creation of the Grand Canyon National Park in 1919, should provide sufficient testimony to the Congress on the need

for prompt remedial action—action long overdue. Assigned to a 518-acre reservation on the Canyon bottom in 1882, the Tribe has, for more than 65 years, used and occupied an additional 251,000 acres of land under annual federal permit. Most of this is the surrounding plateau land, a small part of the Tribe's ancient homeland, where the bones of their ancestors lie and still the sacred land of their religion. Over the years, the National Park Service has driven the Havasupai off the plateau, burning down their homes to force them into the Canyon and, as late as 1952, hauling them off the plateau in trucks. Today, only Havasupai livestock are free to live on the Havasupai permit lands on the plateau. Today, down in the Canyon, the Havasupai people face extinction from disease, poverty, and the eventual collapse of their society, their culture and their religion.

The Havasupai are appealing to Congress for trust title to their permit lands so that they may be free of the dangers of Park Service administration and may once again resume a secure and decent life on the plateau. There are even a few vacant homes still up there that have not been burned down and, for years, their Havasupai owners have been waiting for the day it will be safe to return. Surely, we can afford to honor their request.

The conditions imposed on the Havasupai by the United States today have no parallel anywhere in our Nation. While American Indians were once restricted to their reservations by force of arms, today they come and go in freedom and enjoy trust title to their lands. The Havasupai, by fact of their banishment to the bottom of an almost-inaccessible canyon by the Park Service, are not really free, do not have the full enjoyment of their land, and ultimately are denied their right to be Indian, the right to continue their existence as a people.

It has been suggested that there be a study of Havasupai land needs. That is like studying navigation while the ship is sinking. There is no need for a study. As recently as 1972, the Department of Interior recommended that the Havasupai be granted trust title to their permit lands, confirming repeated recommendations of federal officials throughout this century. If, as some Members of Congress agree, this is the Havasupai's last real chance to get trust title, then a study is merely an euphemism for betrayal.

It has been proposed by some that the remedy for the Havasupai is to grant them a permanent, rather than an annual, permit to their land. No society—American or foreign, Indian or non-Indian—can sustain itself and provide for the future on the basis of a permit. Surely, such a notion must run contrary to the entire concept of our democracy.

As an historian of American Indian affairs, as an active advocate of rational conservation measures, and as a citizen, I wholeheartedly support the Havasupai.

EXHIBIT E

STATEMENT BY THE PRESIDENT

I am pleased to announce my support of a major enlargement of the Havasupai Indian Reservation in the Grand Canyon. Ousted from lands on the canyon rim almost a century ago, the Havasupai Tribe lives isolated on two small tracts at the bottom of the canyon. The tribe has patiently appealed for the restoration of a land base on the rim. This addition would return historic and religious sites, ancient burial grounds, and life-sustaining springs to the Havasupai. In addition to its historic and religious claims, the tribe needs this land to relieve overcrowding on the reservation and to provide a better economic base.

The land which the tribe seeks lies within the national park and forest systems. When Senators Goldwater and Fannin introduced a bill to enlarge the reservation early in this Congress, the Departments of Interior and Agriculture took the position that a year should be devoted to studying the question. However, after consultation with Secretary Morton, Secretary Butz, Commissioner Thompson, the Arizona delegation, and receiving representations of the tribe, I have concluded that the Havasupais have waited long enough. The House Interior Committee will take up the bill early next week and Congressman Steiger will offer this plan as an amendment to the bill at that time.

Therefore, I am recommending first that sufficient acreage to meet the tribe's economic and cultural needs, up to 251,000 acres of national park and forest lands, be held in trust for the Havasupai Tribe; second, that the tribe and the National Park Service conduct a joint study of the area held in trust and develop a Master Plan for its management, and, third, that the Secretary of the Interior be given a right of access over the lands deleted from the Grand Canyon National Park and held in trust for the Havasupai, in order that he may continue to administer the matchless resources of that park. This plan, which would be due a year after enactment of the legislation, would preserve the area's scenic and environmental values, with special provisions for environmentally sensitive uses. During the interim, the National Park and Forest Services would administer the area so as to protect the status quo: that is, no development would be permitted, and use could not exceed present levels. What I am proposing, in short, is instant trust status for the land which the Havasupais have claimed and one year later a determination by both the tribe and the Secretary of the Interior as to how the values which originally led to the inclusion of the area in national parks and forests can be maintained under Indian ownership.

I note that the acreage to be placed in trust for the tribe does not include a corridor along the Colorado River. This corridor is under scrutiny by the Department of the Interior for possible wilderness designation, and today's recommendation would not affect the outcome of that decision-making process.

With the environmental protections built into the recommendation I am making today, I believe that transfer of park and forest lands into trust for the Havasupais would protect the integrity of the area. We must remember that the conservation record of the American Indian, stretching over the thousands of years he has inhabited this continent, is virtually unblemished.

THE VICE PRESIDENT AND PRIVACY

Mr. ERVIN. Mr. President, last Thursday, May 9, Vice President GERALD FORD addressed the 1974 National Computer Conference in Chicago on the Right to Privacy.

The Vice President heads the Domestic Council Committee on the Right to Privacy which in a few weeks will publish the administration's program to safeguard this very important constitutional and personal right. I was gratified that the Vice President was chosen to head this committee. For the first time this gives needed visibility to congressional efforts to ensure that individual rights are not trampled and forgotten in the zeal for administrative efficiency and convenience. His leadership gives this effort the requisite symbolic importance it deserves.

It is, of course, too early to tell what the Vice President's program will be. I must admit to a certain sense of caution since the committee is composed entirely of the heads of Government departments where privacy most needs to be recognized and protected. But I am hopeful that through Mr. FORD's leadership the committee will take an active and aggressive stand on the threats to personal privacy from within as well as without the Federal Government.

There are, as my colleagues in both Houses know, a number of privacy bills currently under consideration in Congress. In the Senate these are the criminal justice data bank privacy legislation, S. 2963 and S. 2964, introduced by Senator HRUSKA and myself, the Army surveillance bill, S. 2318, the Bayh bill to impose privacy protections on Federal computer systems, S. 2542, and Senator GOLDWATER's omnibus privacy bill, S. 2810 and amendment 994, as well as another version of this proposal introduced by Senator PERCY and myself. I am hopeful that Mr. FORD's committee will support this legislation publicly and endeavor to educate the various Government departments on the need for them.

Already the Privacy Committee has discovered how vigilant it must be to prevent Government agencies from pursuing their data bank ideas in total ignorance of privacy considerations. In his speech, Mr. FORD makes reference to a GSA-Agriculture proposal called FedNet which would initiate a possible national data bank. That idea was firmly rejected almost 10 years ago. Unfortunately, some officials in GSA were unaware of the implications of their computer network. I am pleased that Mr. FORD is concerned with FedNet. So am I. Senators HRUSKA and GOLDWATER and I wrote to GSA last week informing the agency of our position that the FedNet idea should not proceed without a full public airing in Congress. Similar expressions of concern have been voiced by Members of the House. I look forward to working with Mr. FORD and my other colleagues on the FedNet problem.

I also welcome cooperation with Mr. FORD on other privacy problems. This is a subject which transcends party and ideology. The Vice President has written asking for my assistance and that of the Constitutional Rights Subcommittee in developing an effective privacy program. I can assure him that I stand ready to provide whatever help I can in our mutual efforts.

Mr. President, I ask unanimous consent that the Vice President's speech of May 9 be printed in the RECORD.

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

REMARKS BY VICE PRESIDENT GERALD R. FORD AT THE NATIONAL COMPUTER CONFERENCE, CHICAGO, ILL., MAY 9, 1974

I thank you for this opportunity to address the 1974 National Computer Conference and Exposition.

The invitation extended by the American Federation of Information Processing Societies was timely. I am learning about computer technology and data processing from the viewpoint of my new responsibilities as Chairman of the Domestic Council Committee on the Right of Privacy.

I am aware that the notion of leaving the protection of individual privacy to Government officials has been compared to asking the fox to protect the chicken coop. But five months ago—when the most intense investigation ever focused on a nominee for the

Vice Presidency was directed at me—I awakened to the privacy issue in a very real and personal sense. I was one of the chickens.

On a previous visit to Chicago, I had occasion to refer to some foxes who passed themselves off as elephants in the 1972 election. I am speaking of some characters in the CREEP organization and CREEP's invasion of the privacy of political opponents. This made me more aware of what could happen to our sacred right to privacy. I deplore such violations of traditional standards of honesty and decency in our political life.

I told President Nixon of my concerns, and he appointed me chairman of the Committee on the Right of Privacy. I welcome the challenge.

I know that there have been previous commitments, previous studies, and previous recommendations to deal by legislation with privacy problems. It is too early to forecast the outcome. I realize that too many findings have been ignored and too little actually done. The time has come for action. I will do all in my power to get results.

My first act as chairman involved complaints about an Executive Order of the President that permitted the Department of Agriculture to review the income tax returns of farmers to obtain data for statistical purposes. The President asked me to look into the matter. I immediately discussed the Executive Order with Secretary Butz and recommended that it be withdrawn. The President accepted my recommendation.

Let me tell you about the development of the Committee that I head. I wanted to chair this Committee with a staff of our own selection. I asked my former law partner, Philip Buchen—a distinguished advocate of personal freedom—to come to Washington as the Committee's Executive Director.

Interagency task forces were formed to make recommendations. Contributions have come also from the Congress, State governments, industry, citizens' groups, private individuals, academic experts, and some Federal agencies not represented on the Committee. We wish to invite our hosts, the American Federation of Information Processing Societies, and all constituent groups to become involved.

Today I would like to cite an example of a development that concerns our committee. The Government's General Services Administration has distributed specifications for bids on centers throughout the country for a massive new computer network. It would have the potential to store comprehensive data on individuals and institutions.

The contemplated system, known as FEDNET, would link Federal agencies in a network that would allow GSA to obtain personal information from the files on many Federal departments. It is portrayed as the largest single government purchase of civilian data communication equipment in history.

I am concerned that Federal protection of individual privacy is not yet developed to the degree necessary to prevent FEDNET from being used to probe into the lives of individuals.

Before building a nuclear reactor, we design the safeguards for its use. We also require environmental impact statements specifying the anticipated effect of the reactor's operation on the environment. Prior to approving a vast computer network affecting personal lives, we need a comparable privacy impact statement. We must also consider the fall-out hazards of FEDNET to traditional freedoms.

I can today make known that the Privacy Committee staff is proceeding with a project to develop recommendations for assuring that personal privacy rights are given systematic and careful consideration in the planning, coordination, and procurement of Federal data processing and data communications systems.

Our objective is to formulate an action plan by June 30. An interagency task force has been given the assignment.

Assignments have also been made for other task forces to work on problems involving:

Social security numbers;

Protection of personal privacy interests of consumers;

Preserving confidentiality of personal records used for statistical and research purposes;

Ways of notifying people of their rights with respect to various types of information they are asked to provide to Federal agencies;

Mailing list practices of the Federal government; and

Legislative proposals aimed at protecting the personal privacy interests of individuals on whom Federal records are maintained.

In addition, staff work and outside research are under way or planned on problems such as:

Development of basic legal concepts for articulating privacy rights;

Confidentiality of personal tax returns submitted to the I.R.S.;

Personal privacy rights of Federal employees;

Types of personal information that should not be collected;

Administrative procedures that would enable individuals to know about, and to correct errors in personal data files maintained by Federal agencies; and

Means for limiting the range and volume of personal data collected by the Federal Government.

In dealing with troublesome privacy problems, let us not, however, scapegoat the computer itself as a Frankenstein's monster. But let us be aware of the implications posed to freedom and privacy emerging from the ways we use computers to collect and disseminate personal information.

A concerned involvement by all who use computers is the only way to produce standards and policies that will do the job. It is up to us to assure that information is not fed into the computer unless it is relevant.

Even if it is relevant, there is still a need for discretion. A determination must be made if the social harm done from some data outweighs its usefulness. The decision-making process is activated by demands of people on the Government and business for instant credit and instant services. How can we offer service to people without doing disservice to their privacy?

Computer technology has made privacy an issue of urgent national significance. It is not the technology that concerns me but its abuse. I am also confident that technology capable of designing such intricate systems can also design measures to assure security.

There is no mention of the "right of personal privacy," as such, in the United States Constitution. But, as far back as 1928, Justice Brandeis expressed the idea that the right of individual privacy is broadly protected by the Constitution. For example, illegal searches and seizures are explicitly forbidden in the Constitution. Moreover, the general right to privacy certainly can be regarded as one of the unenumerated rights that the Ninth Amendment reserves to the people.

There will evolve a more comprehensive body of law on privacy from issues to come before the courts. But much can be done through executive and administrative actions—both in government and in business—to meet the growing public desire for protection of each individual's right of privacy.

Sensitivity was shown by planners of this conference to the right of privacy as affected by personal data collection and processing. I am pleased that five of your scheduled work sessions concentrated on privacy problems. I wish my time had permitted me to attend these sessions, including the meeting on Humanization of Information Systems.

The need to humanize information systems best expresses how we should approach the privacy issue.

People feel threatened by big information systems just as they are troubled by the growth of big government, big business, big unions, and by big institutions generally. Anxiety is experienced because big systems and big organizations seem inhuman in that they appear not to respect a person as an individual but treat him as just another in a broad category of persons.

As one processor of mail for a large organization said: "The saddest thing of all is reading letters that begin, 'Dear Computer, I know there are no humans there.'"

For 25 years I served in the Congress and watched the social planners. One huge program after another was enacted. Rigid categorical standards were applied to people with a sweeping brush. We began the programming of people before computers were invented.

It is my conviction that the time has come to show greater respect for individual differences and to cease programming people as though they were objects.

We are approaching the celebration of this country's bicentennial. A major commitment we should all make for America's third century is to work together to humanize the operations of our computers, our institutions, and our government. As Theodore Roosevelt put it very simply 70 years ago: "The government is us; we are the government, you and I."

THE TRIUMPH OF GOLD

Mr. GOLDWATER. Mr. President, in all of the years I have served in the U.S. Senate, I cannot recall any experience more exciting or interesting than the day after Donald McLaughlin, probably one of the world's leading experts, testified before the Banking and Currency Committee, of which I was then a member. It was an interesting debate because both sides presented their arguments in a highly intelligent and understandable way and one could find points that both made. I, however, having long believed that gold is the sweat of man and the only logical basis for money, agreed with Dr. McLaughlin, not so much for his arguments on the gold standard, but the fact that as long as 2,000 years ago, arguments were made in favor of fiat money as part of a planned and regulated society. In spite of the proof of centuries that fiat money never works but only brings disaster, our country and the other countries of the world are now engaged in this destructive and demonstratedly ridiculous approach. Dr. McLaughlin has made another cogent argument in favor of gold as a standard for our money, and it appears in a paper, "The Triumph of Gold," printed by the Committee for Monetary Research and Education, Inc. I ask unanimous consent that it be printed in the RECORD.

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

THE TRIUMPH OF GOLD

(By Dr. Donald H. McLaughlin *)

In the monetary world today a sharp confrontation exists between the advocates of fiat or authoritarian money and those who insist that sound money must be based on gold. The conflict is not new. More than 2,000 years ago, Plato argued in favor of fiat money as a part of his planned and regulated society, while Aristotle advocated metallic money as the most suitable, if not the only reliable instrument of free trade. This basic disagreement still persists and now is at a stage when decisions will have to be made that are certain to have far-reaching consequences for many years to come. Even though monetary policies are only one factor in the interplay of forces that shape the economy and social order of the times, it is not too much to say that, if stable money that inspires and deserves confidence is not regained, the system we call free enterprise, and the personal freedoms that go with it will be seriously endangered.

Fiat money is the type of money most nations use today—money that derives its value simply from the edict of a government that a certificate issued by it is legal tender which must be accepted when offered in payment of a claim or debt. Until a few years ago, our bills stated that they were "redeemable in lawful money"—which most readers of the Constitution would assume to be gold or silver coins. Today, the fine print on the greenback simply states "This note is legal tender for all debts public and private."—And on the reverse side, in somewhat larger type, the notes of the Federal Reserve now proclaim somewhat gratuitously: "In God We Trust." The change was scarcely noticed by the general public, for the government had already repudiated its pledge by denying citizens the right to claim gold for their dollars or even to own gold. The repudiation was made complete and our currency became no more than fiat money internationally as well as domestically when on August 15, 1971 the gold window was closed and dollars held by foreign central banks could no longer on demand be converted into gold.

In a monetary system based on gold, currencies were redeemable in gold at a stated rate and a government had to preserve a reasonable balance, both domestically and internationally, between its income and expenditures if confidence was to be maintained in its monetary bills. If a government created too much paper money, a concerned citizen could express his distrust by demanding gold for the certificates he held. Gold was the standard,—the *numeraire* to use a term recently introduced by the French. It provided a base to which all currencies could be related and which no single nation could modify to suit its varying fortunes.

The well-ordered system, which developed during the 19th century, was disrupted by the overwhelming disaster of the first World War with its unparalleled losses of property and life. The gold standard was one of the casualties, not because of its shortcomings, but simply as a consequence of the disruption of rational economic relations. When national survival is at stake, no sacrifice is too great, including the confiscation of wealth. Since inflation is a more subtle means of confiscation than excessive taxes or the out-right taking of property, all governments resorted to it as the most easily tolerated device for meeting the financial demands of the desperate conflict. The discipline imposed by gold would have made such practices impossible—and hence, under the stresses of war, the gold standard was abandoned.

In the case of Germany, the heavy losses and the defeat in World War I, intensified by the harsh terms of the Treaty of Versailles, resulted in 1923 in virtually a complete repudiation of the currency, and all holders of claims expressed in the old marks lost these claims almost in their entirety.

Even the victors were not spared. England, with an impractical devotion to the ideal that debts should be paid in money of the same quality as that in which they were incurred, tried to restore the old gold standard with the gold content of the pound sterling unchanged in spite of the heavy losses the Empire had suffered and the huge claims, at home and abroad, against the remaining assets. The honesty of the attempt might be admired, but not the common sense of those who urged it. Of course, it didn't work.

Eventually the pound sterling had to be devalued, as it was in 1931, when its gold content was reduced. In 1934, the same course was followed by the United States by changing the definition of the dollar from 23.22 grains of pure gold to 13.71 grains, the equivalent of increasing the dollars per ounce of gold from $20.6718 to $35.00. These moves, however, were delayed too long and their benefits were lessened by many restrictions placed on the disciplinary power that gold formerly had over politicians and money managers. Among them was the denial of the freedom that individual citizens had possessed in the past to own gold and to convert their paper dollars into gold. And the change came too late to check the severity of the depression to which the ill-advised effort to preserve the old gold content of the pound and the dollar at their pre-war level had undoubtedly contributed.

Then came the next disaster, the second World War, which again was financed to a major degree by expansion of the money supply and inflation. In the pre-war period, however, and in the turmoil that followed, so much gold had accumulated in the United States that the gold backing of the dollar at the time of the Bretton Woods conference (1944) seemed a solid basis on which to build the new monetary system. Gold reserves with the dollar valued at 1/35 of an ounce of gold had reached $22 billion in 1941 and continued to rise to a peak of $24 billion in September 1949.

Since the late 1940's, however, the United States has persistently followed international and domestic policies that have resulted in a succession of deficits which in one way or another had to be financed through expansion of the money supply with the inevitable inflation that accompanies this procedure. The continuation of practices of this sort, after the extreme urgencies of the war had passed, is hard to defend. There is a difference between an inflation forced on a nation by a major calamity and one created by deficits that could be avoided.

At Bretton Woods the dollar was recognized as a key currency redeemable in gold, if presented by central banks, though not if presented by individuals. With the large quantity of gold then held by the United States, there seemed no reason to fear repudiation of this pledge. Within fifteen years, however, even this vast stock of gold proved inadequate to finance the accumulation of claims in dollars resulting from persistent deficits in international payments. To some degree, these deficits arose from worthy efforts such as the Marshall Plan, but in the main they were the result of unwise decisions to indulge in practices involving expenditures far in excess of the revenues of the government. The result was a diminution of the gold stock of the United States to a low of 276 million ounces ($9.66 billion at $35 per ounce of gold) accompanied and followed by a rapid build-up of short-term claims in dollars in foreign hands, when our government became reluctant to honor the pledge to redeem them in gold.

For a period of seven years that ended close to the Ides of March in 1968, the United States Treasury in conjunction with several other major governments attempted to keep the "price" of gold on the London Market from rising by selling gold from their reserves at the official rate of $35 per ounce, a procedure that eventually reduced the monetary gold stocks by 2.3 billion dollars or about 5 per cent. At the present market price of gold (January 1974), the loss would be over 9 billion dollars. All in all, the attempt by means of the London gold pool to prevent an increase in the price of gold was one of the greatest misguided speculations in history. The buyers of gold were castigated as "speculators"—but the real culprits were the officials of governments and banks who used the gold entrusted to them in this futile attempt to preserve the value of their depreciating currencies. This ended in March 1968 with the abrupt statement that the central banks had an adequate supply of gold and no longer would sell or buy gold except in intergovernmental transactions.

On that weekend, the gold miners in the United States were notified that their one customer, the Treasury, which heretofore had taken the entire output at a fixed price, would no longer do so. The miners were told that they had the privilege of exporting or selling to anyone with a license to buy gold at whatever price such a restricted market might command. As was to be expected, there followed a busy ten days or so, but with U.S. consumption of gold for non-monetary purposes more than four times the annual U.S. production, there was no lack of customers. For the next two years, the market price remained close to the official rate, while a large part of the newly acquired gold in private hands outside the United States was being sold. After mid-1971, however, the price began to rise and reached $141 on January 24, 1974.

At first, the United States continued to maintain the fiction that the dollars held abroad by central banks were redeemable in gold at $35 per ounce, but as the claims mounted it became more and more apparent that the pledge could not be met. In spite of a certain amount of bravado in statements to the effect that it was the dollar that gave value to gold, uneasiness on the part of our creditors became more and more acute as the number of dollars in their balances increased while the dollar declined in purchasing power. Central banks for a time politely refrained from attempting to convert their dollars into gold though there were signs that a line was forming at the gold window. However, before the run really started, the win-

* Dr. Donald H. McLaughlin, the Chairman of the Executive Committee of Homestake Mining Co., is—and has been for many years—one of the best-known mining experts in the United States. He received his Ph.D. from Harvard, and honorary degrees from five American institutions of higher learning including an L.L.D. from the University of California. He taught at Harvard from 1925 to 1941, and then became Dean of the College of Mining and subsequently Dean of the College of Engineering of the University of California. For the past thirty years Dr. McLaughlin has been associated with Homestake Mining, first as President and later on as Chairman of the Board. He is a director of a number of corporations including the International Nickel Company of Canada, Western Air Lines and the Wells Fargo Bank. For 15 years, Dr. McLaughlin was a Regent of the University of California and for ten years a member of the Board of the National Science Foundation. He is the recipient of many honors, and a member and sometime officer of several professional associations.

dow was abruptly shut by President Nixon, on August 15, 1971, with appropriate self-serving explanations, and the pretense that dollars were convertible into gold ended. The dollar had become a flat currency internationally as well as domestically.

Meanwhile, the leading money managers of Europe and the United States, with the cooperation of the IMF, had created a new device known as Special Drawing Rights (SDRs), to serve as a means of settlement of international balances. It is a strange hybrid that in simplest terms can be described as a form of flat money on an international scale, since the adherents of the plan are obligated to accept this bookkeeping entry (with certain limitations) in settlement of claims ensuing from international transactions. So, we now have an international monetary system in which the national reserves consist of gold, foreign exchange (principally dollars) and SDRs.

With practically all currencies depreciating in value—and the dollar is by no means the weakest—a strange fluidity exists in which individual currencies sink at unequal rates. The term "floating currencies" is really a misnomer when all currencies are sinking in terms of their purchasing power. Instead of a "dirty float", when the market is manipulated by government intervention, the term "dirty sink" might be more appropriate.

To preserve a measure of respectability for the dollar and the SDRs both continue to be defined in terms of gold, although on a different basis. But since neither of these forms of fiat money is redeemable in gold, these *de jure* ties to gold do no more than provide a means of determining their relative official status. The lack of a tie to gold in a *de facto* sense, that the market had all too clearly revealed by valuing gold at 3–4 times the official "price," was formally recognized in November 1973, when the central banks that had been members of the "gold pool" abandoned their agreement to buy and sell gold only among themselves at the official rate.

As might be expected under Gresham's Law, which states that bad money drives good money out of circulation, the central banks are holding on to their gold reserves most tenaciously and balances are being settled in the less desired forms of money. None appears to be eager to avail itself of the new right to sell gold at the current market price and the rumors occasionally spread in Washington that the Treasury would soon sell part of its gold in the market do not seem to be taken seriously. Indeed, it seems more probable that, when balances between central banks are again settled in gold, it will be at negotiated rates at or above the market quotation of the currencies in terms of gold. When this occurs, gold will in fact become the *numeraire* and again serve as the standard by which all currencies are measured. This rather simple procedure may well prove to be more powerful than the pronouncements of international committees and may provide the means for the gradual restoration of gold to its traditional function in the monetary system. The coinage of gold in units of specified content is another way to contribute to this end, and the circulation of coins of this sort, such as the Kruger Rand, is likely to increase as the futile restrictions on ownership of gold are removed.

With the current disarray in the monetary system, the dominance of gold as the one element that commands highest confidence among monetary units is becoming more and more apparent. The power of gold is too great to allow any nation to "demonetize" it. The rise of the market price of gold in currencies reveals their weakness and their relative rates of deterioration rather than any change in the persistent worth of gold. (Europeans remember only too clearly that the price of gold in German marks in 1923 approached infinity, and it is still no less in that now discredited paper.)

In such ways, gold may gradually assume more and more of its traditional functions as money and changes of the sort are likely to contribute far more toward the attainment of an orderly monetary system than the long drawn out debates of technicians, enmeshed in the futility of trying to give validity to a system of fiat currencies or other devices, with no common base, each reflecting the special interests of the issuing nation or agency. In the end, the deterioration of the fiat currencies, including the SDRs and the like, may so clearly demonstrate the dominance of gold that the money managers assembled in their august committees will have the relatively easy assignment of formalizing a *fait accompli*.

Toward the end of 1973 and in early 1974, the dollar strengthened in relation to the pound sterling, as a result of the turmoil in England, and to the yen and currencies of other countries that are more seriously handicapped by the shortage of oil. The dollar's strength, however, is deceptive for it is merely sinking, in terms of purchasing power, less rapidly than the other currencies. The real problems are still with us; and they are: (1) the achievement of reasonable balance in international transactions, (2) the reduction of the immense overhang of debt and particularly of foreign claims in dollars, and (3) the control of inflation, not only in the United States but in other major nations.

Stable money can not be regained until these ends are met, and it is here that the wise use of gold is of critical importance.

The achievement of complete balance in trade and other dealings between nations may be an unrealistic ideal, but efforts to attain it are beneficial. Neither nations nor men are created equal. They differ widely in material resources and in the characteristics of their inhabitants that enable each country to prosper or languish at its distinctive rate. The differences are particularly sharp in this highly technical and scientific age. These differences, however, stimulate trade, and trade involves negotiation and availability of acceptable means of exchange. Today, with fluctuating exchange rates without a base for common reference, another troublesome variable must be kept in mind in the settlement of balances and particularly in planning for the future. If gold were again allowed to function freely as the world's common money, against which all currencies would be measured and compared, trade between nations would be on a far more secure basis. The benefits to be obtained from use of gold in this respect are so clear that in spite of the artificial intricacies created by bankers and politicians, aided and abetted by some economists, gold may gradually resume its traditional function in world trade without the benefit or hindrance of the high priests of monetary ritual. Perhaps, however, even they will be enlightened enough to support this desirable development by eventually recognizing gold as the world's monetary standard of measurement and making more intelligent use of this essential and relatively simple concept.

The huge build-up of debt—both governmental and private, and both domestic and international—is one of the most troublesome and threatening results of monetary practices that have prevailed in the last few decades. The over-hang of debt could, of course, be eliminated by a disaster such as the extreme inflation in Germany in the twenties. Or it could be reduced to a tolerable burden by a substantial write-down in the gold content of the dollar with corresponding changes in other currencies and utilization of the increase in the book-value of monetary reserves of gold to reduce the debt, particularly the eighty billions or more of dollars held abroad.

This procedure, supplemented by conversion of a portion of the remaining short term dollar claims to long term debt at a low rate of interest, was proposed by Jacques Reuff some twelve years ago. Under conditions which then prevailed, he advocated a reduction of 50 per cent in the gold content of the dollar—corresponding to a change from $35 per ounce of gold to $70. With the gold reserves and the obligations in dollars that existed in 1962, a substantial portion of the foreign claims in dollars could have been settled by acceptance of half of the original commitment in gold with enough of the remaining debt converted into long term bonds to reduce it to a tolerable magnitude.

Today, the same procedures could still be used. In the meantime, however, the dollars in foreign hands have more than tripled and the quantity of gold in the reserves of the United States has declined by about 35 per cent. To be at all effective, the reduction of the gold content of the dollar would now have to be at least fourfold. With the current world price of gold of above $140 per ounce, this would not seem as unrealistic as it did twelve years ago. With an increase of this order, amounting to some $30 billion in book value of the gold reserves of the United States, this amount could then be devoted to liquidation of the foreign short-term debt and still leave $10 billion in the Treasury at the new rate for gold. A settlement of this sort would amount to acceptance of a quarter of the quantity of gold that our creditors could have expected under the original pledge of our government to convert dollars into gold. Payment of a third of the debt in bullion and a somewhat larger fraction met by bonds expressed in dollars at this reduced gold content might be a settlement that would be acceptable. Perhaps, a still greater write-up in gold reserves in terms of the dollar and other major currencies would be more realistic with repayment of a larger portion of the dollar debts in gold and a reduced dependence on long-term dollar bonds. In the end, a settlement of claims even at ten cents in gold on the dollar might be preferred by our creditors to further exposure to repudiation of their claims through inflation.

To check inflation by the conventional means of slowing down the economy, curtailing expenditures and accepting a higher degree of unemployment—in other words creating and living with a depression for a while—is neither socially or politically possible these days. No government that tries it is likely to survive—and indeed our system of reasonably free enterprise itself might not endure under such conditions.

The difficult task confronting the capitalistic world, and especially the United States, is to stop inflation—not merely to slow it down—without creating deflationary chaos. This can not be achieved, however, without restraining the extravagant national habits and policies that have led to persistent deficits and their financing by enlarging the money supply. The transition could be best accomplished without sudden imposition of intolerable conditions by a drastic revaluation of gold with restoration of convertibility and utilization of the additional book values thus created for the reduction of debt. This, in my judgment, is the best and perhaps the only mechanism by which the necessary time could be achieved for the gradual changes by which the monetary and economic order might be restored without extreme disturbances that could endanger the freedoms we cherish.

Even an amateur concerned about inflation and monetary problems must be impressed with their complexities. But it may be that he is less hampered by them than the experts, who are masters of technical details but who fail to appreciate the basic simplicities arising from the acceptance of gold as the world's common monetary commodity. Whether or not gold will be employed in this traditional way—and, if employed,

will be used wisely and successfully—depends upon the degree to which our leaders and the electorate desire stable money, and the willingness of our people to forego certain of the easy ways of life and chronic overconsumption that make continued inflation and all its evils a certainty. Prices will rise as long as the supply of money increases faster than the supply of goods and services, as it has in the United States for the past twenty years; and when deficits have to be financed, the money supply will be increased as long as there is no effective control on governments and central banks. Inflation can only be stopped by making it impossible for governments to issue paper money without restraint. And the only effective restraint is to tie the supply of money to gold—but this can not be accomplished with any hope of success without a reduction in the gold content of the dollar adequate to offset its decline in purchasing power since convertibility into gold was suspended.

As so often in history, fiat money has been tried and found wanting. It might work domestically if our fiscal affairs and monetary policies were so handled that a reasonable balance between income and expenditure could be maintained and persistent deficits avoided. The experience of the past forty years, however, discourages any hope that this is ever likely to be attained under a system of fiat money, especially in a democratic society.

On the international scale, the success of any scheme of fiat money without the discipline of gold seems even less likely in view of the ambitions of the competing nations, each eager to secure special advantages. How, under these circumstances, can it be expected that SDRs or any other bookkeeping device with not even the credit of a powerful national economy behind it, would command the respect necessary to enforce stern decisions when emergencies had to be faced? Possession of gold is the only sure base of international monetary power.

Today, the Triumph of Gold is being revealed by the dismal record of a system that for nearly four decades has been dominated by the concept of fiat money. With each recurring crisis, the currencies sink lower in terms of the market appraisals of the value of gold. Each time, the cracks in the monetary structure are papered over, but the cracks continue to widen. It is late, but not too late, to save the structure from collapsing. However, it is not likely to be preserved until gold is again recognized as the common money of the world and is allowed to exert its unique strength in its traditional way.

DR. FRANCIS H. HORN—A DISTINGUISHED EDUCATOR

Mr. PELL. Mr. President, recently a noted educator and able public servant, Dr. Francis H. Horn, was honored at a dinner upon his retirement at the age of 65, as president of Albertus Magnus College in New Haven, Conn.

Many tributes were voiced at the dinner by those who have had the advantage of knowing him and being associated with this exceptional man as his distinguished career developed.

As an introduction to Dr. Horn, I would briefly like to note that he is a native of Toledo, Ohio, with an A.B. from Dartmouth College, an M.A. from the University of Virginia, and an M.A. and Ph. D. from Yale University. His honorary degrees are too numerous to mention here.

He has held the presidencies of Pratt Institute, the University of Rhode Island, and the Commission on Independent Colleges and Universities of the State of New York, as well as the latest post from which he now retires.

As chairman of the Senate Subcommittee on Education, the Smithsonian Subcommittee, and the Special Subcommittee on Arts and Humanities, I admire Dr. Horn's accomplishments and outstanding service to education. I salute him for his achievements, which I now have the opportunity of bringing to the attention of my colleagues.

In 1958 Dr. Horn accepted the presidency of the University of Rhode Island. My own work and his have been closely related many times. I have always found him to be a person of great resourcefulness, a man for many seasons, intrepid and challenging in his educational concepts and in the intelligence and wisdom of his approach to life.

I value his friendship. His wide-ranging interests include oceanography, arts and humanities, libraries, and foreign affairs. We have often discussed these subjects together to my own benefit.

Rhode Island—thanks in great part to Dr. Horn—was blessed with an early start in the vital and growing field of oceanography. As president of the University of Rhode Island and a member of the New England Board of Higher Education, he was instrumental in having the university designated as the principal center for graduate studies in oceanography among New England's State universities.

He was also instrumental in establishing the Graduate Library School at the university.

Because of his pioneering work in oceanography, I was better able to bring together the ideas and people to formulate legislation for establishment of the sea grant college program. This program is proving to be highly effective in the development of our marine resources and aquaculture, just as the land grant college program spurred the development of agriculture and mineral resources.

Mr. President, Dr. William R. Ferrante, acting president of the University of Rhode Island paid fitting tribute to Dr. Horn at the testimonial dinner. Dr. Ferrante said in part:

I have many fond memories of Fran. I learned to respect his intellect and his ideals. I admire his clear insights, his vision and his courage. But, most of all—after a year of sitting behind the president's desk—I have come to regard with some awe his energy, his capacity for work and above all his accomplishments as president of the University of Rhode Island.

Fran Horn's energies at the University of Rhode Island were well spent. The University will always bear his mark. It is a better institution because of him.

During his nine years at Kingston, 61 buildings were constructed or remodeled. Undergraduate enrollment doubled. The number of graduate students more than tripled, and faculty research—the hallmark of the American university of the 1960's—soared 430%. It was his vision which helped change a small struggling marine laboratory into the center for one of the foremost marine science programs in the world. During Fran's tenure, the State's appropriation to URI increased by 400%.

I would like also to quote briefly from Dr. Horn's own remarks at the testimonial, for they demonstrate the warmth of his character. He said in part:

The satisfactions of the presidency are commensurate with the burdens. Surely one of the greatest of these satisfactions springs from the privilege of constantly working with young people and of rejoicing in the achievements of the graduates of the institution he has headed, especially of those whose lives he has touched in some specific way. But perhaps even greater satisfaction springs from the privilege of working with his administrative and faculty colleagues and of assisting them in their career advancement. In this respect, I am especially proud of the many associates whom I first appointed to major administrative posts who are now college or university presidents or slated to become presidents. Here tonight are four such presidents, including two speakers, and four others are scattered from Ohio to Idaho. Three others among the speakers I first appointed to major administrative posts and they will become presidents some day. . . . Thus, just as the work of a great teacher is continued by his students, so I feel that I will have some influence on higher education through these former associates and other toilers in the academic vineyards.

In his retirement, I know that Dr. Horn will continue guiding and helping and inspiring others, and that he will continue contributing actively to the betterment of our world. I wish him well.

THE NATIONAL DAY OF HUMILIATION, FASTING, AND PRAYER

Mr. HATFIELD. Mr. President, on Tuesday, April 30, a number of Senators spoke on the floor during a 2-hour colloquy regarding the National Day of Humiliation, Fasting, and Prayer, the day recognized by Senate Joint Resolution 183. This was passed by the Senate last December 20, but no action was taken by the House Judiciary Committee, which has been preoccupied with other matters.

As the sponsor of this resolution, I was gratified by the reaction of people around the country to it. Thousands of people organized observances on the State, the local, and the church level. Telephones in my office here have been ringing for weeks as various groups and individuals called to ask what they could do to help, or to let our office know what observances were planned in their locality.

Because the House did not act, the day did not have any official sanction from the Government. In many ways, the outpouring of support for observing the day means even more to all of us involved in its sponsorship. Certainly there needs to be no official Government edict to call the people to repent and to confess their sins—people should feel like doing this and believe in it. The support and the widespread acceptance of this day, therefore, means even more, for it came as an act from the heart. The resolution simply served as a catalyst around which thousands of Americans could rally.

I did not come to the Senate on April 30, and was unable to share my thoughts with my colleagues who spoke on that day. Instead, at the request of Dr. Louis Evans, pastor of the National Presbyterian Church, I participated in a moving service to mark the day. Highlighting the observance was a litany for our

Nation read by Dr. Evans and an eloquent prayer composed by the Reverend Herbert Meza. Also included in the memorable service was an explanation of the origin of the Apostles' Creed which I found very moving.

I ask unanimous consent that the litany delivered by Dr. Evans, the prayer composed by the Reverend Meza and the explanation of the Apostles' Creed be printed, along with my own remarks at the service, in the RECORD.

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

SERVICE OF REPENTANCE, PRAYER, AND MEDITATION AT NATIONAL PRESBYTERIAN CHURCH

CALL TO WORSHIP: ELDER WENDELL MORGAN

Leader: "God so loved the world that He gave his only begotten Son, that whoever believes in Him should not perish but have eternal life."

People: "God was in Christ reconciling the world to himself—not counting their sins against them—and has commissioned us with the message of reconciliation."

Leader: "The kingdom of the world has become the kingdom of our Lord and his Christ, and He will reign forever and ever."

People: "At the name of Jesus every knee shall bow and every tongue confess that Jesus Christ is Lord to the glory of God the Father."

Leader: "In the name of the Father, and of the Son, and of the Holy Spirit."

People: "Amen."

PRAYER OF CONFESSION

Leader and people: "Almighty God: you love us, but we have not loved you; you call but we have not listened. We walk away from neighbors in need, wrapped up in our own concerns. We have gone along with evil, with prejudice, warfare and greed. God our Father help us to face up to ourselves, so that as you move toward us in mercy, we may repent, turn to you, and receive forgiveness; through Jesus Christ our Lord. Amen."

ASSURANCE OF PARDON

Leader: "Who is in a position to condemn? Only Christ, and Christ died for us, Christ rose for us, Christ reigns in power for us, Christ prays for us.

If a person is in Christ they become a new being altogether—the past is finished and gone, everything has become fresh and new."

Friends: believe the good news of the gospel.

People: "In Jesus Christ we are forgiven."

PRAYER FOR THE NATION: DR. HERBERT MEZA

Hymn No. 152, "When I Survey The Wondrous Cross," Hamburg.

SCRIPTURE AND AFFIRMATION OF FAITH: DR. LOUIS EVANS

Leader: 'Of his own free will, he gave himself up, and took the nature of a servant, being born in the likeness of men. He was humble and walked the path of obedience to death—his death on the cross."

People: "By this we know love, that he laid down his life for us; and we ought to lay down our lives for our brothers and sisters."

LITANY FOR THE NATION: MS. JOAN SALMON

Leader: Mighty God: the earth is yours and nations are your people. Take away our pride and bring to mind your goodness, so that, living together in this land, we may enjoy your gifts and be thankful.

People: For clouded mountains, fields and woodland; for shoreline and running streams; for all that makes our nation good and lovely; we thank you, God.

Leader: For farms and villages where food is gathered to feed our people; we thank you God.

People: For cities where men talk and work together in factories, shops, or schools to shape those things we need for living; we thank you God.

Leader: For explorers, planners, statesmen; for prophets who speak out, and for silent faithful people; for all who love our land and guard freedom; we thank you, God.

People: For vision to see your purpose hidden in our nation's history, and courage to seek it in brother-love exchanged; we thank you, God.

Leader: O God: your justice is like rock, and your mercy like pure flowing water. Judge and forgive us. If we have turned from you, return us to your way; for without you we are lost people.

From brassy patriotism and a blind trust in power; deliver us, O God.

People: From public deceptions that weaken trust; from self-seeking in high political places; deliver us, O God.

Leader: From divisions among us of class or race; from wealth that will not share, and poverty that feeds on food of bitterness; deliver us, O God.

People: From neglecting rights; from overlooking the hurt, the imprisoned, and the needy among us; deliver us, O God.

Leader: From a lack of concern for other lands and peoples; from narrowness of national purpose; from failure to welcome the peace you promised on earth; deliver us, O God.

People: Eternal God: before you nations rise and fall; they grow strong or wither by your design. Help us to repent our country's wrong, and to choose your right in reunion and renewal.

Leader: Give us a glimpse of the Holy City you are bringing to earth, where death and pain and crying will be gone away; and nations gather in the light of your presence. Great God, renew this nation.

People: Teach us peace, so that we may plow up battlefields and pound weapons into building tools, and learn to talk across old boundaries as brothers in your love. Great God, renew this nation.

Leader: Talk sense to us, so that we may wisely end all prejudice, and may put a stop to cruelty, which divides or wounds the human family. Great God, renew this nation.

People: Draw us together as one people who do your will, so that our land may be a light to nations, leading the way to your promised kingdom, which is coming among us. Great God, renew this nation.

Leader & People: Great God, eternal Lord: long years ago you gave our fathers this land as a home for free men. Show us there is no law or liberty apart from you; and let us serve you modestly, as devoted people; through Jesus Christ our Lord. Amen.

Hymn No. 419 "O God of Earth and Altar," Llangloffan.

ACT OF REDEDICATION: DR. CARL PRITCHELL

Leader: Jesus said: Blessed are the poor in spirit for theirs is the kindom of heaven.

People: Thank you God for your Son Jesus, who, though he was rich, became poor to live among us. By his weakness we are made strong, and by his poverty, rich. We commit ourselves to struggle against the arrogance of power that tempts us and hardens our hearts. Forgive us our preoccupation with hero roles; forgive us for the pride of thinking we are a model for all people. Help us to become masters of ourselves so that we may be servants to others.

Leader: Jesus said: Blessed are those who mourn for they shall be comforted.

People: Thank you God for Jesus Christ who on the cross faced evil death and desertion. We have not mourned the stark contrast between affluence and poverty. We commit ourselves not to run from hard realities or to insulate ourselves from the suffering and death that surrounds us. Confirm our faith that victory comes from facing evil and not from sweeping it under the rug.

Leader: Jesus said: Blessed are the gentle for they shall inherit the earth.

People: Thank you God for Jesus Christ our Master, who did not call us slaves but your true sons. We commit ourselves to receive all people in the Spirit through which Jesus has received us. Help us to see His face in every brother and sister.

Leader: Jesus said: Blessed are those who hunger and thirst for what is right; they shall be satisfied.

People: Thank you God for Jesus Christ who overturned man made rules, yet living your law in perfect love. Forgive us when we have privatized our faith and felt that as a nation we were immune from judgement. We commit ourselves to struggle against injustice even when we discover that we are the oppressors. Save us from a "high standard of living" that mortgages the future. Give us freedom to live with your Spirit in justice, mercy and peace.

Leader: Jesus said: Blessed are the merciful for they shall have mercy shown them.

People: Thank you God for your Son Jesus, who gave his life for sinners; who on the cross forgave sin we thought unforgiveable. We commit ourselves to forgive those who have hurt us and to reach out to them in love. Disturb our peace when we use self-righteousness as a weapon.

Leader: Jesus said: Blessed are the pure in heart for they shall see God.

People: Thank you God for Jesus Christ whose words and deeds were pure. We commit ourselves to seek thy will that our hearts may be pure. We will no longer accept self-centeredness as the normal standard of living just because the world says so. Lead us away from the cynicism that accepts evil because "everybody does it". We will no longer tabulate our virtues. Deliver us O God from a divided heart.

Leader: Jesus said: Blessed are the peacemakers; they shall be called sons of God.

People: Thank you God for Jesus Christ who has broken down the dividing walls of hate to make one family on earth. We promise not to accept false peace based on oppression but to seek true peace based on openness and truthful relationships. We resolve not to be ruled by fear, gossip or prejudice.

Leader: Jesus said: Blessed are those who are persecuted in the cause of right; theirs is the kingdom of heaven.

People: Thank you God for Jesus Christ who was persecuted for what he said and did; who took the cross upon himself for our sake. We promise not to be silent in the face of evil but to risk ourselves for what is right. Help us to stand with him in justice and love, and follow where he leads, even to a cross.

Leader: Jesus said: I am the Way the Truth and the Life.

People: O God we rededicate our lives to you. We offer you our hearts, our minds and our wills. Give us the courage to change those things which can be changed, the serenity to accept those things which cannot be changed, and the wisdom to know the one from the other. Thy will be done on earth as it is in heaven. Amen.

PRAYER FOR THE NATION

(By Reverend Herbert Meza)

Almighty God, in whom we trust, and by whose guidance and grace this nation has understood itself to have been preserved, hear our prayers.

With grateful hearts we acknowledge that if a sparrow cannot fall without your notice, neither can a republic rise. Our ascendancy, among the families of mankind, bears the imprimatur of your providence, our present decline the marks of your judgment. So we come, on this day, to explore the fabric and texture of that judgment. Deliver our petitions and prose from being a mere gesture to convention and forbid that your name may merely be inserted here as so much holy spice, without conviction. Rather remind us

that only the truth can make us free and that it must come above every privilege, private or executive.

Thus hear our confessions.

Our country now stands as the self-proclaimed leader of the unhumiliated world over against the vast majority of earth's humiliated people. We are blind in understanding the oppressed and the wretched of the earth. Our vaunted experience of virtually unbroken success, our alabaster cities undimmed by human tears, our movement into the strange joys of corporate capitalism have cut us from the rest of the world. O God, forgive us and make us sensitive.

Our fears in international affairs have made us reactionaries. The enemies of our enemy have become our friends . . . and we have made strange associations. We have been driven by our arrogance to insist that there is an American solution for every world problem and thus we have become more imperialistic than imploring at the price of becoming impoverished.

We have placed our trust in spears and swords, which is a practicality placed upon us by a world in which diplomacy is suspect unless it carries a big stick. But the sticks are so big now that we need new words, or old words made new, by recommitment, by example and by deeds. Forgive us for reducing international statesmanship to the level of power politics.

At home we have lost our way, also. Our devotion to partisan politics has taken precedence over our devotion to truth. We have played fast and loose with law and order in the service of national defense. Teach us that if we are to have an order strong enough to resist assaults from without, it must be strong enough to resist corruption from within. Can there be a cure for social and national disorders without some awareness of spiritual bankruptcy.

Prophets and visionaries have received litthe encouragement from us. People who live by conscience have been made the enemies, and we cannot even understand those who place conscience above state, so that we are willing to grant amnesty to the Hoffas and the Calleys but not to decent Americans who could not bring themselves to kill in the name of national honor.

O God, teach us that the lonely conscience of one man is still the last citadel of freedom. Grant that we may know the difference between principle and politics lest we prostitute one for the other and end up in perversity.

Therefore, give tongue to those who plead for the weak and the oppressed, who whisper hope to the despairing, who work for justice in our common life. We pray for men who know how to hold power without being corrupted by it, who value purity of mind above popularity of the masses, who value sacrifice above personal gain and the Ten Commandments over the Fifth Amendment. Above all, let each of us write our own Declaration of Independence, so that in pulpits and in pews, we may be free from partisans and patrons. Remind those of us who serve you that we have been bought by the blood of Christ, that we have been set free to serve the nation by a higher law, which was signed at Calvary. Let that now be written in our hearts til we are led captive by His Love and in that captivity find our true selfhood.

We pray in the name of one who never held a public office, but who loves the public and even the publicans, Jesus Christ our Lord. Amen.

STATEMENT ON THE APOSTLES' CREED BY THE REV. LOUIS T. EVANS, JR., PASTOR

The origin of the Apostles' Creed by which we are about to confess our faith is unclear but evidently it grew through the Second and Third Centuries until it came to this form which we know today. This was during a time when to be a Christian was very costly; in fact many Christians, brought before the Roman courts and told to "curse Christ and swear by the fortunes of Caesar," were baptized in their own blood. One such occasion was the witness and death of Justin, called the Martyr, in A.D. 165. Since the time of Nero most probably, Christianity of itself was a crime worthy of death and many a Christian had to choose between his loyalty to Christ and his fealty to Caesar. Political and popular attitudes demanded that citizens give up all other loyalties that would conflict with the desire of the State. Christians refused to do so and they were brought before the magistrates and prefects of the Roman Government who according to the *lex romanum* could not convict without direct statement of belief from the defendant.

Justin was brought before the Roman prefect Rusticus, who said to Justin: "Do those doctrines please you, miserable man?"

Justin said: "Yes, for the belief in accordance with which I follow them is right."

The prefect Rusticus said: "What belief do you mean?"

Justin said: "That which we religiously profess concerning the God of the Christians, in whom we believe, one God, existing from the beginning, Maker and Artificer of the whole creation, seen and unseen; and concerning our Lord Jesus Christ, the Son of God, who hath also been proclaimed aforetime by the prophets as about to come to the race of men for herald of salvation and for master of true disciples. And I, being but a man, regard what I say to be of little worth in comparison of His Infinite God-head, but there is a power in prophecy, and that I acknowledge; therein hath proclamation been made aforetime of Him of whom I just spoke as the Son of God. For I know that from the beginning the prophets foretold His coming among men."

Being then asked where Christians met, Justin responded in very generalized answer, and when asked to be more specific, said simply "His own house." Rusticus said: "To come to the point then, are you a Christian?" Justin said, "Yes, I am a Christian."

The prefect Rusticus said to Chariton: "Tell me further, Chariton, are you also a Christian?" Chariton said: "I am a Christian by God's command." The prefect Rusticus said to Chariton: "What do you say, Chariton?" Chariton said: "I am a Christian by God's gift." Rusticus said to Euelpistus: "And what are you?"

Euelpistus, a slave of Caesar answered: "I also am a Christian, freed by Christ, and share by the grace of Christ in the same hope." The prefect Rusticus said to Hierax: "Are you also a Christian?" Hierax said: "Yes, I am a Christian, for I worship and adore the same God." the prefect Rusticus said: "Did Justin make you Christians?" Hierax said: "I was, and shall ever be, a Christian." A man called Paeon stood up and said: "I also am a Christian." The prefect Rusticus said: "Who taught you?" Paeon said: "I received from my parents this good confession." Euelpistus said: "I listened indeed gladly to the words of Justin, but I too received Christianity from my parents." The prefect Rusticus said: "Where are your parents?" Euelpistus said: "In Cappadocia." Rusticus said to Hierax: "Where are your parents?" He answered, saying: "Our, true father is Christ, and our mother our faith in Him. My earthly parents are dead, and I was dragged away from Iconium in Phrygia before coming hither." The prefect Rusticus said to Liberian: "And what do you say? Are you a Christian? Are you a unbeliever like the rest?" Liberian said: "I also am a Christian; for I am a believer and adore the only true God."

Rusticus, evidently bored by this tedium, came to the point: "Let us now come to the pressing matter in hand. Agree together and sacrifice with one accord to the gods." Justin said: "No one who is rightly minded turns from true belief to false." The prefect Rusticus said: "If you do not obey ye shall be punished without mercy."

Justin said: "If we are punished for the sake of our Lord Jesus Christ we hope to be saved, for this shall be our salvation and confidence before the more terrible judgment-seat of our Lord and Saviour which shall judge the whole world." So also said the other martyrs: "Do what you will. For we are Christians and offer no sacrifice to idols."

Rusticus the prefect gave sentence: "Let those who will not sacrifice to the gods and yield to the command of the Emperor be scourged and led away to be beheaded in accordance with the laws."

The holy martyrs went out glorifying God to the customary place and were beheaded, and fulfilled their testimony by the confession of their Saviour.

Let us rise and so confess our faith:

THE APOSTLES' CREED

I believe in God the Father Almighty, Maker of heaven and earth. And in Jesus Christ his only Son our Lord; who was conceived by the Holy Ghost, born of the Virgin Mary, suffered under Pontius Pilate, was crucified, dead, and buried; he descended into hell; the third day he rose again from the dead; he ascended into heaven, and sitteth on the right hand of God the Father Almighty; from thence he shall come to judge the quick and the dead. I believe in the Holy Ghost; the holy catholic church; the communion of saints; the foregiveness of sins; the resurrection of the body; and the life everlasting. Amen.

THE NATIONAL DAY OF HUMILIATION, FASTING AND PRAYER

(By Senator Mark O. Hatfield)

Today we are gathered together in a service of prayer and meditation to ask God's forgiveness for our past, assured of His pardon and grace that will give us the strength to go forward in His name. By our presence here today we are saying to ourselves that we have examined our own lives and the life of this nation and have found them both incomplete. We have realized that it is much easier to think that we merit God's blessings than to admit that we, as a nation, stand in need of His forgiveness. There is a great tendency in our own personal lives, as well as in our corporate life as a people, to refuse to acknowledge error, preferring instead to rationalize our own mistakes by implying that "Everyone does it," or that "the end justifies the means," all of which leaves us morally bankrupt. This is especially true for those of us in public life where human fallibility is equated with weakness. The greater the power and fame one possesses, the greater the urge to self-vindication. The result can only be a self-righteousness that blinds us to our mistakes. Thus, any means to sustain that power becomes acceptable, and force becomes its own justification. Right and wrong are then defined by those in power. It is out of this context that corruption in both high and low places comes. Whenever right and wrong are defined by those in power, abuse of that power will soon follow. Error is not tolerated in such a condition, and confession of error is viewed with contempt.

In sharp contrast to our own world which seems to say, "might is right," is the picture of the humble servant of Jesus Christ. In the person of Jesus, God revealed to man characteristics of true power—the power of weakness and humility, not of force and arrogance. Jesus Christ came, not to be served, but to serve. The picture of the Lord of the Universe washing the disciples' feet is a difficult one for us to understand in a nation and world that sees strength as synonymous with pride and stiff-necked defiance.

As the wealthiest nation on earth, we are inclined to use our power to satisfy our own

national needs. As we become richer, the less affluent nations of the world, from which we extract our natural resources, become increasingly poorer. The exploitation of the poor countries, even though not totally without benefits for those countries, is demanded by the consumption of products they do not enjoy. Although we as Americans compose only 6% of the world's population, we consume 40% of the world's resources. Much of that consumption is the result of our style of life which is based on convenience and disposability. We are bombarded with claims that Brand X will make us look better, feel better, smell better; or allow us to do it quicker and easier; or leave us with no mess to clean up afterwards; or all three. When Brand X is used up, we are told to simply throw it away and buy a new one. The supply, we are led to believe, is endless.

In theological terms we can view this consumptive-disposability-convenience mindset as a lack of stewardship. The book of *Genesis* tells us that God created the world, and it was good. Man was given the job as the caretaker of Creation. However, we have failed miserably in that task and are in need of God's forgiveness and redirection. In our own desire for material goods, we have polluted our sky and waterways, creating an ecological imbalance that threatens the life of our planet. The unrestricted use of our natural resources has created in us a tremendous appetite of consumption which sacrifices the beauty of the land in order to satisfy its own desires. Yet, we must begin to understand that we are a part of the Creation ourselves, and to do injustice to the earth in search of material wealth is to destroy a part of ourselves and does offense to the Creator.

Our consumption of resources and pursuit of wealth shape our definition of security. We need to protect what we have, and protect the right to get what we need. We call this protecting our "security." When our wealth and possessions begin to come at the expense of others, this accentuates the need for our "defense." So, the forces of materialism find a comfortable alliance with the forces of militarism—in both individuals and nations. Saint James speaks of the causes of war in similar terms; when he says:

"What causes wars, and what causes fighting among you? Is it not your passions that are at war in your members? You desire and do not have; so you kill. And you covet and cannot obtain; so you fight and wage war. You ask and do not receive, because you ask wrongly, to spend it on your passions. Unfaithful creatures! Do you know that friendship with the world is enmity with God?"

Thus when a nation lives in idolatry of its wealth and power, there will be jealousy, suspicions, hatred, and war. Violence is an inevitable result and this brutalization is daily increasing in our world. We are beset with the psychology of war, we are over laden with the means of war, we are addicted with the ways of war, and we are enslaved in a belief in war. Alexander Solzhenitsyn has observed:

"Violence is brazenly and victoriously striding across the whole world. There was a time when violence was a means of last resort. Now it is a method of communication."

Our lack of stewardship can also be seen in the wasting of human resources—the lives of millions of people in our nation and the world. Two-thirds of the world's deaths are the result of hunger or disease related to hunger. In our own country there are still hundreds of thousands who are hungry and ill-nourished, forced to live in the squalor of institutionalized poverty. The child who knows only the pangs of hunger is chained to a life of mere subsistence, unable to fully develop his potential as a child of God. His soul is not free to know the job of existence if his stomach continually cries for nourishment. The racism that is too much a part of our daily lives is an all-consuming fire that, if allowed to grow, will envelop the hearts of individuals and nations, and destroy us all. Love fulfills and completes, while hatred only consumes all into waste.

We are in need of God's grace to show us a new direction. This is what repentance means—turning around; beginning anew. Repentance must be both on the personal *and* national level, remembering that the Old Testament prophets—Amos, Hosea, Isaiah, not simply individuals to repentance. These prophets understood the corporate nature of sin and saw the need for a national confession that would cleanse the country's soul and allow it to return to God's standard of justice. Yet our corporate confession must not stop as we walk away from this church today. Alike in thought and deed, what we do must reflect what we say. Otherwise, the words of God become a heavy burden on our soul:

"I hate, I despise your feasts, and I take no delight in your solemn assemblies ... Take away from me the noise of your songs; to the melody of your harps I will not listen. But let justice roll down like waters, and righteousness like an ever-flowing stream." (Amos 5:21–24)

Often we have contented ourselves with only words of repentance. God demands more of us than just words. A poet expressed this beautifully when he said:

LISTEN, CHRISTIAN

(By Bob Roland)

I was hungry
and you formed a humanities club
and discussed my hunger.
Thank you.

I was imprisoned
and you crept off quietly
to your chapel in the cellar
and prayed for my release.

I was naked,
and in your mind
you debated the morality
of my appearance.

I was sick
and you knelt
and thanked God
for your health.

I was homeless
and you preached to me
about the spiritual shelter
of the love of God.

I was lonely
and you left me alone
to pray for me.

Christian,
You seem so holy;
so close to God.
But I'm still very hungry,
and lonely,
and cold ...

In repentance our hearts are opened to the gift of grace which gives us strength to begin again. We see ourselves as we truly are—men and women made in the image of God and called to participate in His plan for Creation here on this earth. We are able to recognize that our own purposes and wills are not necessarily our Father's. This realization saves us from self-righteous pride that manifests itself in extreme nationalism. God's forgiveness opens our eyes to see our own failings without our feeling the need to justify them. Thus we can relate to others in freedom and love because we know that we, too; have first been loved. Others are no longer seen as threats to us, but people infinitely valuable in the sight of God. We are able to approach the rest of God's creation as its humble servant, not its master, because God's grace gives us the assurance of genuine security, and it is no longer necessary to fasten our ultimate and exclusive hopes on weapons of "national security." In repentance we acknowledge our past wrongs, both sins of commission and omission. Our self righteous pretentions cannot endure. As a world leader, our nation can turn from its idolatry of force to the example of a servant leader where nationalism is not a cover for the abuse and arrogance of power. Our leadership in the world could then be defined by sacrificial giving marked by humility rather than paternalism.

Is all this possible? The world may regard this new approach as unrealistic, impractical, for the world operates from a love of power; we must begin to demonstrate once again the power of love. This road will not be easy, for often concrete choices on matters of decision are filled with half-truths and ambiguity. But the ambiguity of existence must not paralyze our actions. We must say to the world that there is another way. There is an alternative to hatred and violence. There is an alternative to materialism and waste. As the old Jewish proverb teaches us:

"God gives you the task. He does not ask that you succeed, but he does ask that you not lay it aside."

It is my prayer today that through repentance we may receive strength to begin once more in faith and commitment to God, so that we can bring to the world a reconciliation permitting the Holy Spirit and the love of God to flow through our lives, with visions of hope and love for all time.

WORLD FOOD ACTION PROGRAM

Mr. KENNEDY. Mr. President, last week, the distinguished Senator from Minnesota (Mr. HUMPHREY) offered a proposal for a world food action program "to lead the world back from the precipice of famine." We should all compliment him on this farsighted effort. His program outlines several specific steps which can be taken to form an emergency relief operation that will begin alleviating the needs and suffering of people in the hardest hit poor countries.

A World Food Conference is scheduled to begin in Rome this November. I am hopeful that some international plan of action will emerge from it, dealing with the growing problem of providing the world's poor with the most basic of their human needs—food, itself.

But, Mr. President, "later this year" or "early next year" may be too late. In the meantime, many thousands of people may cross that thin line separating life at meager subsistence levels from either death or life that is permanently damaged by the debilitating effects of malnutrition. Therefore, I urge my colleagues to familiarize themselves with Senator HUMPHREY's proposal. It demands our attention, our concern, and our immediate action.

Mr. President, I ask unanimous consent to print in the RECORD the text of two editorials, one from the May 13 New York Times and the other from the Washington Post of May 9, 1974, concerning Senator HUMPHREY's call for a world food action program.

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

[From The New York Times, May 14, 1974]

. . . AND TO THE HUNGRY

Senator Humphrey has posed a moral challenge to well-fed—and frequently overfed—Americans with his recent call for gen-

erous United States contributions to a broad new world food action program.

Responding to the threat of widespread starvation that has been sharply increased by worldwide shortages and soaring prices of basic commodities, the Senator proposes: Resumption of large-scale food aid by the United States and other food-exporting nations; establishment of national and international food reserves; expansion of fertilizer distribution and production, and stepped up aid to agricultural development, including the pending contribution to I.D.A.

Although Mr. Humphrey's plan for action merely elaborates on promises already advanced by Secretary of State Kissinger at the recent special United Nations session, it faces stiff resistance within the Nixon Administration and from a people who have just begun to see some hope for relief from soaring food prices. The day is gone when Americans had food to burn, when overseas aid was a convenient way to unload embarrassing surpluses. Even with record harvests due, a new giveaway program on the scale contemplated by the Senator would put fresh pressure on domestic prices and would compete with potential cash sales to more affluent foreign buyers.

There will be those who will seek refuge from responsibility in the heartless suggestion of Agriculture Secretary Earl L. Butz that "hunger is relative—if your larder is empty, you cut back some." For one billion already undernourished people in the thirty poorest countries, cutting back means sinking from acute malnutrition into starvation, or diverting to food purchases scarce resources that are desperately needed to help develop food self-sufficiency.

The cost to Americans of helping these nations through the current crisis would be trivial in comparison. For example, Senator Humphrey estimates that a decision by Americans to eat one less hamburger a week would make some 10 million tons of grain available for food assistance, twice India's expected import requirements for the coming year. The fertilizer Americans lavish on lawns and other non-agricultural luxuries would make up Asia's anticipated fertilizer deficit, helping Asians to feed themselves.

The primary responsibility for overcoming food shortages and for curbing the runaway population growth that vastly compounds the food problem lies with the stricken nations themselves. This does not mitigate the moral obligation of the more fortunate, including the newly-rich oil states, to extend emergency relief. Population control at best requires years to take effect; and while that is an essential element in the solution, the United States in the meanwhile cannot shirk the food-supply role to which it is committed by virtue of its vast resources and its tradition of humanitarian leadership.

[From The Washington Post, May 11, 1974]

A RESPONSE TO THE WORLD FOOD CRISIS

A billion people in the poorest countries face hunger and privation or worse because, in large though not exclusive part, of the oil cartel's decision last winter to quadruple the price of oil. But until now there has been no specific and implementable proposal on how to start coping with the massive human and political dislocations which the food shortages involve. The United Nations took a whack at the problem a week or so ago but proved unequal to the task. The U.S. government has made some hopeful noises but has done almost nothing. Sen. Hubert Humphrey (D-Minn.), whose farm savvy, internationalist outlook and conscience qualify him uniquely, has now come along to point a feasible way.

Mr. Humphrey would have this country join at once with other grain exporters (Canada, Australia) to provide expanded food aid at easy terms to the countries in most extreme duress. Statutory authority already exists for the President to buy food from American farmers for aid but resistance is strong in the Agriculture and Treasury Departments and in the Office of Management and Budget. Secretary of State Kissinger, alert to the devastating foreign policy consequences of the appearance of indifference to mass starvation, pledged last month "a major effort to increase the quantity of food aid over the level we provided last year." In effect to provide Dr. Kissinger the political support he needs to honor the pledge, Sen. Humphrey has introduced a food aid resolution in the Senate. It deserves broad bipartisan backing.

Sen. Humphrey has also accepted responsibility for shaping legislation and organizing support for American participation in a world food reserve program. Such a project, which is to be tackled at the World Food Conference scheduled in Rome next November, would make food stocks regularly available to help ease threats of famine anywhere in the world. In 1972–73 the Nixon administration unwisely allowed commercial export sales to all but wipe out the reserves it had maintained, and used for relief, in earlier years. A chance to rebuild reserves may be arriving this year, since huge crops are expected and prices are falling in anticipation of them. American farmers, of course, deserve fair and stable prices. The trick is to match their legitimate economic interest with U.S. political and moral interests in helping establish a global food reserve plan.

Fertilizer is the third of the four points in the Humphrey "food action program." American fertilizer exports were quietly embargoed last fall to assure enough supplies for the expanded domestic acreage then being put under the plow. This meant frenzy and hardship to countries which had counted on American fertilizer. But something can be done: expand fertilizer production, aid poor countries to increase production at existing facilities, induce the oil countries to develop new supplies from their natural gas.

Finally, the slow vital work of increasing food production in the poor countries must be intensified. One key move here is early Senate approval of new funds for the International Development Association, the World Bank branch which offers special help, especially in agriculture, to the poorest of the poor. After the food shock of the last few years, can there be left a single country which does not recognize the folly of failing to exploit its own farm potential to the hilt?

Too often, proposals to ease world hunger set goals which, however justified in terms of need and suffering, are politically out of the question. But everything Mr. Humphrey suggests is, though difficult, politically within reach. In the most immediate category, expanded food aid could be arranged in a matter of weeks. That the United States has the means, moreover, is beyond debate. The three million tons of fertilizer Americans put on lawns and the like would more than cover South Asia's whole fertilizer deficit. If Americans ate one less hamburger a week, the grain "save" would amount in a year to 10 million tons, roughly enough to feed a subsistence diet to 50 million people. It is Sen. Humphrey's conviction that the American people are prepared to respond generously to the world food crisis, if the facts about it and the political and moral choices posed by it are properly laid out before them. We are sure he is right.

EXPERIENCES AS A POW IN VIETNAM

Mr. DOMENICI. Mr. President, at a time when Americans are hearing newscast after newscast, every day and every evening, how our Nation lacks moral leadership and how drastically our national reputation has fallen, I urge my colleagues to read a statement about a great number of brave American men who personify the very best of America.

For that purpose I offer for the RECORD a recent speech by Adm. James E. Stockdale, one of our American POW's released early last year after 7½ years of confinement in North Vietnam. Admiral Stockdale's words serve to remind us that America was defended by courageous men whose moral foundation and whose steadfast leadership sustained them and provided their determination to defend our country and system unwaveringly under the most wretched circumstances imaginable.

Mr. President, I hope these words will also serve to remind us again that we cannot—and we must not—abandon our efforts to obtain a full and accurate accounting of some 1,300 American men who still remain missing in Southeast Asia.

I request unanimous consent that Admiral Stockdale's speech be printed in the RECORD.

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

EXPERIENCES AS A POW IN VIETNAM

(By Rear Adm. James B. Stockdale, U.S. Navy)

Last February, when I first touched foot on American soil, I was asked to make a few remarks on behalf of the ex-POW's who were embarked in the airplane with me. An ancient verse came to mind that best summarized my relief at dropping the mantle of leadership and responsibility I had held during 7½ years of imprisonment, four of them in solitary. These lines are attributed to Homer; I remember them well because of their modern ring: "Nothing is so sweet as to return from sea and listen to the raindrops on the rooftops of home."

Well, I was dreaming. I had forgotten that an old sea captain's job does not end when he anchors in homeport.

My wife Sybil and I have a private joke. Before I returned she was advised by a Navy psychiatrist: "The fellow will probably make a quick readjustment to modern society if you will remember one rule for the first few months: Don't put him in decisionmaking situations." Well, the reality of my postconfinement simply did not allow such an environment. In the past year I have probably made more important decisions than in any like period in my life.

Today I find myself truly back home. I am back with old friends, back in my native Middle West, and I have decided that this is my last public speech as an ex-POW. I have no ambition to become a professional exprisoner. As soon as I finish today, I am going down to my farm in Knox County for a couple of days, then to Colorado to spend the weekend with my second son who is in college there, then back to San Diego. Next week I hope to check out of the hospital, and, hopefully, I will be ready for a good seagoing job.

Incidentally, before we were released by the North Vietnamese, I had occasion to be approached by other prisoners who were thinking about their careers. We were all more or less pessimistic about our future utility to our services. Not with any malice; it was just that we had been used to living that stoic life and faced up to the fact that there was a good chance that our service careers had been overcome by time.

We came home to find that the service was devoted to giving us every chance to regain that time. I am informed, as our

Navy ex-POW's duty assignments are made, and their orders are good, that each man has been given the personal attention his devotion to duty deserves.

As a theme for this audience, I will address the subject of how a group of middle Americans—average American guys who have chosen military life as a profession—survived in a POW situation and returned home with honor.

The conditions under which American POW's existed have changed radically since World War II. It is no longer a matter of simply being shot into your parachute, going to a reasonable pleasant "Hogan Heroes" prison camp, and sweating out the end of the war. At least it was not that way in Vietnam. In Vietnam the American POW did not suddenly find himself on the war's sidelines. Rather, he found himself on one of the major battlefronts—the propaganda battlefront.

Our enemy in Vietnam hoped to win his war with propaganda. It was his main weapon. Our captors told us they never expected to defeat us on the battlefield, but did believe they could defeat us on the propaganda front.

Unlike the World War II POW, who was considered a liability, a drain on enemy resources and manpower, the American POW in Vietnam was considered a prime political asset. The enemy believed that sooner or later every one of us could be broken to his will and used as ammunition on the propaganda front. Some of us might take more breaking than others, but all of us could be broken.

Thus, for Americans who became POW's in Vietnam, capture meant not that we had been neutralized, but that a different kind of war had begun—a war of extortion.

For the sane man there is always an element of fear involved when he is captured in war. In Vietnam the enemy capitalized on this fear to an extreme degree. We were told we must live by sets of rules and regulations no normal American could possibly live by. When we violated these rules and regulations, we gave our captors what they considered sufficient moral justification for punishing us—binding up in ropes, locking us in stocks for days and weeks on end, locking us in torture cuffs for weeks at a time, and beating us to bloody pulps. As we reached our various breaking points, we were "allowed" to apologize for our transgressions and to atone for them by "confessing our crimes" and condemning our government.

At this point you may be asking the question, Had the POW's received any training to prepare themselves for possible capture? The answer is yes, and it was based on two things that I have come to respect very, very much.

One was on the taking of physical abuse. I think if you were to prepare yourself to be a prisoner of war, and I cannot imagine anybody going about that methodically, one should include a course of familiarization with pain. For what it is worth, I learned the merits of men having taken the physical abuse of body contact as in sports.

It is a very important experience; you have to practice hurting. There is no question about it.

Second, survival school was based on taking mental harassment. Also, I came out of prison being very happy about the merits of plebe year at the Naval Academy. I hope we do not ever dilute those things. You have to practice being hazed. You have to learn to take a bunch of junk and accept it with a sense of humor.

On the subject of education, beyond the scope of survival school, there is always the question: Do we need to start giving a sort of counterpropaganda course? Should we go into the political indoctrination business?

I am not very enthusiastic about that. I think the best preparation for an American officer who may be subjected to political imprisonment is a broad, liberal education that gives the man at least enough historical perspective to realize that those who excelled in life before him were, in the last essence, committed to play a role. He learns that though it is interesting to speculate about the heavens and the earth and the areas under the earth and so forth, when it comes right down to it, men are more or less obliged to play certain roles, and they do not necessarily have to commit themselves on issues that do not affect that role.

Now, how does the average American—which is what the POW is—deal with his world? On a day to day basis, the POW must somehow communicate with his fellows. Together they must establish a viable set of rules and regulations to live by. We were military men. We knew we were in a combat situation and that the essential element of survival and success in a combat situation is military discipline. That meant isolated though we were from each other, we could not afford to live in a democracy. We had no choice but to live in a strictly disciplined military organization—if you will, a military dictatorship.

Our captors knew this as well as we did. Several members of Hanoi's Central Committee had spent long periods in confinement as political prisoners. They felt that we too were political prisoners. They held as their highest priority the prevention of a prisoner organization because they knew an organized body of prisoners could beat their system. If they were to get what they wanted from us, they had to isolate every American who showed a spark of leadership. They did so. They plunged many of us into a dark solitary confinement that lasted, in some cases, for years.

For us the Code of Conduct became the ground we walked on. I am not aware that any POW was able, in the face of severe punishment and torture, to adhere strictly to name, rank, and serial number, as the heroes always did in the old-fashioned war movies, but I saw a lot of Americans do better. I saw men scoff at the threats and return to torture 10 and 15 times. I saw men perform in ways no one would have ever thought to put in a movie, and because they did perform that way, we were able to establish communication, organization, a chain of command and effective combat unit. We lost some battles, but I believe we won the war.

In fact, I am not so sure we lost many battles. Unless you have been there, it is difficult to imagine the grievous insult to the spirit that comes from breaking under torture and saying something the torturer wants you to say. For example, "My government is conducting a criminal war. I am a war criminal. I bomb churches, schools, and pagodas." Does that sound silly to you? It does to me. But I and many others were tortured in ropes for that statement. The reason it was important to take torture for that statement was to establish the credibility of our defiance—for personal credibility—so that the enemy would know that they must pay a high price to get us into public if they ever could. Needless to say, in a POW situation, viable leadership is not possible without example. In a unit with good communication, almost everyone knows what everyone else is doing or not doing most of the time.

In short, what I am saying is that we communicated. Most of the time most of us knew what was happening to those Americans around us. POW's risked military interrogation, pain, and public humilitation to stay in touch with each other, to maintain group integrity, to retain combat effectiveness.

We built a successful military organization and in doing so created a counter culture. It was a society of intense loyalty—loyalty of men one to another, of rigid military authoritarianism that would have warmed the cockles of the heart of Frederick the Great, of status—with such unlikely items as years in solitary, numbers of times tortured, and months in irons as status symbols.

Most men need some kind of personal philosophy to endure what the Vietnam POW's endured. For many it is religion; for many it is patriotic cause; for some it is simply a question of doing their jobs even though the result—confinement as a POW—may not seem necessarily fair. For myself, it seemed that becoming a POW somewhere, someday, was a risk I accepted when I entered the Naval Academy. I think it is fair to say that most POW's—including, certainly, certainly, those who did not attend service academies—felt the same way. They accepted this as a risk they undertook when they took their oath as officers. To be sure, very few sat around bemoaning their fate, asking the heavens, "Why me?"

As POW's who were treated not as POW's but as common criminals, we sailed uncharted waters. The Code of Conduct was the star that guided us, although several of us are making recommendations for its modification, particularly in the area of a prisoner's legal status. The Code did not provide for our day to day existence; we wrote the laws we had to live by. We established means for determining seniority. We wrote criteria and provided mechanisms for relieving men of command for good and sufficient cause—and we used those mechanisms. We set a line of resistance we thought was within the capability of each POW to hold, and we ruled that no man would cross that line without significant torture. Thus, in effect, we ordered men to torture. This was what I remembered when I finally made the extremely difficult decision to prefer charges in two cases. I think that I was justified. I also think that the Secretary of the Navy's action was justified. We each served our proper function in this.

From what I have said here today, I think you can realize that as we prison leaders developed this organization, this unity, this mutual trust and confidence, the loyalty that permitted us to ask a guy to give his all sometimes, we acquired a couple of things. We acquired a lot of close friends, but in addition we acquired constituency. Now life has to make sense to that constituency. And that constituency comes home and says to itself: You spoke with force of law, and at great personal pain and inconvenience I obeyed that law, and now I come home and no one seems interested in whether everybody obeyed it, or not.

What kind of a deal is that? This is not a personal gruge thing at all. I hope you all understand that.

I'm too closely involved to be objective on some of these issues. I'm often asked how I feel about amnesty. It is a complicated question; I appreciate and understand it. Thank goodness I'm not going to have to decide it. I don't resent amnesty—not personally—I simply don't have a position on the subject.

A couple of final comments: Self-discipline was vital to self-respect, which in turn is vital to survival and meaningful participation in a POW organization. Self-indulgence is fatal. Daily ritual seems essential to mental and spiritual health. I would do 400 pushups a day, even when I had leg irons on, and would feel guilty when I failed to do them. This ritual paid valuable dividends in self-respect, and, incidentally, I learned yesterday at Mayo Clinic that it also paid physical dividends.

I thank God for the other Americans I was imprisoned with. The respect one develops for others in a POW situation is really indescribable. I think it might be best illustrated with a story of something that happened once when I was in solitary and under extremely close surveillance. I was in dire

need of a morale boost when two other POW's, Dave Hatcher and Jerry Coffee, sent me a note at great risk to themselves. I opened it and found written the complete poem, "Invictus."

"Out of the night that covers me,
Black as the Pit from pole to pole,
I thank whatever gods may be
For my unconquerable soul."

In our effort to survive and return with honor, we drew on the totality of our American heritage. We hope we added something to that heritage. God forbid that it should ever happen to other Americans—to your sons and grandsons and mine—but if it does, we hope our experience will help to guide them and will give them the heart and hope they will need.

BIOGRAPHIC SUMMARY

RADM James B. Stockdale, U.S. Navy, is a graduate of the U.S. Naval Academy and before entering flight training served 3 years in destroyers. His operational expertise was in attack carrier operations, and, when shot down over North Vietnam in 1965, he was in command of Carrier Air Wing 16 aboard the *U.S.S. Oriskany*. Admiral Stockdale is currently serving as Commander, Antisubmarine Warfare Wing Pacific.

PROBLEM OF CAPITAL SHORTAGES CONFRONTING CORPORATE AMERICA

Mr. BENTSEN. Mr. President, I am deeply concerned about the very real problems many of our basic industries are encountering in raising adequate capital to finance modernization of facilities, increase productive capacity, and create new employment opportunities.

In the period 1962 through 1973, all U.S. business fixed investment spending totaled over $1 trillion. I have seen a projection, adjusted for inflation, that estimates in the coming 12 years, we will have to raise and invest a staggering $3 trillion in new plant and equipment to attain a 4-percent average annual growth in real gross national product through 1985.

Part of the explanation for the relentless inflation we are experiencing can be attributed to the long-run shortages of capacity in many of our primary industries—steel, aluminum, paper products, chemicals, refining, and the rest. These industries are the traditional backbone of our economic success. Their well-being is essential to our overall employment picture, our ability to compete in international markets, and for high productivity payoffs which are so important to achieving a higher standard of living.

U.S. business faces very substantial financing problems in view of the long-term downtrend in return on investment, the weak condition of our equity markets, the already heavy burden of corporate debt, the rising costs of credit, and the ravages of inflation.

Mr. Lynn Townsend, chairman and chief executive officer of the Chrysler Corp., has recently addressed many of the serious problems of capital shortages confronting corporate America. I share Mr. Townsend's concern that we need to pay careful attention the long-term continued growth of this country's basic manufacturing capability, and I ask unanimous consent that his comments be printed in the RECORD.

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

REMARKS BY LYNN TOWNSEND

I appreciate the opportunity to participate in this meeting, and to add some of my thoughts about a problem I believe is of growing importance and increasing immediacy—the critical shortage of equity capital for basic industry in the United States.

I recognize that sounding one more alarm, raising one more critical issue, during these times of seemingly constant crises, is at best a thankless job. But I also recognize that we have to begin to resolve this country's serious equity problem now if we are to avoid serious consequences in the near future.

Unless corporate America and the securities industry wake up to the critical nature of each other's problems, they will one day soon find that third parties, that are less knowledgeable, will be attempting solutions that are less attractive.

In my judgment, this equity capital problem has the potential of being as serious for the United States as the energy crisis we are currently experiencing. I would urge everyone with any interest in this problem to contribute to its solution before we reach the same kind of crunch that we have with energy.

For its part the securities industry will have to face up to the huge capital needs of corporate America, work to improve both the incentives for capital formation and allocation, and the mechanics of the capital markets so that these capital needs will be met. At the same time, corporate America has to take a more active interest in the significant changes taking place in the securities industry. Corporate America should also begin to speak out and to educate the public on the critical need for adequate profits if we are to maintain our competitive position in the world and the strength of our free enterprise system.

The need for equity capital has reached the critical stage in many segments of the economy. Today I would like to address specifically the needs of the basic industries, which are the ones I know best—steel, aluminum, paper products, machinery, chemicals, automobiles, and the rest. These industries are the backbone of our economy. Their health is absolutely essential to the nation's health, to the strength of our national defense and to the well-being of a large percentage of the work force.

Several financial forecasters have recently added up the total capital for plant and equipment that corporate America needs to stay healthy over the next ten years. They came up with a figure of about $2 trillion, counting the effects of inflation. This is about three times what corporations needed in the past decade. Even if we eliminate the effects of inflation over the next ten years, they need about twice that of the last ten.

This huge need comes from all sides. Our industrial plant is old, while that of our competition overseas, rebuilt after the ravages of war, is relatively modern. If basic industry in the United States is going to survive as a first class power in the face of that competition, it is imperative that outmoded, inefficient plant and equipment be replaced with the latest technology, and very soon.

Ecological requirements will force costly modifications and new equipment. Large amounts will be required to reach our goal of self-sufficiency in energy. And finally, we have to expand and modernize if we are to absorb the 1.6 million people added to the work force each year.

One of the tragic aspects of inflation is that it can obscure the real facts about capital expenditures by manufacturers. Even though the dollar amounts of capital expenditures in this country rose from 1966 through 1972, if we discount for inflation and use constant dollars, the purchases of new plant and equipment actually declined. This decline in the real volume of capital expenditures has flown directly in the face of a 25 percent increase in manufacturing output. With the prospect of a low return on new investment, especially during price controls, many manufacturers were simply unwilling to make sufficient investments in new capital projects. As a result, the critical need for immediate new capital expenditures has been compounded.

There are four main sources of the capital that corporate America needs in the years ahead. Depreciation charges will throw off cash. Business will reinvest earnings. The capital structure will take on debt. And companies will issue new equity. However, there are deep-seated problems associated with each of these four sources.

First—The current level of depreciation charges is not adequate to provide the funds needed to replace plant and equipment in this period of inflation.

When depreciation is based on cost, profits are higher than if the depreciation were based either on replacement value or on the price levels in effect each year. These artificially high profits then result in high taxes—and less cash for reinvestment. In the basic industries of the country, this inflationary impact is even more severe because many of their facilities provide long years of useful service. During that longer period inflation can push replacement costs to extreme levels. In the steel industry, for example, the net book value of plant, property, and equipment is about $14 billion, but the replacement cost at today's prices would approach $78 billion.

Second—Retained earnings as a source of funds is a function of the absolute level of earnings and the dividend payouts. I will have more to say about earnings later, but it is possible that the low level of stock prices will have an effect on future payout percentages. Shareholders have been taking out about 40 percent of earnings in the form of dividends. They have been content to have the company reinvest the remaining 60 percent because their share values would be enhanced by the earnings. However, if these values continue to be depressed, we may see dividend payouts substantially higher than 40 percent, forcing corporations to finance even more of their needs externally.

Third—We are now at the unfortunate point where many a corporate treasurer has reached his debt capacity. He notes that over the last decade the debt to equity ratio of the 425 Standard and Poors Industrials has increased from about 25 percent to over 40 percent. He worries that high interest rates will combine with his high level of debt to create fixed charges that will be difficult to live with, especially during a recession. More recently, he notes a growing reluctance on the part of bond buyers in these inflationary times to make long-term commitments even at these high interest rates.

Fourth—We are left with new issues of equity as the source of the balance of needed funds, and that's where the basic industries are dangerously bogged down. It is extremely difficult today for them to float large issues of equity. In some cases it is impossible, except at prices that are not acceptable either to management or to the shareholders of the company. There has been a substantial decline in the amount of new equity capital which you investment bankers have raised for industrial corporations through the sale of new issues of common stock in the last few years. In 1972, you raised about $8.1 billion. In 1973, you sold only $2.3 billion in new industrial equity issues. During the first quarter of 1974 this trend continued, and industrial companies across the country raised only a few hundred million.

Part of the equity problem can be traced to basic deficiencies in the functioning of the capital markets, which are an essential element in our competitive free enterprise system. These markets, which have been the most productive in the world, depend on the willingness of people to save out of their incomes, and to invest these savings at risk, in the hope of a reasonable return.

When the system is working, these markets accumulate capital from millions of people, and allocate it to those sectors of the economy that can put it to productive use. These millions of investors, sharing in the ownership of American business, have become an immeasurable and invaluable source of strength for this country.

The problem now is that many investors are understandably confused by a valuation system in the stock market that results in the aggregate market value of the stock of McDonald's, the hamburger chain, almost equaling the aggregate market value of the stock of United States Steel. They are puzzled by the fact that the stock of Avon Products is valued about $800 million higher than the entire stock of the Aluminum Company of America. They are also disturbed by some long-term trends in the market. The market value of the stock of the five largest steel companies, for example, currently equals that of the five largest cosmetic companies—about $5 billion. Back in 1960 those steel companies were valued at $9 billion while the cosmetics companies were valued at $1.7 billion.

This kind of aberration, combined with other complex factors including the capital gains tax, the attractive alternative of high interest rates on debt instruments, and failures and scandal on Wall Street, shakes the confidence of the investor, especially the individual. The New York Stock Exchange reports that the number of shareholders in the United States dropped by 800,000 in each of the last two years. When you consider that it will take some time to erase the memory of the losses taken during the last year or two, you cannot reasonably expect an early return of the individual to the market to solve any of the problems of the securities industry or the basic industries of the country.

This brings us to the institutional investor who has had significant cash flows and has accounted for most of the volume on the New York Stock Exchange. A major share of these institutional holdings is, of course, in the pension funds of American industry. These funds are swelled year after year by massive corporate contributions, over $10 billion annually. The officers of many corporations in the basic industries find it more than a little ironic that the managers of their pension funds invest very little of these large contributions in the stock of companies in the basic industries and a great deal of it in the high multiple stocks.

Under these conditions, the managers of many companies in our basic industries face a critical problem. How do they keep their companies growing and financially sound when their stock is valued so low that it is difficult or impossible to sell more shares?

The low valuation placed on the equity of the basic industries in the United States is essentially the result of a downward trend in profit returns for basic industries over the past 20 years. In the early 1950s, non-financial corporations earned about 23 percent before taxes on total capital. By the early 1960s these earnings had declined to about 18 percent, and the recent figure is around 13 percent.

If we adjust those earnings to reflect depreciation charges based on inflated replacement costs, the 23 percent drops to 20, the 18 becomes 12, and the 13 percent falls to nine percent.

There are many reasons for the low profitability of the basic industries. Since they are characterized by a relatively few large, visible companies, the government has for many years found it easy and politically expedient to continually put downward pressure on the prices of their products. This is nothing new. The confrontation between President Kennedy and U.S. Steel, remember, was 12 years ago. The stock price of U.S. Steel dropped significantly as a result of that confrontation, and it has never fully recovered.

Inflation has also treated the basic industries extra harshly, since many are labor-intensive. More recently, the fact that the basic industries are large users of higher priced raw materials has increased the squeeze on profits.

A more insidious cause of the low returns on investment in the basic industries is a prevailing attitude that bigness is bad and that profit is evil. Unfortunately, many influential members of our society have this attitude, including many in the legislative and executive branches of government. This may explain the frequency with which government and industry find themselves in adversary positions instead of working constructively together to improve the economic health of the country. It is always interesting for me to observe that our Chrysler subsidiaries overseas are able to work much more closely with their governments in the interest of strengthening their economic positions than we are with our government here. If we are to have any hope of solving our economic problems in this country, we will have to reverse our attitudes and gain that same constructive approach.

While I have no desire to sound like an alarmist, I am firmly convinced that there will be severe adverse effects on our total economic system if the capital markets are not able to supply to corporate America the equity capital that it needs, at prices that are acceptable. The repercussions will reach not only the shareholders and management, but also employees, the supplier companies, and the public at large.

For one thing, the role of government in business would certainly be enlarged. Government has already taken a financial interest in railroads and aircraft. Other industries could follow—those considered politically essential for strategic reasons, those with large numbers of employees, or those which are about to flee to overseas locations.

Companies that find the path to growth blocked by the capital markets will increasingly sell out to larger companies. Environmental improvements could be postponed or put aside, and our national goal of self-sufficiency in energy would be much harder to achieve.

As American industry finds it more and more difficult to make the capital investments necessary to improve its productivity, the United States will tend to become less and less competitive in world markets. In a few years, this country could descend from the relatively self-sufficient industrial power that has been its great strength to become one large service industry for the rest of the world, heavily dependent on other countries for its basic products.

Such a development would lead to a decrease in the growth of the GNP, a continuing deterioration of rates of return, and of stock prices, and to a sharp drop in the number of available jobs.

It is also worthy of attention that the combination of large holdings of U.S. dollars by foreigners, depressed stock values in our basic industries, and the devaluations of the dollar could very well lead foreign interests to take over more of our companies. I have always been in favor of foreign participation in the U.S. stock market. But I am still concerned when I see that one oil producing country alone could buy 100 percent of the stock of one of our largest U.S. companies each month, with the added revenue resulting from its recent oil price increases alone.

It is obvious that none of these results would be acceptable to business, to government, or to the general public. It is equally obvious that action should be commenced immediately to prevent them.

One step currently under consideration is Senate Bill 2842, the Bentsen Bill. This bill would reduce capital gains taxes and would establish parameters for investment by pension funds in individual companies. The simple fact that such a bill has been drafted is an encouraging recognition of the seriousness of the problem. Other important legislation is also being considered.

These legislative steps might reasonably be interpreted as the vanguard of increased government regulation of the capital markets. Perhaps such regulation, to some degree, is necessary, just as a degree of regulation was necessary in the automobile industry. No single automobile manufacturer, for example, could have risked the cost of unilateral introduction of seat belts or emissions controls.

However, some degree of government regulation has a very strong tendency to become a steadily increasing degree of regulation. And the more serious a problem becomes before the government moves in, the more restrictive the solution is likely to be.

Since basic industry's capital crisis results from a low level of profitability, we are going to have to direct our attention to profits. The first step is to convince Washington to get off the backs of these vital industries and let them earn enough on their investment to attract the money they need.

We need a significant change in attitude by both the public and the government. We need a better understanding of the function of profit in a free, capitalistic society. And we need a clear understanding of the relationship between capital formation and new job formation.

In addition to this new respect for profits, we will need increased incentives for saving, capital formation, and risk-taking. We need support for the concept of incentives to encourage investment in the country's future. Eliminating all or at least part of the double taxation of dividends would certainly help. Reducing the capital gains tax by any one of the various means currently being considered would be an obvious step in the right direction. The critical point is that these incentives will ultimately benefit all Americans, directly and indirectly, both through new jobs and through a stronger national economy.

We also need to get at the heart of the current surge of inflation by curbing overly expensive monetary and fiscal policies. The lower interest rates that would eventually result from halting inflation would have wide-reaching beneficial effects on corporate America and on the equity markets.

We don't have all that much time to solve these problems. Basic American industry is already losing its competitive position to Europe and Japan, and if we fail to respond quickly and effectively, this power base shift will accelerate. We must restore the strength and balance of our capital markets, and encourage responsible, long-term approaches to the continued growth of this country's basic manufacturing capability. Most important, we must start now.

Mr. THURMOND. Mr. President, a recent editorial in the State newspaper of Columbia, S.C., clearly defined the commitment of the United States to continue material support to South Vietnam.

This country withdrew its manpower commitment to that beleaguered nation more than a year ago on the premise that material support would be continued. It was to be the means of insuring self-determination for the South Vietnamese.

Now, we are on the threshold of discontinuing, by an act of this Congress, the military supplies which could insure

the future of South Vietnam as a free nation. The recent narrow vote in this body would, indeed, deny the continuation of those necessary supplies for this fiscal year.

The elimination of this support subjects that small nation to grave danger. The North Vietnamese have continued their buildup of arms and sophisticated weaponry. They have also continued infiltration into the South since the so-called cease-fire in January 1973.

Mr. President, the violence against South Vietnam continues and that nation which we supported at such a costly price in human life for more than a decade needs help to defend itself. The editorial to which I referred makes that point so well.

Mr. President, I ask unanimous consent that the editorial entitled, "Anti-Vietnam Crowd Propagandizes Senate," which appeared in The State newspaper, Columbia, S.C., May 13, 1974, be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks.

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

ANTI-VIETNAM CROWD PROPAGANDIZES SENATE

The vote in the U.S. Senate, 43 to 38, to prevent a $266 million resupply of ammunition to South Vietnam is a danger signal that this nation's commitments to Saigon are being undermined.

Those commitments are to a fair chance for South Vietnam to survive as a free country, to give it the capability of defending itself and to develop economically. More than 50,000 American lives, and more than $130 billion have been expended on those objectives. Today, the South Vietnamese have the capability to go it alone almost within their reach.

But while Americans have been preoccupied with their own problems—Watergate, inflation, an energy crisis—pro-Hanoi activists have mounted a sustained drive in the Senate to abandon South Vietnam.

The American Security Council reported the activity: "Jane Fonda and Tom Hayden set up shop in Congress and openly lobby for the abandonment of South Vietnam. A three-week anti-Vietnam seminar is organized in a committee hearing room of the U.S. House of Representatives. Remnants of the 'Vietnam Veterans Against the War' invade and briefly seize the information offices of the South Vietnamese Embassy in Washington. 'Study groups' composed of articulate and well-known propagandists against U.S. policy in Indochina, visit Vietnam and return with shocking new tales of torture and imprisonment of tens of thousands of innocent 'political prisoners.'"

The propaganda campaign's effectiveness showed in the Senate vote. It is safe to say now that the real battleground for South Vietnam is not in the rice paddies halfway 'round the world, but in Washington, D.C.

For its part, the American Security Council sent a six-member private and non-partisan fact-finding mission to Vietnam to assess the situation there. The group included two retired U.S. ambassadors. Their report sharply contradicts the anti-Vietnam propaganda and contends the Saigon government is viable, its defense forces are effective, and that with U.S. support in the next two years the South Vietnamese "will have a better than even chance to endure and to prosper in the years to come."

Abandonment of the South Vietnamese by the United States now would be tantamount to surrendering that nation to Hanoi, and surrendering American credibility and principles to the demands of a handful of critics and activists. The United States must not turn her back on a friend and ally.

NATIONAL SCIENCE FOUNDATION AUTHORIZATION FOR FISCAL YEAR 1975

Mr. KENNEDY. Mr. President, S.3344, the National Science Foundation Authorization Act of 1975 unanimously approved by the Senate, provides the Foundation with an authorization of $834.8 million for fiscal year 1975, an increase of $188.5 million over the Foundation's operating budget in fiscal 1974, and $46.6 million more than the amount requested by the administration.

The scientific research support by the NSF extends the frontiers of science and provides the new knowledge that is essential if the United States is to conquer not only technological problems, but also the social and economic challenges that confront this Nation. The National Science Foundation is the only Federal agency charged with the responsibility of maintaining the health of U.S. science. Its grants, contracts, and facility support are designed to meet diversified scientific needs and to be responsive in identifying problems of national concern. Equally significant are the Foundation's science education programs which are designed not only to improve the effectiveness of science education at all academic levels, but to enhance scientific literacy and provide the scientific and technical manpower so vital to our country's future.

The authorization contained in the bill will permit the Foundation to continue to provide essential support for basic research in the science disciplines, for research focused problems of national concern, for initiatives aimed at solving our energy crisis, and to maintain an adequate level for science education and institutional science support necessary to sustain the science education and research roles of academic institutions. It is the largest authorization in the Foundation's history, and is a reflection of the growing recognition that the research supported by NSF is an essential part of our effort to solve the problems which confront us as a nation. The scientific community is making its voice heard in virtually every agency and office of government—and that voice must be strong if the Nation is to reap the benefits of our increasingly complex technology.

One of the single most important elements in the bill is the Foundation's expanded role in energy research and technology. Approximately one-third of the proposed authorization is directed to this effort—pushing forward our basic knowledge and applying the results of that research to the introduction of new energy sources which hold enormous potential in our effort to free this Nation from its dependence on dwindling fossil fuel supplies. The Foundation has extensive capabilities in this area, and its full participation in the formulation of public policy and the national effort to develop new energy sources is essential if that effort is to meet with success.

S. 3344 includes $252.6 million for energy-related research. The programs authorized will build, to a large degree, upon existing NSF research programs. During the second session of the 92d Congress, for example, the Congress increased significantly the level of support for energy-related efforts to permit the Foundation to augment significantly its support of energy and related technology, particularly in solar, geothermal, and other nonconventional energy sources. It is especially important that the NSF continues and expands its efforts in the energy area at this time, in view of this Nation's acute need for alternative energy sources and the unique capabilities of the Foundation to foster this kind of research.

The National Science Foundation is calling on experts from government, industry, and universities in its broad-scale energy research undertaking. It is sponsoring research dealing with conservation, conversion, production, and transmission, as well as with issues of environmental quality and the impact of energy production on the ecology and economies of various regions.

NSF has a major responsibility for the development of solar and geothermal energy. Its programs are designed to bring solar and geothermal energy sources into wide-scale application as quickly as possible. For example, as part of the solar energy program, four schools have been outfitted with experimental solar systems which went into operation in March of this year. They will provide important initial information on the systems' performance and on their acceptability to the public, and more data has come from these experimental collectors than all the data that have been collected in laboratory experiments thus far.

The Foundation's solar energy research is a broad effort which focuses on advancing the technology for solar, thermal conversion, wind energy conversion, bioconversion to fuels and ocean thermal and photovoltaic conversion, as well as the heating and cooling of buildings. Through these technologies, solar energy can be used to generate electric power, to provide space heating and cooling, and to produce renewable supplies of clean hydrocarbon fuel. It is estimated that, with widespread application of these technologies, solar energy could meet 30 percent of the Nation's energy needs as we move into the next century. In the case of heating and cooling of buildings, the estimates are that 25 to 50 percent of the total energy needs of the Nation could be satisfied in that same period with solar energy applications.

S. 3344 gives the Director of the NSF the responsibility for the planning, coordination, and direction of the Federal Government's solar energy research programs. The Foundation is uniquely qualified to carry out these responsibilities because of its long experience in this field, dating back to 1950, and because of the perspective that the Director of the Foundation has as the President's Science Adviser. Another important consideration in assigning this total Federal coordinating responsibility to the Director of NSF is the Foundation's operating mode, which requires that it utilize the capabilities of other Federal agencies, the academic community, and industry to carry out its programs. It has already

established an effective means for coordinating these activities through the Interagency Panel on Terrestrial Applications of Solar Energy. The Atomic Energy Commission, NASA, the National Bureau of Standards, HUD, Department of Interior, and other involved Federal agencies are members of the panel, which is chaired by NSF.

Also included in the authorization is a 25-percent increase in research support in the science disciplines, establishing the most vigorous program of fundamental research in the Foundation's history. This basic research program, aimed at assuring adequate fundamental understanding of science, provides the undergirding for advanced research as well as for applied and developmental work. It provides support for all fields of science. It is an investment in discovery and innovation. It may lead to new sources of energy; to advances which will create new industries and transform old ones; to increased understanding of the principles that govern the physical, life, and social sciences—understanding which is essential if we are to enhance the quality of life.

And underlying these efforts must be a continued investment in science education and in support for graduate students and faculty members in the science disciplines in our colleges and universities. The training of men and women in the most advanced techniques and concepts of basic science is essential to the development of new technology—technology we will need to insure our continued progress as a nation. Moreover, our need for trained scientists is as great now as it has ever been, and covers the whole range of science disciplines. We are looking to our scientists for guidance in finding solutions to air and water pollution control problems; for improved designs for mass transportation systems; for more effective utilization and delivery of health services; and for methods of allocating our scarce resources as fairly and effectively as possible. There is no significant unemployment of Ph. D. scientists in the United States today, in any discipline. In fact, in the field of engineering there is a growing shortage, with current unemployment levels estimated at about one-half of 1 percent, on a scale where 3 percent is considered full employment.

The authorization in S. 3344 also recognizes that inflation has affected the cost of scientific research and equipment even more than it has affected the cost of food, housing, and fuel. This is as true for applied research aimed at meeting our immediate needs, as it is for basic research from which benefits may only be reaped by future generations. Since fiscal 1967 there has been a 22 percent decline in constant dollars in the amount of Federal support for scientific research. This has worked a particular hardship on NSF and academic science and represents an inconsistent posture on the part of the Federal Government in its treatment of research and development support. Federal agencies with in-house laboratories have been able to compensate for inflation by means of salary, instrument, and facility budget allowances. NSF has no in-house research capability, and the authorization, including the increases it makes over the administration's request, is designed to take into account the escalating costs of operating academic research laboratories, so that the Nation's capacity to produce quality scientific research will not be severely hampered.

For despite the increases requested by the administration for NSF's energy related research and for increased support for basic research in the science disciplines, other NSF programs were requested for funding at close to, or below, fiscal 1974 levels. To offset increases in these areas, the Office of Management and Budget reduced other parts of the Foundation's budget by a total of $19.8 million. Therefore, after a comparison of the line item requests for fiscal 1975 that the Foundation submitted to OMB, and based on testimony received by the Special Subcommittee on the National Science Foundation, S. 3344 restores most of the cuts and, in certain critical areas, provides increased funding. It adds $46.6 million to the administration's request.

For example, in the area of science education, the budget cuts would have been detrimental to the continuation of some of the Foundation's important and widely respected programs. As a result, the authorization increases funding in all areas related to science education by a total of $24.9 million and, in addition, includes language to require the Foundation to adhere to a stated minimum in certain of these programs.

The bill also authorizes an additional $11.8 million for the RANN program to be used in nonenergy-related areas. One area of special concern to the Nation is the improvement of the earthquake engineering program, designed to find practical engineering methods for constructing earthquake resistant structure. Solutions of this nature are absolutely essential if this Nation hopes to minimize the loss of life and property that accompanies earthquakes, especially in light of the recent population increases in earthquake-prone sections of the country.

To continue an orderly replacement program for outdated research vessels and to provide for increasing fuel costs, S. 3344 authorizes a $9.9 million increase in the oceanographic facilities and support element of the national and special research programs, including an $8 million minimum for ship construction and conversion.

S. 3344 also includes a $3 million authorization for intergovernmental science and research utilization, a $2 million increase over the amount requested by the administration. For the past several years this program, to make the benefits of science and technology more widely available, has remained constant and the authorization provided will move this program out of the experimental phase.

For education programs, S. 3344 also provides increased funding. The Foundation's request for institutional improvement for science was $3 million, $7 million below the fiscal 1974 legislative minimum established for this activity, and would have resulted in the elimination of the institutional grants for science program. This program has provided flexible funds for more than 600 colleges and universities in all regions of the country. NSF had requested $7 million for this program, but the funds were denied by OMB. The program has provided assistance to many small colleges and universities that would otherwise not receive NSF funding, and S. 3344 establishes a minimum of $12 million for the institutional improvement for science programs.

S. 3344 also authorizes $17 million for graduate student support. There has been a sharp reduction in the level of graduate student support since fiscal 1971, when the Foundation's budget included $30 million for this program. This year the budget request was less than $13 million. Such a reduction would be an overreaction to temporary imbalances in the supply-demand ratio for scientists and engineers, at a time when it is essential that bright young people continue to flow into scientific and technological careers in order to maintain the vitality and strength of U.S. science. To achieve this goal, S. 3344 establishes a minimum of $17 million for graduate student support.

For science education improvement the Foundation requested $61.4 million, an amount $6.1 million below the legislative minimum established for this program in fiscal 1974. However, the effective reduction of the program on a comparable basis with fiscal 1974 is $11.1 million, since $5 million of the fiscal 1975 request represents a new effort for energy manpower resources. This decrease in science education support reflects an imbalance in the Foundation's nonenergy support activities. To correct this imbalance, S. 3344 establishes a $71 million minimum for science education improvement to be used to expand its science education program for ethnic minorities and women, to maintain strong support for programs designed to improve the quality and effectiveness of science teachers at the elementary and secondary school levels, to continue the faculty fellowships program, to assist small academic institutions, and to stimulate outstanding high school students to pursue careers in science and to provide undergraduate students the opportunity to participate in productive research.

The following is a brief summary of the programs included in the National Science Foundation Authorization Act:

First, scientific research project support, $363,700,000. This is the core research support activity of the Foundation. It includes research in all fields of science—physicial, environmental, biological, materials and social sciences, and engineering. The research is conducted mainly through academic institutions and nonprofit research institutions, and includes multidirectional research in the science disciplines to find answers to fundamental questions already identified, as well as research to develop new basic knowledge that will be needed to help solve unknown barriers to technological progress.

Second, national and special research

programs, $94,700,000. These are major research programs that involve research dealing with global environmental issues, requiring coordinated efforts on a national or international scale to address special science problem areas. Two of the programs, Science and Technology Policy Research and Energy R. & D. Policy Research directly support the Director of the NSF in his role as the President's Science Adviser.

Third, National Research Centers, $52,500,000. These include the National Astronomy and Ionosphere Center at Arecibo, Kitt Peak National Observatory, Cerro Tololo Inter-American Observatory, National Center for Atmospheric Research, and National Radio Astronomy Observatory. They are centers which have been established to meet national needs for research in specific areas of science. These areas of research require facilities, equipment, staffing and operation support beyond the capabilities of separate institutions and which cannot appropriately be provided to a single institution.

Fourth, science information activities, $5,000,000. This program provides support for projects to develop and improve information systems and services to promote the dissemination of scientific information and to help scientists and others obtain and use the results of world wide scientific research.

Fifth, international cooperative scientific activities. This program enables the NSF to provide support for 17 bilateral research and exchange programs, through which U.S. and foreign scientists are provided opportunities to do research on scientific problems whose solutions may be accelerated through collaborative efforts.

Sixth, research applied to National needs, $160,700,000. This program includes support for five major program areas: Energy research and technology; environmental systems and resources; advanced technology applications; social systems and human resources; and exploratory research and problem assessment. It is designed to focus U.S. scientific and technical resources on selected problems of national importance, with the objective of contributing to their practical solution.

Seventh, intergovernmental science and research utilization, $3,000,000. This program assists State, regional and local governmental agencies in making the benefits of science and technology more widely available within their regions. It plays a significant role in the understanding and analysis of the implication of various science and technology policies.

Eighth, institutional improvement for science, $12,000,000. This program assists universities, colleges and independent non-profit research institutions in exploring methods and techniques for improving their academic science programs and their management capabilities to enhance the effectiveness of Federal funds provided for them.

Ninth, graduate student support, $17,000,000. This includes graduate fellowships designed to insure that the Nation's most talented science students have an opportunity to pursue science careers in disciplines of their choice. It also provides post-doctoral fellowships and science manpower training.

Tenth, science education improvement, $71,000,000. This activity provides support for programs to increase educational efficiency, help provide the essential number and variety of trained scientists and engineers, and provide science training that will enable the non-scientists to function confidently in our science and technology intensive society. It focuses on the development of courses that provide science training, providing to a broader range of students a basic understanding of how science works, experiments to improve the structure of education through the application of advanced technology, and activities to improve the understanding by the public or the roles, potentials and limitations of science and technology.

Eleventh, planning and policy studies, $2,700,000. These studies provide the factual data and analytical basis for decisions leading to the development and improvement of policies and plans for the advancement and utilization of science.

Twelfth, program development and management, $39,500,000. These funds are used to provide for the operation and management costs of the preceding 11 programs.

In addition, the bill authorizes the appropriations of $5,000,000 to be paid in excess foreign currencies, for expenses which the NSF incurs in its activities abroad.

The National Science Foundation operates no laboratories or scientific facilities of its own. Through grants and contracts it supports programs of scientific research and education in thousands of universities, research institutes and other organizations in all of the 50 States.

These programs represent an essential investment in this Nation's future, and no expenditure has a wider implication for the health, welfare, and safety of the American people. Measured by any standard, American science has for decades sustained a level of productivity unmatched in the history of modern science.

It is the responsibility of the National Science Foundation to see that our scientists receive the financial support they need to carry forward promising research. As the only Federal agency with a direct mandate to strengthen science and education science, the NSF is called on to perform a critically important and unique function, and the authorization contained in S. 3344 will enable it to meet that responsibility.

SPESSARD L. HOLLAND NATIONAL SEASHORE PARK

Mr. GURNEY. Mr. President, I am pleased to announce that the House Interior and Insular Affairs Committee, Subcommittee on National Parks and Recreation, will be holding hearings this morning on a proposal to establish the Spessard L. Holland National Seashore Park, in my home State of Florida.

I have long been a supporter of this proposal—S. 333; H.R. 5773—which I first introduced on April 19, 1971. So that my colleagues here in the Senate may acquaint themselves further with what the establishment of the Spessard L. Holland National Seashore Park would entail, I request that copy of my testimony before the House committee be printed in the RECORD.

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

Mr. Chairman: I am pleased to testify before this committee today on behalf of H.R. 5773, which would establish the Spessard L. Holland National Seashore Park in my home State of Florida.

Mr. Chairman, for over 40 years, Spessard Lindsey Holland of Bartow, Florida, served the citizens of the State, most notably as a prime mover behind legislation to preserve Florida's natural environment. He wrote legislation that created one of the country's largest national parks—the Everglades National Park. I think it is fitting that a park section in Florida be named after this distinguished statesman and defender of the environment.

On April 19, 1971, I introduced a bill which would establish the Canaveral National Seashore Park in the State of Florida. This same parcel of land I proposed as the Spessard L. Holland National Seashore Park on January 11, 1973 at the beginning of the 93d Congress.

Mr. Chairman, one of the national goals of this administration has been to restore and enhance our natural environment and, as President Nixon announced in his January, 1971 state of the Union address, "to expand the Nation's parks, recreation areas and open spaces in a way that truly brings parks to the people."

Since the President's address in 1971, there have been no additional national parks established in the State of Florida and only a few areas established under the land and water conservation fund grants and bureau of outdoor recreation grants.

Mr. Chairman, in essence what I am saying is that central Florida is a portion of my State now possessed of a great many people in search of a national park. South Florida has the Biscayne National Park; north Florida has the Gulf Islands National Park, both beautiful areas, but there is no national park in central Florida.

Mr. Chairman, the east central area of Florida, the section of my State which would find this National Seashore Park most accessible, has experienced a spectacular growth in the past 20 years. This 7-county area comprised of Brevard, Volusia, Orange, Indian River, Lake, Osceola, and Seminole Counties, has ballooned from a population of 229,333 in 1950 to 650,962 in 1960 to 1,147,900 in 1970. In other words, the population of this region has approximately doubled every ten years and now comprises nearly one-fifth of the total population of Florida.

The parcel of property involved is an idyllic one, teaming with indigenous wildlife. For instance, the adjacent Merritt Island Wildlife refuge has had 265 bird species identified within its boundaries.

The areas to be included within this proposal for the national seashore park is an 18-mile stretch of beachfront. There are approximately 35,000 acres involved of which some 24,421 acres have recently been turned over to the Department of Interior for Management. This transfer of lands was necessary to secure the area for the establishment of the park.

So far, I have spoken only of the growth of the resident population. This area already provides a strong tourist lure in the space effort at the NASA complex located at Cape

Canaveral. In excess of one million visitors visited the installation during the past year. However, the east central region has become a tourist mecca with the opening of Walt Disney World in October of 1971. It is conservatively estimated that 10,000,000 have visited this attraction during its first year of operation and this has steadily grown since then. Last year, 1973, an estimated 25,000,000 people visited Florida, each for an average of two weeks. The forecast predicts nothing but an increase because of the recent opening of Walt Disney World and other attractions such as Seaworld in the Orlando area.

All of this growth in the area is beginning to exert enormous pressures on the remaining parcels of land which are as yet undeveloped, particularly beachfront property. Speculators and land values can hardly be blamed for eyeing unspoiled ranks of dunes abutting the sea with spectacles fitted with glasses of increasing pinkish hues. Underdeveloped beachfront and quiet lagoon property has recently been undergoing a rapid transition from untouched or agricultural to urban or subdivision.

The area to be included within the proposed Spessard L. Holland National Seashore Park is easily a 40 to 50 mile reach of both the Orlando Area and the Disney World complex at Kissimmee. A highway proposal, still in the planning stage, has been proposed the length of Kissimmee to the National seashore and a scenic highway to further facilitate projected traffic between these two points. The intense "growing pains" of this area of Florida make comparative reservation of a sizeable beachfront park for recreational purposes, such as I have proposed in S. 333, whose companion measure was introduced in the house by Congressman Chappell.

Mr. Chairman, this area is idyllic in many ways. There is good fishing for the sport fisherman and both the breaker and wave actions zones, and in the lagoons behind the barrier dunes. The beach itself is in excellent condition, and in fact, is described by scientists as an example of a "prograding" beach—one which is in a condition of steadily augmenting itself. The temperature of both air and water meander annually in a gentle fluctuating between a temperature of 60 and 80 degrees.

This entire area is also rich in archeological and historical landmarks. There has been continuous habitation in the Cape Canaveral area for at least several thousand years. There are numerous mounds with shells and bones left in middens as refuse from aboriginal meals. The shallow and treacherous waters abutting the Cape frequently grounded and sank ships from the Spanish explorers onwards resulting in shipwrecked survivors who frequently had to deal with hostile native populations once they conquered the raging seas and were cast ashore.

Florida was a British colony under terms of the Treaty of Paris signed in 1763; following the end of the American Revolution, Florida was returned to Spain. Under Spanish control once more, large land grants encouraged the establishment of cotton and sugar plantations. In 1821, with the ratification of the Adams-Onis Treaty, the area came under jurisdiction of the United States.

After the Seminole war, what is generally considered to be the first citrus grove in Florida was established on Merritt Island, just south of the proposed national seashore. The cape itself, during the Civil War, was the dividing line separating two Union blockading fleets. And, of course, in the present day, the Canaveral seashore, a portion of which would be comprised within the NASA Reservation, would provide an excellent vantage point for the launching of the "big birds" during future space shots.

Mr. Chairman, I am delighted that the subcommittee is holding these hearings, especially in light of recent hearings held in July of 1973, on my proposal, S. 333, by the Senate Interior Committee. I am pleased to have had the opportunity to bring to the attention of the distinguished members of this committee the above arguments for the establishment of the Spessard L. Holland National Seashore Park and I urge favorable action by this comittee to insure the acquisition of this significant portion of our national and historical heritage that will be willed to the future generations of our country.

Thank you, Mr. Chairman.

SENATOR ERVIN HONORED

Mr. STENNIS. Mr. President, on May 10, 1974, the Cox Broadcasting Co., which owns television station WSOC in Charlotte, N.C., honored our colleague, Senator SAM J. ERVIN, JR., at a reception in Charlotte, N.C. The Senator's hometown newspaper, the News Herald, of Marganton, N.C., commented upon this reception in an editorial entitled "Senator Honored At Big Shindig" which appeared in its issue for May 13, 1974.

I ask unanimous consent that a copy of this article be printed in the body of the RECORD.

There being no objection, the article was ordered printed as follows:

SENATOR HONORED AT BIG SHINDIG

Senator Sam J. Ervin Jr. was at his lightsome best when he told the crowd that if he had known he would be treated so well when he retired, he might have considered retiring earlier.

The statement came in informal remarks delivered at the Charlotte civic center Friday night at a big cocktail buffet given in the Senator's honor by Cox Broadcasting Company which owns WSOC-TV-AM-FM.

Between 800 and 1,000 persons were present for the showing of excerpts from a one-hour documentary prepared by the staff of WSOC-TV entitled, "Sam J. Ervin Jr., Constitutionalist," and for the unveiling and presentation of a portrait of the Senator by portrait artist Marshall Bouldin III of Lauramar Plantation at Clarksdale, Miss.

Bouldin is considered one of the nation's foremost portrait painters and has distinguished himself as being one of the few living artists to have portraits hanging in the White House.

The portrait presentation was made by Clifford M. Kirtland Jr., president of Cox Broadcasting Company, and the emcee was Freeman R. Jones, vice president of Cox Broadcasting and general manager of WSOC-TV. It was announced that the full documentary will be shown on channel 9 Thursday night a 8 o'clock.

Senator Ervin's family and kin attended along with a sizable delegation of Burke Countians. Present also were people from throughout the state, as well as Washingtonians. There was, admittedly, a measure of curiosity as to who would be on hand following an advance item in the Raleigh News and Observer's "Under the Dome" which said that "About 1,500 prominent Tar Heels—(that word "prominent" stirs curiosity)—have been invited to the gathering at Charlotte's new civic center."

Then the following sentence was the tantalizer: "The event will be closed to the news media. Only those named on the guest list will be admitted."

It was, we repeat, quite an event. To use an expression long circulated in the hill country, WSOC put the big pot in the little pot for this buffet affair. And there was no doubt that it was in honor of Senator Ervin. However, the Senator himself was giving the credit to his staff, to his family and to everybody else and when he was greeted by admirers from around the state, he thanked them for attending, as if they were doing him an honor by so doing.

It was an altogether delightful affair and a deserved honor for our own Morganton-born Senator who will be returning home with the end of his term next January. It never ceases to amaze his neighbors that Senator Sam has become a nationally known name and figure by just being himself, without departing from his characteristics of a lifetime as known by his home town.

In the buffet program presented as a salute to "Sam J. Ervin Jr., Constitutionalist," these excerpts were printed, setting forth well the attitude of those who have recognized his service to the nation.

"The name Sam Ervin has become synonymous with the Constitution of the United States. His twenty-year career in the United States Senate has been punctuated by constitutional principles. Recognized throughout the country as the foremost authority on the document that established the foundation for our government, the senator from the Tar Heel State has defended the rights it guarantees each of us. His battleground has been the senate floor and his weapons were the Bill of Rights and constitutional pronouncements.

"Now Senator Sam is leaving the senate. But he leaves behind him a legacy of truth and justice that has firmly established him as one of the most dynamic statesmen in the history of our country. Future generations are sure to find his name ranked among the great patriots and dedicated leaders who have perpetuated and strengthened our form of government . . ."

That's well said, but his neighbors have known the truth of the tribute for years: It's fine that others have made the discovery that Senator Sam is a statesman and will be so acknowledged in the nation's history.

DEPARTMENT OF HEW "MEETING" POLICY

Mr. GURNEY. Mr. President, some months ago the Department of Health, Education, and Welfare issued a policy statement that those institutes which received grants or Federal funds from the Department were not to hold meetings at locations which were considered to be resort areas.

When this matter was called to my attention earlier this month, I protested such a policy as it almost automatically ruled out the State of Florida as a meeting site for such institutes.

I contacted the Secretary of the Department of Health, Education, and Welfare—Secretary Weinberger—on this matter, asking that he clarify this policy and correct the erroneous impression that the Department prohibited any such meeting from being held in Florida.

On May 9, Secretary Weinberger responded advising me that the policy issued by the Department only cautioned meeting sponsors to avoid holding in-season meetings at resort areas which might give the impression that Federal funds were being used to finance holidays or junkets for employees. Secretary Weinberger continued in his letter that the policy by the Department did not attempt to prohibit the selection of such areas as meeting sites when justified. However, in order to avoid any future misinterpretation, the policy has been clarified to state that no particular location is prohibited as a meeting site

when that location is determined to be best suited for the purpose of the meeting.

Mr. President, I certainly agree with Secretary Weinberger that Federal funds should not be used to finance holidays or junkets for employees, especially in light of Congress determination to curb Federal spending. However, I do not think it is the proper judgment of that Department to prejudge such locations simply because of their known leisure-related surroundings.

I am most pleased that the Department has clarified this policy and I commend Secretary Weinberger for his diligence in assuring that the Department guard against any misuse of Federal funds.

CHATTOOGA RIVER INCLUDED IN WILD AND SCENIC RIVERS SYSTEM

Mr. TALMADGE. Mr. President, on May 10, the President signed into public law, H.R. 9492, a bill to include the Chattooga River in the Wild and Scenic Rivers System.

This represents the culmination of years of work, dedication, and perseverance by many people. Perhaps the foremost advocate of preserving the beauty and wild nature of the Chattooga is Mrs. Ezra Wilson of Homer, Ga.

Rarely in my years of public service have I seen a person whose love for one of God's rich natural blessings exceeds that of Mrs. Wilson for the Chattooga.

I would be remiss if I did not pay special tribute to Mrs. Wilson. She richly deserves recognition and appreciation from all of us who have benefited from her efforts.

PHILADELPHIA FLYERS WIN STANLEY CUP

Mr. HUGH SCOTT. Mr. President, I rise to honor a professional team which yesterday performed with the kind of sportsmanship and skill not often seen in tense sporting competition even in the "city of brotherly love." I stand to salute the Philadelphia Flyers who Sunday skated away with Hockey's Stanley Cup, defeating the tough Boston Bruins. In the interest of not agitating my Massachusetts' colleagues, I will refrain from repeating the agonizing play by play account of yesterday's championship match. Rather, allow me to echo the words of today's Philadelphia Inquirer which accurately described the victory:

It was sheer skill that payed off yesterday. It wasn't fisticuffs, it was hockey, and it was beautiful.

I am confident this admirable championship season of the "Broad Street Bullies," will spark other Pennsylvania professional teams to similar world championships. It has been a long time coming, but well worth the wait.

Congratulations.

I ask unanimous consent that the editorial from today's Inquirer be printed in the RECORD.

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

THE FLYERS: ALL HAIL!

The editor of The Inquirer recalls another Sunday afternoon, very early in his career, when he went into the office to write an editorial saluting the Philadelphia Phillies for winning the National League pennant. He was not a Philadelphian then, but that was an event celebrated across the land.

That was 1950. Has it been that long since our town has had a winner in professional sports?

No, not really. Our basketball team did it in 1956 and 1967, the Eagles won the championship in their league in 1960, and the fledging Atoms got professional soccer off to a smashing start by coming out on top of the heap last year.

But it has been a while, sports fans, since Philadelphia has had the kind of thrill the Flyers gave us yesterday in winning the Stanley Cup.

All hail, then, to Ed Snider. To Fred Shero. To Bobby Clarke, Bernie Parent, Dave Shultz, Ed Van Impe and all the rest of these great hockey players. And, of course, to Kate Smith.

They call them the Broad Street Bullies, and this is admittedly a tough team in a tough game. But that was sheer skill which paid off yesterday. It wasn't fisticuffs, it was hockey, and it was beautiful. The Flyers simply outskated, outgoaltended, and out scored those Bruins from Boston, the former class of the league.

Let's hear it then, for the Flyers. They are the class and pride of Philadelphia today, and we honor them for it. Cheers!

POLITICAL PRISONERS

Mr. ABOUREZK. Mr. President, in the last decade the world has witnessed an alarming increase in the policy of political imprisonment and the practice of torture. Amnesty International, a respected internation nongovernmental organization concerned with political prisoners and prisoners of conscience, estimates that such prisoners exist and are tortured in over 60 countries. Torture and imprisonment of political prisoners is not limited to any particular ideology; it has become the major instrument of all forms of political oppression. Primarily, it is used against political dissenters and instills fear in others who may be considering dissent.

While no government admits using torture, it is amply evident. In speaking to refugees and others who have experienced the wrath of such an inhuman experience—many of whom still have the paralysis and indelible scars to prove their stories—it is obvious that government involvement, though disguised, is there nonetheless.

Mr. President, I believe that it should be the duty of us all to speak out forthrightly in calling for action in defense of international standards of human rights when they are violated. We in the Congress have the additional responsibility of insuring that the United States in no way encourages the violation of human rights through the implementation of our foreign policy or in connection with our foreign aid. Furthermore, I believe that it is the duty of this country to foster in the policy of friendly governments a deep and continuing concern for the fundamental human rights of every human being.

Coleman McCarthy, in an article in the Washington Post, recently provided an eloquent account of the status of political prisoners and the efforts by Amnesty International to come to their aid in countries around the world. He notes that no one knows for certain how many prisoners there are, what the conditions of the prisons may be or how the sentences are set.

There continues to be a lot of unknowns about the plight of these people, but articles such as this can do a great deal to insure that they are not forgotten.

Mr. President, I ask unanimous consent that Mr. McCarthy's article be printed in the RECORD.

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

AIDING POLITICAL PRISONERS

(By Colman McCarthy)

News reports in recent weeks have told about the release of political prisoners in Portugal and Mozambique. In Lisbon, days after a half-century of dictatorship was ended by a coup, 99 political prisoners were released from jail, with thousands of relatives and friends joyously greeting them. In Laurenco Marques, 550 political prisoners, mostly blacks, were freed. One news story told of a man who "had been in Machava (prison) for 10 years for political activity. He could scarely believe he was free."

As encouraging as these scenes are, they are exceptions to a harsh rule that still prevails elsewhere among nations of five continents. Political imprisonment and torture are still relied on by large numbers of world governments as a prime way of silencing dissent. Unlike other criminals, political prisoners often may not be jailed for what they actually do but simply for what they think. The list of nonviolent political "crime" includes advocating national or cultural autonomy, practicing a minority religion, attempting to organize a political party in opposition to the one in power, performing actions the government or army considers insulting, refusing military service on grounds of conscience, organizing peaceful public rallies directed at changing governmental policy. In the United States, it is generally acknowledged that such government lawlessness exists in Russia and China, but in fact it persists, in one or another form, in all parts of the globe: The Communist world is not free, for sure, but jails in "the free world" can be just as brutal. Freedom to dissent—to think as one chooses—exists only in a few countries; when human rights collide with entrenched power, power seldom loses.

Aside from occasional moments of joy, as witnessed in Portugal and Mozambique, the work of releasing political prisoners is slow and demanding. But it is not entirely hopeless. Since May 1961, one group has persistently been at work: Amnesty International. With its influence and stature growing, Amnesty International recently received the unaimous support of the United Nations for its resolution to abolish torture. Realistically, it is unlikely that this new U.N. resolution will mean a sudden end to torture by means of tiger cages, electroshock, flogging, starvation or whatever. Such resolutions have been approved before and hailed by the jailers, and then totally ignored. But with this recognition from the U.N., Amnesty International is now less able to be dismissed by those goverments which resent or resist its persistence.

To many of the governments that detain and torture citizens for what they say or think, Amnesty's methods must seem trifling; polite letters to authorities, picketing embassies, letters-to-the-editor, informal visits of inquiry or persuasion by lawyers, publicity or

news stories. Yet, Amnesty's record of peaceful picklocking is impressive. During 1972, 842 prisoners were released and the causes of 1,580 new prisoners were taken up, respective increases of 15 per cent and 25 per cent over 1971. In the past two years, about $200,000 were dispensed to aid prisoners and their families. In the United States, some 70 groups are now at work on behalf of 200 prisoners in 37 countries; worldwide, more than 32,000 AI members are at work in 62 countries. Despite the indifference they would feign, oppressing governments are fully aware of the organization's work, though in comically different ways. State newspapers in Brazil, AI reports, have called its officials "instruments of Communist terrorism," while a Soviet pamphleteer said the "Amnesty International organization was founded in the first place to carry out anti-Soviet propaganda . . ." (Amnesty International's headquarters in this country is: 200 West 72d St., New York, N.Y. 10023).

The work of releasing prisoners is ongoing. One group in Portugal is released and then somewhere else in the world another group is jailed. Recent reports from South Korea stated that students, clergymen and intellectuals are being imprisoned for peacefully challenging President Park Chung Hee. In January, he announced an "emergency measure" outlawing criticism of the constitution; the press was forbidden to discuss it. As for those he is jailing Park eloquently expressed the classic thought of oppressors (quoted in the New York Times, Feb. 14, 1974): It is self-evident what they are aiming at by agitating the people with talk of democracy and freedoms."

Because many Americans are active in Amnesty International, it was encouraging that last year in the foreign aid bill all American "public safety advisers" (a term used by the Agency for International Development) to other governments were called home; previously it was an obvious conflict for the United States to condemn torture abroad while continuing to give aid and advice to foreign police forces that were engaged in torture. For now this conflict appears to be resolved, although it is only the minimum of what should be done. In a March report from the subcommittee on International Organization and Movements of the House Foreign Affairs Committee, the dismal record of the U.S. government was noted. "The human rights factor is not accorded the high priority it deserves in our country's foreign policy . . . Unfortunately, the prevailing attitude has the U.S. embracing governments which practice torture and unabashedly violate almost every human rights guarantee pronounced by the world community. Through foreign aid and occasional intervention—both covert and overt—the U.S. supports those governments.

Our relations with the present governments of South Vietnam, Spain, Portugal, the Soviet Union, Brazil, Indonesia, Greece, the Philippines and Chile exemplify how we have disregarded human rights for the sake of other assumed interests. In blunter language, what the report means is that when it comes to making a choice in terms of lining up "power politics" and our supposed larger "security interests" we all too often find ourselves on the side of the world's tyrants at the expense of their victims. If official policy occasionally is strained by the brutality of another country, considerations of the investments of American corporations within that land is often enough to keep U.S. support intact. "International incidents" are to be avoided.

The work of releasing prisoners is one of unknowns: no one knows for certain how many there are, what the conditions of the prisons may be or how the sentences are set. The only certainty is that the work of Amnesty International has a meaning. A statement of a prisoner released from Chi Hoa national prison in Saigon in December 1972 offers a powerful testament: "We could always tell when international protests were taking place. The food rations increased and the beatings inside the prison got less. Letters from abroad were translated and passed around from cell to cell, but when the letters stopped, the dirty food and the repression started again."

THE TRAGEDY AT MAALOT

Mr. SCHWEIKER. Mr. President, yesterday's senseless massacre of Israeli high school students saddens and outrages people everywhere. If through their vicious acts the Palestinian terrorists intend to win a role in the Middle East peace negotiations, they have failed. The full weight of world opinion must be brought down—and brought down hard—on these madmen.

I was pleased to cosponsor the Senate-passed resolution urging the United Nations to bring strong sanctions against the Arab guerillas through the U.N. member nations which harbor them. It is imperative that the Security Council do this.

The U.N.'s failure to censure the Arab terrorists after their attack at Kiryat Shemona, April 11, while censuring the Israeli's for their reprisal to the attack, did nothing to prevent the ensuing tragedy at Maalot. The U.N. must take decisive action in the wake of yesterday's outrage if it does not want to forfeit its claim to being the keeper of world peace.

A TRIBUTE TO DR. LEON SULLIVAN

Mr. HUMPHREY. Mr. President, Dr. Leon Howard Sullivan is a warm friend and outstanding civil rights leader for whom I have great respect. Reverend Sullivan's dedicated service to his family, his church, his community, and to the underprivileged throughout the United States is a special inspiration to all who are concerned with the improvement of the quality of human existence.

Dr. Sullivan's zealous and continuing support for the poor led to his creation of the highly successful Opportunities Industrialization Centers of America, which have trained and placed over 150,000 unskilled and disadvantaged people since their beginning in 1964.

A recent article in the Wall Street Journal paid tribute to Reverend Sullivan's selfless and consistently outstanding service to America.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

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

[From the Wall Street Journal, May 17, 1974]

THE WORK ETHICS: LEON SULLIVAN PUSHES JOB TRAINING AS KEY TO BLACKS' SUCCESS—PHILADELPHIA MINISTER GAINS INFLUENCE AS HIS PROGRAM SPREADS ACROSS NATION

(By Thomas J. Bray)

PHILADELPHIA.—Leon Howard Sullivan leans his six-foot, five-inch frame forward in the pulpit, gazes sternly out over his congregation and launches into his weekly sermon.

"God likes to stir people's nests from time to time." (Scattered amens.) "God stirred America's nest in the '60s during the civil-rights movement." (More amens; his voice rises.) "God stirred President Nixon's nest, and little Mitchells and Deans fell out." (Laughter, "right-ons.") "And God's stirring your nest—because he wants you to stand on your own two feet." (Loud chorus of amens and approval.)

It's an old theme—God helps those who help themselves—but one on which Leon Sullivan is well qualified to preach. As founder and national director of the Opportunities Industrialization Centers of America, Mr. Sullivan has made a career out of self-help for blacks and other minorities. The OIC program began 10 years ago in an abandoned police station in the North Philadelphia slums and has since grown into a network of more than 100 job-training centers across the nation. Over 150,000 disadvantaged and unskilled workers have been trained and placed in jobs ranging from brickworking to court reporting, and labor experts praise the OIC as one of the most successful and efficient manpower programs going.

AN INFLUENTIAL LEADER

The OIC program has helped make the 51-year-old Mr. Sullivan one of the more influential black leaders in the U.S. "He comes as close as any man to being my idol," says Jesse Jackson, the charismatic Chicago civil-rights leader and onetime aide to Martin Luther King. Politicians of both parties regularly beat a path to Mr. Sullivan's door, and the businessmen who have lent their support read like a Who's Who of American industry. In 1971, Mr. Sullivan became the first black director of General Motors.

The OIC hasn't been Mr. Sullivan's only contribution to the black cause. He was a key—if youthful—organizer of the 1943 equal-rights march on Washington. In the 1950s, as pastor of Philadelphia's Zion Baptist Church—the largest church in Philadelphia, white or black—Mr. Sullivan pioneered the business-boycott techniques later adopted and expanded upon by the civil-rights movement. "It was one of the stellar contributions to the movement," Chicago's Mr. Jackson says.

But is was the OIC program that brought Mr. Sullivan to national attention. He had begun his Philadelphia OIC in early 1964 with less than $750,000, most of it raised privately; Mr. Sullivan mortgaged his own home to help meet start-up costs. The federal government, desperate for new ideas and programs that might help dampen growing inner-city tensions, was quick to embrace the OIC concept, however. Several million dollars in federal funds flowed into OIC coffers in 1965; by 1970, the sum had risen to $13.5 million, and in the current fiscal year, it is expected to reach about $23 million.

A GROWING CHAIN

The result has been a steadily growing chain of job-training centers modeled along the lines of the Philadelphia OIC. But the OICs haven't been without problems. A number of them are little more than shells, floundering for lack of local leadership or suffering from mismanagement. Others have been closed in the wake of revenue sharing, which gives city halls a veto power over financing. Federal cutbacks in manpower spending have also hurt; the OIC, which now is almost entirely financed by the federal government, started this fiscal year expecting to receive $32 million in funds from Washington but has been cut back twice to the current $23 million level. But, as one staffer puts it, "The most impressive thing is that the OIC still exists at all."

In any case, the ups and downs of Mr. Sullivan's operations tell much about minority efforts to implement the gains of the civil-rights movement of the 1960s. Mr. Sullivan's career is also a remarkable story in its own right.

INTEGRATING LUNCHROOMS

That career started in Charleston, W. Va., where Leon Sullivan was born in a dirt

alley to a mother who was an elevator operator and a father who was a janitor. He was raised mainly by his grandmother, and it was apparent fairly early that young Leon had brains, ambition and zeal. He was a good student, a good athlete—and a constant pest to white lunchroom owners who tried to deny him service. "I tried to integrate every place that said blacks couldn't enter," he recalls. "I couldn't understand why my people put up with it." Occasionally, he was successful: one establishment served him a Coke after he recited the Declaration of Independence from memory.

Mr. Sullivan won an athletic scholarship to West Virginia State College, and when an injury put an end to his football and basketball career, he worked his way through school in a steel mill. He also picked up a little extra cash as an itinerant preacher. In person, he is soft-spoken, almost shy, but his pulpit style is in the best tradition of fire-and-brimstone Baptist revivalism.

Soon after graduation, Mr. Sullivan encountered a flamboyant Harlem minister (later to be a controversial Congressman), Adam Clayton Powell, who was in West Virginia on a speaking engagement. Mr. Powell, impressed by the youth, invited him to New York, where he helped organize the wartime civil-rights march on Washington and entered prestigious Union Theological Seminary for his doctorate in divinity. For several years, he also served as assistant pastor of Mr. Powell's powerful Abyssinian Baptist Church.

In 1950, Mr. Sullivan came to Philadelphia as pastor of Zion Baptist, which then had a congregation of about 600. (It now is about 6,000.)

"There was a big problem with gangs," Mr. Sullivan recalls, "so I did a lot of youth work, organizing basketball leagues and things like that. But then I began to realize that a big reason for juvenile delinquency was unemployment. So I contacted every large company in Philadelphia—about 300 of them—and asked them to at least give job interviews to some of the kids. I wasn't asking them necessarily to hire all the kids, just to take a look at them. I heard back from 10 companies, and two said they would."

Outraged by the lack of response from the business establishment, Mr. Sullivan called a meeting of Philadelphia's 400 or so black clergy. He emerged with their backing for a massive business boycott. Boycott tactics had been tried before, notably by Harlem's Mr. Powell, but they were usually applied on a limited scale, such as demanding a few jobs as checkout clerks at local stores within the black community.

The Philadelphia boycott was designed to pressure companies on a citywide basis, starting with such vulnerable concerns as bakers and soft-drink bottlers. Blacks constituted about 20% of the city's population, and Mr. Sullivan estimates that at one point the boycotts involved nearly a half-million consumers. "After a while, all you had to do was show your face at a company" and more jobs would become available, he recalls. Between 1959 and 1962, he figures, several thousand jobs were opened up for blacks.

Other observers recall the boycotts as being less successful for the number of jobs they opened up than for the sense of pride and organization they instilled in the black community. Mr. Sullivan shared the spotlight with the boycott's other organizers, but he was clearly the leader. His reputation was solidified when Martin Luther King asked him to go to Atlanta to help organize the boycotts there.

At the same time, however, Mr. Sullivan was moving beyond the protest tactics of the civil-rights movement. "Jobs were becoming available," he says, "but our people couldn't do them."

The result was the OIC. At first, Mr. Sullivan thought the solution lay in mobilizing the savings of the black community to form companies that would train and employ other blacks. "I got the idea from Jesus feeding the 5,000 with loaves and fishes," he says, referring to a Biblical story that emphasizes the Christian concept of sharing. Mr. Sullivan asked members of his congregation to set aside $10 a month for 36 months—the 10-36 Plan, he called it—to form the seed capital for his ventures. More practical heads, however, persuaded Mr. Sullivan to separate the investment and job-training aspects of his program.

From the start, the OIC didn't claim any startling new concepts in training as such. But it was soon apparent to the OIC staff that enrollees needed something more than training in skills. "The transition from unemployed to employed can be a lot for some of these people to grasp," a Philadelphia OIC staffer says. "Our feedback was that many people were losing their jobs not because their technical training wasn't adequate but because of personal problems and attitudes."

A feeder program was quickly established to acquaint the trainees, about half of whom are welfare recipients ranging in age from 21 to 40, with the realities of the largely white workaday world. The students learn such rudiments as how to apply for a job, how to take employment tests, how to accept criticism from their future bosses—and how to make complaints of their own. Punctuality, courtesy and social amenities are stressed; gum, chewing and wearing hats indoors are out, good diction is in. One classroom is lined with mirrors to make students aware of their dress and grooming. "Basically," says Lorraine Lockett, an instructor, "we teach them to conform."

The applicants also take refresher courses in basic math, reading and oral communication during the feeder program. When the enrollees are judged ready—usually in two to five weeks—they are sent to the job-training centers. The Philadelphia program, for example, offers 14 courses ranging from keypunch operator to auto mechanic; there are four centers around the city. Close continuing contact with employers and careful follow-up work with trainees have produced a relatively high job-retention rate; more than 50% of the trainees are still on the same job six months later. (And a good many others move on to other jobs, it is believed.)

"That shapes up just as well as most company-run training programs," says a Labor Department official in Philadelphia who monitors the OIC program here. Adds a labor expert with an old-line civil-rights organization: "The OIC may not place its people at the highest level, but it is definitely productive—unlike most government programs that are supposed to deal with the hard-core unemployed." The OIC also says it does the job more cheaply—for about $1,500 a trainee, compared with about $3,500 in most federally financed programs.

For the enrollees, however, there can be financial problems. No stipends are paid in the OIC program, making it difficult for many to attend classes regularly but ensuring that those who do tend to be fairly well-motivated. For various reasons, about a third of the enrollees drop out during the feeder program or during actual job training.

At about the same time that Mr. Sullivan was beginning the OIC program in the mid-1960's he was also forming Zion Investment Association, an investment company in which parishoners provided most of the capital. (This was an outgrowth of his old 10-36 Plan.) ZIA bought some garden apartments, built a new shopping center in North Philadelphia and started several companies that supply parts to the aerospace and automotive industries. Assets now are about $5 million, and ZIA has more than 8,000 stockholders.

But like the OIC, Zion Investment Association has had its share of problems. ZIA has stubbed its toe badly on several investments, notably a garment-manufacturing operation that attempted to double as a job-training program. The aerospace company lost $500,000 last year, and the automotive-parts concern has been hurt, like other auto suppliers, by the energy crisis. Mr. Sullivan got a chilly reception recently when he approached John Bunting, chairman of First Pennsylvania Corp., Philadelphia's biggest bank, to ask for financing for shopping centers in other cities. "I told him we only back successes," says Mr. Bunting, whose bank had nonetheless been a heavy lender to earlier ZIA ventures.

Mr. Sullivan contends that ZIA eventually will turn the corner; one of his priorities is to help ZIA become a self-sustaining, dividend-paying enterprise. "It won't be easy," Mr. Sullivan says, "but it has to succeed so minorities can see that they can manage businesses, too."

Another of his goals is to cajole General Motors, of which he is a director, to assign more dealerships to blacks, promote more blacks to executive positions and train more black mechanics.

And, always, there's Mr. Sullivan's church, which burned down in 1971 but has been rebuilt on a larger, more modern scale, complete with a day-car center, classrooms for adult education and a gym for the basketball league that Mr. Sullivan organized nearly two decades ago.

It is from his modest church salary that Mr. Sullivan receives his only compensation, aside from some lecture and directorship fees; his clothes tend to be wrinkled and a little threadbare. He recently moved to a comfortable but modest home in a predominantly white suburb in order to be closer to the Quaker school that his three children attend. The move drew the predictable hate mail and telephone calls.

Mr. Sullivan continues to put in long hours, and he makes substantial demands on his congregation. At one recent service, offerings were asked separately for the Girl Scouts, and the church mortgage fund, missionary work and the general church fund.

He doesn't plan to let up, either. One ambitious project he is planning: to use the resources and manpower of his church, he OIC and ZIA to rehabilitate large chunks of the black ghetto in Philadelphia.

WINNING ESSAY OF WILLIAM A. WECHSLER OF THE LOOMIS SCHOOL, HARTFORD, CONN.

Mr. RIBICOFF. Mr. President, recently a number of private preparatory schools in Connecticut held a competition among their student bodies to pick the best essay. The schools involved were Loomis, Kingswood Academy, Suffield Academy, Avon Old Farms, and Westminster.

The winner of the competition was William A. Wechsler of Hartford, Conn., and Loomis School.

In light of the high quality of Mr. Wechsler's essay and its timeliness, I ask that his essay, entitled, "The Doctrine of the Separation of Powers and Judicial Review of Impeachment," be printed in the RECORD.

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

THE DOCTRINE OF THE SEPARATION OF POWERS AND JUDICIAL REVIEW OF IMPEACHMENT

(By William A. Wechsler)

Today Americans are in the midst of a great social revolution, when old ideas, con-

ventions, institutions, and restraints are everywhere being challenged. Exacerbating this is a constitutional crisis stemming from an increase and possible abuse of executive power.[1] Thus it becomes important to pause and consider, once again, the origins and subsequent development of the "Magna Carta" of our republic, the Constitution of the United States. This document, the culmination of great political wisdom and experience, represents the political origin of our people. A unique origin in that this nation was born neither by accident nor force, but from choice and reflection. Perhaps that is why we look to it so frequently in times of strife for insight, guidance, and inspiration.

The Founding Fathers, meeting in turbulent times not far different from our own, sought to construct a government designed to "secure justice and ensure domestic tranquility . . ." by the recognition of certain "unalienable rights," through a federated republic predicated on the belief that men were not angels and that power invited abuse.[2] Through what has come to be known as "the doctrine of the separation of powers," these men attempted to safeguard the rights of the citizenry by setting one governmental function against another. In the ensuing operation of this government, numerous controversies have from time to time arisen concerning the expansion of power by one branch over the others. Since the balance of power between branches is neither clear nor constant, one cannot but agree with Justice Oliver Wendell Holmes in his dissenting opinion in *Springer* v. *Phillipine Islands* when he said: "The great ordinances of the Constitution do not establish and divide fields of black and white." [3]

As we prepare for the possible impeachment proceedings against President Richard M. Nixon,[4] a clearer understanding of the historical implications of both the doctrine of the separation of powers, and the impeachment procedure itself, is essential. For in the end, only the American people can make the Constitution work—and in order to make it work, we must understand it. As Madison said long ago, "the country cannot trust to 'parchment barriers' to halt the encroaching spirit of power. The Constitution will continue to live only to the degree that it embodies the spirit of the American people." [5]

I. THE DEVELOPMENT OF THE DOCTRINE

Sir Edward Gladstone once commented upon the Constitution of the United States in this way: "It is the most wonderful work ever struck off at a given time by the brain and purpose of man." However, this Minerva-like origin is quite misleading, for the document drafted in 1787 was more than the Framers' own invention. The system drawn up by the Founding Fathers was more a codification by practical statesmen of doctrines which history and experience showed had worked well. The Framers recognized that since "power tends to corrupt, and absolute power corrupts absolutely," [5A] it must be dispersed throughout the governmental fabric in some effective manner. The Framers struck upon the device known as the separation of powers, in order to control power and passion. It was intended to guard against the various passions to which the elected branches of government are most susceptible: the House of Representatives, the passion of envy; the Presidency, the passion of ambition, and the Senate, the passion of avarice. Thus the Founding Fathers sought to restrain men's passions by means of the passions themselves.

The concept of a separation of powers can be traced from Aristotle,[6] who first conceived of trichotomy in government, Polybius,[7] who advocated a "reciprocal antagonism of organs," and Bodin,[8] who was first to realize the advantages of a functional separation within the framework of a centralized power, to the more celebrated philosophical predecessors of the Constitution, Locke and Montesquieu.

Lock saw the three-fold classification of functions, legislative, executive, and federative, as naturally suggesting a two-fold classification of departments: the first function under one head, and the second and third sub-heads under the second. Locke defined the legislative power as that which "has a right to direct how the forces of the Commonwealth shall be imply'd for preserving the community and the members of it." [9] "The executive power," he maintained, "should see to the execution of the laws that are made, and see that they remain in force." [10] In the third place, he saw the existence of another power in every Commonwealth which "one may call natural because it is that which answers to the power every man had before he entered into society. . . . This, therefore, contains the power of war and peace, leagues and alliances, and all the transactions with all persons and communities without the Commonwealth, and may be called Federative if one pleases." [11] Within this context, Locke voiced the need to separate these functions among the organs of government. This was the precursor of sentiment to be echoed in the Philadelphia Convention of 1787. Locke purported that as it was too great a human temptation for men to grasp at power for their own advantage, contrary to the good of society and government, it was necessary, in a well ordered Commonwealth, to break up their power to legislate.[12]

Montesquieu's observations were somewhat closer to the form the Founding Fathers adopted.[13] He was the first to recognize the necessity of separating the judicial from the legislative and executive branches. He was also the first to conceive of government being exercised by three distinct but interlocking departments. He explained how any government would function under such conditions this way:

"These three powers should naturally form a state of repose or inaction. But as there is a necessity for movement in the course of human affairs, they are forced to move, but still to move in concert." [14]

One reason that Montesquieu's doctrine became lodged in the American popular mind was the persuasiveness of the following statement rationalizing a separation:

"The political liberty of the subject is a tranquility of mind arising from the opinion each person has of his safety. In order to have this liberty, it is requisite the government be so constituted as one man need not be afraid of another. When the legislative and executive powers are united in the same person, or in the same body of magistracy, there can be then no liberty, because apprehensions may arise, lest the same monarch or senate should enact tyrannical laws, to execute them in a tyrannical manner.[15]

He also stressed the need for a strong, independent judiciary, asserting that if the legislative and judicial elements were combined, "the life and liberty of a subject would be exposed to arbitrary control; for the judge would be then the legislator." [16] He added that if the judiciary joined with the executive power, the judge might behave with "all the violence of an oppressor."[17] Monesquieu's conclusion is noteworthy, particularly in light of the provision for impeachment:

"Miserable indeed would be the case were the same man, or the same body, whether the nobles or of the people, to exercise those three powers, that of enacting laws, that of executing the public resolutions, and that of judging the crimes or differences of individuals." [18]

One can thus draw the conclusion that the doctrine of the separation of powers helps to ensure liberty through a "tranquility of mind." Furthermore, one could cite the hypothesis that concentrated power is by nature tyrannical.

During the Constitutional Convention, informed American opinion, for the most part, favored the principle of a separation of powers between legislative, executive, and judicial governmental bodies. Left and Right Wing alike united in thinking of the doctrine, in one form or another, as a cardinal principle of government.[19] Thomas Jefferson, commonly thought of as a "friend of the people" joined so skeptical a democrat as John Adams in advocating such a separation. Jefferson's thought on the subject can be found in scattered writings. At one point he had this to say:

"The concentrating of these (the three powers) in the same hands is precisely the definition of a despotic government. It will be no alleviation that these powers will be exercised by a plurality of hands, and not by a single one. 173 despots would surely be as oppressive as one. . . . An elective despotism was not the government we fought for, but one which should not only be founded on free principles, but in which the powers of government would be divided and balanced among several bodies of magistracy, as that no one could transcend their legal limits, without being effectively checked and restrained by the others." [20]

The implication of Jefferson's statement, that the government must be more than founded on liberty, that indeed it must espouse liberty, is of major consequence. For the doctrine, a manifestation of this "espousal of liberty" is the means through which the nation has been spared "tyrannical laws" and allowed to develop a "tranquility of mind."[21] Any breakdown in this balanced system could result in a loss of confidence by the American people, and open the way to a usurpation of their freedom.

John Adams went further than Jefferson in that he espoused not only a separation of governmental powers, but extended the concept to include a separation within the legislative branch:

"But shall the whole power of legislation rest in one assembly? Most of the foregoing reasons apply equally to prove that legislative power ought to be more complex—to which we may add, that if the legislative power is wholly in one assembly, and the executive in another, or in a single person, these two powers will oppose and encroach upon each other, until the contest shall end in war, and the whole power, legislative and executive, be usurped by the strongest." [22]

Adams later went on to assert that the judiciary could not mediate under such a system and that a better balance would be maintained by allowing for encroachments and interactions between the several branches. [23]

James Wilson, philosopher, historian, and politician, was most succinct in his summation of how the proposed government was to operate:

"The independency of each power consists in this, that its proceedings and the motives, views, and principles which produce those proceedings, should be free from the remotest influence, direct or indirect, of either of the other two powers. . . . (Their dependency) consists in that the proceedings of each, when they come forth into action and are ready to affect the whole, are liable to be controlled by one or both of the others. . . . . The important conclusion to be drawn from the premises, which we have established, is, that, in government, the perfection of the whole depends on the balance of the parts, and the balance of the parts consists in the independent exercise of their separate powers, and, when their powers are separately exercised, then in their mutual influence and operation on one another, each part acts and is acted upon, supports and is

Footnotes at end of article.

supported, regulates and is regulated by the rest." [24]

Certainly in theory, Wilson's observations make considerable sense. Their application, as we shall see in the impeachment process, is decidedly more complex.

James Madison had the task of "selling" the Constitution to the Virginia Ratification Convention. As the "informed and influential opinion of the time believed firmly in the principle [the separation of powers]," [25] Madison had to demonstrate that the final draft clearly contained provisions for it. He indicated how the powers, legislative, executive and judicial, were to be divided—each to one of the three independent agencies of government. He stressed that no department ought to control "the appointment, tenure, or emoluments of another," [26] and that "each department ought to have its inviolable sphere of action." [27] He also asserted that the separation of powers could work only if there were some flexibility of "blending" to it.

Madison's expression of the need for blending reaches into a "twighlight zone" of separation. It is obvious that the government could not function with a total separation. But in the course of "blending," what is to insure against encroachments? The Founding Fathers solution is vague at best. It might read something like this: give each branch the incentive, and power to resist the encroachments of the other, and there *will be* no room for abuse. However theoretically foolproof, practically the question still remains: what is to ensure against encroachments?

The final draft of the Constitution contained a number of provisions for "blending." Congress might, for example, in certain cases of vacancy, provide by law for succession to the Presidency. It might create inferior judicial tribunals. It ruled the District of Columbia. The House impeaches, and the Senate tries impeachments. The President shares both the right to make treaties, and the power of appointment with the Senate. The President can convene Congress, has limited veto over Congress, and is charged with the duty of informing Congress of the "State of the Nation." His deputy, the Vice-President, presides over the Senate with a tie-breaking vote. From the very beginning of the government, the intermingling or blending was meant to provide the essential checks and balances which ensured the maintenance of the separation. This blending assured that no power had complete control over its own function, and therefore could not attempt to expand into the domain of another department. The most dramatic example of a built-in safeguard designed to secure a separation, while itself being the result of "blending," is the power of impeachment, for it is here that the legislative branch, acting as the judiciary, can try the President, the Vice-President, or any other civil officer of the United States.[28] In light of the allegations against President Richard M. Nixon and the complexities involved in an impeachment and trial, the future of the doctrine of the separation of powers, the Constitution, and perhaps the Republic as we know it, are at stake.

II. IMPEACHMENT

Article II, Section 4 of the Constitution of the United States reads as follows:

"The President, Vice-President and all Civil Officers of the United States, shall be removed from Office on Impeachment for, and conviction of, Treason, Bribery, or other high Crimes and Misdemeanors."

Despite the extensive and exhausting discussion on the subject, many questions remain as to the scope of the power to impeach conferred on the legislative branch by the Constitution. For instance, does the Constitution allow for the interpretation of Vice-President Gerald Ford, who as a Congressman had this to say in April of 1970:

"What, then, is an impeachable offense? The only honest answer is that an impeachable offense is whatever a majority of the House of Representatives considers it to be at a given moment in history; conviction results from whatever offense or offenses two-thirds of the other body considers to be sufficiently serious to require removal of the accused from office . . . . . there are few fixed principles among the handful of precedents." [29]

It appears to some that this claim to an illimitable power is foreign to American ears just as it is foreign to a Constitution drafted to circumscribe power.[30] Consider the words of James Irdell, mastermind of the North Carolina ratification convention:

"It was, of course, to be considered how to impose restrictions on the legislature . . . (to) guard against the abuse of unlimited power, which was not to be trusted without the most imminent danger, to any man or body of men on earth. We had not been sickened and disgusted for years with the high and almost impious language from Great Britain, of the omnipotent power of the British Parliament, but, had severely smarted under its effects. We . . . . . should have been guilty of . . . . the grossest folly, if in the same moment when we spurned at the insolent despotism of Great Britain, we had established a despotic power ourselves." [31]

For folly it would indeed be if the Framers had, in their quest for liberty, established a despotic legislature. Other issues remain unresolved. Did the founders intend to confer unlimited power to impeach? Do the words "high crimes and misdemeanors" connote punishable by general criminal law? Does the Constitution contemplate that impeachment shall be a criminal proceeding in any sense? Criminal or not, do the words "high crimes and misdemeanors" have ascertainable limits? If they have such limits, is an impeachment and conviction reviewable by the Courts? [32] Certainly impeachment is too important an issue in the Constitutional scheme of things to be left to the politicians. The Records of the Constitutional Convention illuminate the path which led to the impeachment clause, and thus provide for the resolution of these and other issues.

Addressing myself to the first of these questions, the evidence of the Convention suggests that the Framers were not granting an illimitable power for Congress to impeach. Initially, impeachment was to be based upon "malpractice, or neglect of duty." [33] In the Committee on Detail, it became "treason, bribery, or corruption," [34] and was, by the Committee of Eleven, reduced to "treason, or bribery." [35] George Mason of Virginia thought the grounds too limited, and urged the inclusion of "or maladministration." Madison objected on the grounds that "so vague a term will be equivalent to a tenure during the pleasure of the Senate." Following further debate, where there was overwhelming opposition to Mason's proposal, the amendment was withdrawn. Madison then substituted "other high crimes and misdemeanors against the State." [36] Here is conclusive proof that the term "high crimes and misdemeanors" was not meant to be synonymous with "maladministration," and designed to grant the Senate illimitable power in this regard.

Another unanswered question mentioned above is: does the Constitution draw a distinction between "impeachable offenses" and conduct punishable by general criminal law? As there is no federal criminal code concerning impeachment, we are left without standards. One thing is clear—as Jefferson noted, the Founding Fathers did not intend for partisan passions to give rise to political executions through impeachment.[37] Therefore, barring no alternative, one may infer that the Framers intended for the Congress to enact a complete code of impeachable offenses. In the absence of such a code, Congress cannot be assumed to have a right to pass ex post facto laws—in fact, Article I, Section 9 of the Constitution specifically prohibits Congress from passing such laws. Clearly then, in regard to impeachment, the Framers meant to confer a limited power on Congress. (Earlier in the Convention's proceedings, the term "high crimes and misdemeanors" had been rejected in another context because it "had a technical meaning too limited.")

It can also be inferred that impeachment was only for "great crimes," or "great misdemeanors," by Governor Johnston's remarks in the North Carolina Ratification convention: "Impeachment is a mode of trial pointed out for *great* misdemeanors against the republic." The sentiments of Johnston filled with caution, were echoed by such eminent Founding Fathers as James Wilson, Alexander Hamilton, and James Iredell.[38] Perhaps the Founders feared the same abuse of impeachment as British Solicitor General, later Lord Chancellor, Somers, who stated in Parliament in 1691, "The power of Impeachment ought to be, like Goliath's sword, kept in the temple, and not used but on great occasions." Perhaps the most threatening prophecy came from Charles Pinckney who warned that Congress "under the influence of heat and faction," would "throw (the President) out of office." [39] His prediction almost came to fruition, when in 1867, the Congress brought impeachment proceedings against Andrew Johnson in what has been termed "one of the most disgraceful episodes in our history." [40]

Following the Civil War and the assassination of Lincoln, Andrew Johnson, as President, initiated a series of programs designed to bring the country back together, including "rebel suffrage." [41] A hostile Congress, filled with Radical Republicans, passed an "Act regulating the tenure of certain offices," which became law (over the President's veto) on March 2, 1867. One of those offices was that of the then Secretary of War, Edwin Stanton, an outspoken critic of Johnson's reconstruction efforts. After a year of "putting up" with the clearly unconstitutional act, Johnson removed Secretary Stanton from office for subverting Presidential policies. Three days later, the House of Representatives voted 126 to 47 to impeach the President.[42] Ten of the eleven articles of impeachment related to the firing of Stanton. The other was a charge against Johnson's delivering "with a loud voice, certain intemperate, inflammatory and scandalous harangues, and did therein utter loud threats and bitter menaces as well against Congress as the laws of the United States enacted thereby." [43]

Senator Sumner, in impeachment debate, revealed the political motive for prosecution:

"Andrew Johnson is the impersonation of the tyrannical Slave Power. In him it lives again . . . and he gathers about him . . . partisans of slavery, North and South. . . . With the President at their head, they are entrenched in the Executive Mansion. Not to dislodge them is to leave the country a prey to one of the most hateful tyrannies in history." [44]

Johnson's counsel called the impeachment articles passed by the Congress "bills of attainder" and referred to them as "ex post facto laws." A bill of attainder is a legislative act which inflicts punishment without a judicial trial. In front of Parliament, it meant the granting to each member of a "law unto himself." The members of Parliament would pass laws to act upon an impending case. Impeachment without Constitutional justification is indeed such a "bill of attainder." The Johnson trial is not the only impeachment proceeding in American history to wreak of political motives, producing what could be called "ex post facto laws." The impeachment of the insane Judge Pick-

Footnotes at end of article.

ering in 1804 became a "political football." [45] Vice President Gerald Ford described the impeachment of Judge Ritter in 1936 as follows:

"Judge Ritter was a transplanted conservative Colorado Republican appointed to the Federal bench in solidly Democratic Florida by President Coolidge. He was convicted by a coalition of liberal Republicans, new deal Democrats, and Farm-Labor and Progressive Party Senators in what might be called the north-western strategy of that era." [46]

In summary, I have attempted to show that: a) the power to impeach is limited, b) impeachment is neither a criminal process nor void of criminal implications, c) the words "high crimes and misdemeanors" have ascertainable, but as yet legally undefined limits, and, d) the legislative branch has chosen to define no limits and seen fit to make impeachment articles "bills of attainder." In the words of Alexander Hamilton, "Limitations of this kind (specified exceptions to legislative authority) can be preserved in practice no other way than through the medium of courts of justice, whose duty it must be to declare all acts contrary to the manifest tenor of the Constitution (bills of attainder and ex post facto laws), void.[47] Impeachment is a perfect example of what was earlier referred to as the "twilight zone" of the separation of powers. It should be subject to judicial review. Whether or not one accepts the forementioned conclusions about impeachment, the fact that it is to date a vague, undefined provision, makes judicial review both a natural and appropriate recourse.

III. JUDICIAL REVIEW

In the midst of the present confrontation, when a partisan legislative branch confronts an agitated, obstinate executive, and questions of such magnitude as those which have already arisen come forth, judicial review becomes a distinct possibility. The reason for this is that the present confrontation is likely to produce a stalemate over the scope of the Houses' inquiry rights. If the legislative branch is able to indict and convict a President for other than those grounds specifically spelled out in the Constitution, then the legislature will have assumed the power to direct the President, interpret the Constitution, and legislate—clearly an undue concentration of power, a legislative tyranny. Action beyond the limits of impeachment constitutes an arbitrary extension of Constitutionally prescribed powers and subjects that extension to judicial review.

Legal precedent for the review of such an "arbitrary extension of power" stretches from the Constitutional Convention to our own day. John Marshall in the Virginia ratification had this to say:

"To what quarter will you look for infringement on the Constitution if . . . not . . . to the judiciary?" [48]

In *Marbury* v. *Madison*, Chief Justice Marshall had this to say:

"It is emphatically the province and duty of this judicial department to say what the law is." [49]

And in 1951, concurring in *Youngston Sheet and Tool Co.* v. *Sawyer*, Justice Jackson maintained that:

"The judiciary may, as this case proves, have to intervene in determining where authority lies as between the democratic forces in our scheme of government." [50]

The Court has itself left open the issue of judicial review of impeachment, when in *Powell* v. *McCormack*, it called for the reconsideration of the Senate's "sole power to try" impeachments.

At issue in *Powell* v. *McCormack* were Article I, Section 2, which describes the three qualifications which a Representative must meet, and Article I, Section 5, which provides that "Each House shall be the judge of the . . . qualifications of its own members." Congressman Adam Clayton Powell brought suit against Speaker McCormack, having been removed by a vote of the House for having "wrongfully diverted House funds." [51] The thrust of the Court's decision could be paraphrased as follows: The power to "judge" does not permit the Senate to add to Constitutional qualifications. Commenting in the decision, Raoul Berger, author of the book *Impeachment* remarked:

. . . Like the three qualifications of Article I, Section 2 (age, residence, and citizenship) to which exclusion is limited, impeachment, by Article II, Section 4, is confined to three grounds, "treason, bribery, or other high crimes and misdemeanors," which circumscribes the Senate's "sole power to try impeachments." The "sole power to try impeachments" does not enlarge these three grounds. For the "power to try" is limited by the power to "convict," and by the express terms of Article II, Section 4, only "on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors" may the President be removed.

A threshold question whether a misconstruction of "treason," for example, is the equivalent of adding a fourth category, as was "misconduct" in Powell. Let us test the analogy. The Senate may convict for "treason" by Article III, Section 3, "treason is defined as levying war against the United States or giving aid and comfort to its enemies." Suppose that the Senate convicts the President of treason on the ground that he attempted to subvert the Constitution, a favorite formula of Parliament. Whether this is labelled as a "construction" or a "factual determination," it plainly amounts to an attempt to add an omitted category to the Constitutional definition.[52]

Clearly, then, judicial review, the maintenance of the separation of powers, and the enforcement of the Constitution is judiciable.

In light of the possible impeachment proceedings against President Richard M. Nixon, the nation must tread a wary path. Note the words of Alexander Hamilton, who cautioned against "the awful discretion which a court of impeachment must necessarily have, to doom, to honor, or to infamy, the most confidential and the most distinguished character of the community." [53] A judicial review of impeachment, establishing an interpretation of "high crimes and misdemeanors" would be most helpful in securing precedent for any future impeachment proceedings, and make impeachment the equitable safeguard it was meant to be. To clarify confusions resulting from the blending of powers, the Founding Fathers implicitly incorporated, and subsequent judicial decisions have explicitly encouraged, judicial review.

As Montesquieu inferred, "political liberty is contingent on a tranquility of mind, arising from the opinion each person has of his safety." [54] Checking either a legislative or executive "tyranny" will perhaps once again create an environment where "Justice," Domestic tranquility," and the "Blessings of Liberty" can survive and prosper.

In answer to the question of what the separation of powers means, as with other Constitutional questions, scholars have expounded various and conflicting remedies. If these remedies are inadequate, then our understanding of the nation's purpose and objective is inadequate. Whatever the Constitution is or might have been intended, it represents our political origin as a nation. In times of trouble, turmoil, and confusion, and surely that would characterize our society today, we must return to that origin and try to comprehend the meaning of that fountainhead of our political being, if we are to know where we are, what we stand for, and where we are headed.

FOOTNOTES

[1] "The imperial presidency, created by wars abroad, has made a bold bid for power at home. The belief of the Nixon Administration in its own virtue, compounded by its conviction that the republic has been in mortal danger from internal enemies, has produced an unprecedented attempt to transform the presidency of the Constitution into a plebiscitary presidency." Reprinted from Arthur Schlesinger Jr.'s article, "The Runaway Presidency," appearing on page 44 in the September 1973 issue of the *Atlantic Monthly*. (Hereinafter cited as "The Runaway Presidency.")

[2] Alexander Hamilton, John Jay, and James Madison, *The Federalist No. 51*, at 337 (Modern Lib. ed. 1937). (Hereinafter cited as *The Federalist*).

[3] 277 U.S. 189, 205 (cited from *Youngston Sheet & Tube Co.* v. *Sawyer* at 343 U.S. 1951).

[4] David M. Alpern and Richard M. Smith, "All About Impeachment," *Newsweek*, March 25, 1974, pp. 28–35.

[5] At 55, Schlesinger, "The Runaway Presidency."

[5a] Lord Acton, *Essays on Freedom and Power*, 364 (Boston 1948). Cited from Arthur Vanderbilt, *The Doctrine of the Separation of Powers and Its Present-Day Significance*, (Lincoln, 1963), p. 38. (Hereinafter referred to as *The Doctrine of the Separation of Powers*).

[6] *The Doctrine of the Separation of Powers*, p. 38.

[7] *Ibid.*, p. 39 (see note 121). (Polybius maintained that a truly just government could be founded when major political organs represented different classes, and in resulting competition each organ would act as a balance and check against the others).

[8] *Ibid.*, at 40.

[9] John Locke, *Two Treaties of Government*, cited from *The Classical American Doctrine of the Separation of Powers*, by Malcolm Sharpe, University of Chicago Law Review, Vol. 2, 1934–1935 at 388. (Hereinafter cited as *The Classical American Doctrine of The Separation of Powers*).

[10] *Ibid.*, at 389.

[11] *Ibid.*

[12] *Ibid.*

[13] Cited from Montesquieu, *Spirit of the Laws*, 1748 (Paris), appearing in *The Classical American Doctrine of the Separation of Powers* at 390.

[14] *Ibid.*, at 391.

[15] *Ibid.*, at 392.

[16] *Ibid.*

[17] *Ibid.*

[18] *Ibid.*

[19] *Ibid.*, at 396.

[20] *Jefferson's Works* (Ford ed.-Boston 1892) 223–224.

[21] Supra, note 15.

[22] *The Classical American Doctrine of The Separation of Powers*, at 398.

[23] *Ibid.*

[24] *Ibid.*, at 415.

[25] "The speculations of Aristotle, Locke, Montesquieu, Blackstone, Jefferson, and John Adams had done their work. The experience of the colonies, the young states, and the Confederation, and the adoption of state constitutions providing for the separation of powers had helped to make the principle a familiar axiom of government. The informed and influential opinion of the time believed firmly in the principle." Quoted, *Ibid.*, at 407.

[26] *Ibid.*, at 418.

[27] *Ibid.*

[28] The Constitution of the United States, Article 2, Section 4.

[29] 116 Congressional Record, 3133–14, April 15, 1970. Cited from the *New York Times*, March 10, 1974, at 1.

[30] Raoul Berger, *Impeachment for "High Crimes and Misdemeanors,"* from the University of Southern California Law Review, Vol. 44 at 395. (Hereinafter referred to as *Impeachment*).

[31] *Ibid.*, see #2.

[32] *Ibid.*

[33] Max Farrand, The Records of the Federal Convention of 1787 (New Haven, 1913). Cited from Dumbauld, *The Constitution of*

the United States at pp. 214–244 (see notes 109–126) (Norman, 1964).

[34] *Ibid.*

[35] *Ibid.*

[36] *Ibid.*

[37] *Impeachment* at 421.

[38] *Ibid.*, at 428.

[39] *Ibid.*, at 436, see #205.

[40] S. Morrison, *The Oxford History of the American People* 721 (1965), cited from *Impeachment* at 458.

[41] Irving Brant, *Impeachment: Trials & Errors* (New York, 1973). (Hereinafter cited as *Impeachment: Trials & Errors*).

[42] *Ibid.*

[43] *The Proceedings in the Trial of Andrew Johnson* (Washington, 1868).

[44] *Impeachment: Trials & Errors* at 138.

[45] *Ibid.*, at 144.

[46] Supra #29.

[47] The Constitution of the United States, Article I, Section 9.

[48] *Youngston Sheet & Tube Co.* v. *Sawyer*, supra #3.

[49] Mr. Chief Justice Marshall, expressing the opinion of the Court in *Marbury* v. *Madison*. Cited from *Constitutional Rights and Liberties: Cases and Materials* (St. Paul, 1970).

[50] 343 U.S. 1959, supra #48.

[51] *Impeachment* at 444.

[52] *Ibid.*, at 445.

[53] *The Federalist Papers No. 69* at 445.

[54] Supra, #15.

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A SOVIET FAMILY'S WISH TO EMIGRATE TO ISRAEL

Mr. TUNNEY. Mr. President, once again I would like to call attention to the problems of Soviet Jews who wish to emigrate to Israel. The case which I present today represents one of the most anguishing in the history of the Soviet Jews' fight for basic freedom. Isaac, Irma, Elenora, and Victoria Poltinikov have been subjected to persistent harassment by the Soviet Government. Since the Poltinikovs' situation is deteriorating rapidly, I would like to present their full story. Mr. President, I request unanimous consent to have printed in the RECORD a history of the Poltinikov case prepared by the National Conference on Soviet Jewry.

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

THE TWO AND A HALF YEAR STRUGGLE OF A RUSSIAN JEWISH FAMILY TO OBTAIN PERMISSION TO EMIGRATE FROM RUSSIA TO ISRAEL

Colonel Isaak Poltinikov (Soviet Army, retired), now 53 years old, is one of the Soviet Union's foremost ophthalmologists, and, until his retirement in January 1971, he was chief ophthalmologist of the Red Army Medical Corps in Siberia. He had fought through World War II, had been wounded twice, and had received numerous decorations for valor.

For two and a half years now, Dr. Poltinikov and his family have been seeking to obtain permission to emigrate from the Soviet Union to Israel. Dr. Poltinikov applied for permission for himself and his family to migrate to Israel in June of 1972. Victoria Poltinikov, the first member of the family to submit an application for an exit permit, had filed for her permit in October of 1971. Since they first applied for permission to leave, he and the members of his family have been subjected to all kinds of persecution and harassment and humiliation.

Dr. Poltinikov's decision to migrate to Israel was based in part on the economic and social iniquities to which he and his family were subjected as Jews, in part on a growing sense of identification with Israel and the Jewish people.

In 1965, his wife Irma, a prominent cardiologist and diagnostician, had been subjected to such continuous harassment and persecution at the research center where she worked that she finally collapsed with a severe heart attack.

After Dr. Poltinikov's retirement from the army in January 1971, he was appointed Professor of Ophthalmology at the University of Novosibirsk. Before he could assume the position, the appointment was cancelled by higher instruction—he was told it was on the order of the Ministry of Health. It was abundantly clear, even without having it in writing, that the appointment had been cancelled because he was Jewish.

When the director of a Moscow research institute specializing in the development of equipment used in ophthalmology tried to arrange for Dr. Poltinikov's assignment to his center, this effort also fell through.

On the heels of this, the Poltinikov family asked permission to move to Kiev where Mrs. Poltinikov's aged parents resided, so that they could help to look after them. The family was refused permission to come to Kiev with the brutally frank explanation: "You have the right to move here, but we're not going to give you permission because we have enough Jews here without you."

Three days after filing her application, Victoria, then a junior research worker at the Novosibirsk TB research institute, was summarily dismissed from her position after being compelled to attend a meeting at which her fellow workers heaped abuse and vilification on her without letup for five hours.

Dr. Poltinikov's application resulted in the same kind of organized abuse by his fellow workers, in constant shadowing by the secret police, in the censorship and confiscation of his personal mail and the cutting off of his telephone and finally, in November 1972, in the deprivation of his rank of colonel and the cancellation of his military pension—which at that time was the family's sole means of support.

When he first applied for a permit, Dr. Poltinikov was told by the chief of the Novosibirsk Emigration Office, Colonel Gorbunov: "You must understand—you are too valuable a specialist to let you go." When he was turned down with this explanation, Dr. Poltinikov told the authorities in charge of the emigration office that he would from that point on refuse to work as an ophthalmologist because he did not consider himself to be a slave. It was at this point that he was deprived of his rank and pension. Since that time Dr. Poltinikov has received a succession of some nine or ten refusals from the ministry in charge of emigration. In November 1972, the Soviet authorities, perhaps in a moment of weakness, did grant exit permits to Dr. Poltinikov's younger daughter Eleonora, to her husband, and to Mrs. Poltinikov's aged father. But they have so far not budged an inch from their repeated refusals to grant exit permits to Dr. Poltinikov, his wife Irma, and his older daughter Victoria.

Here is a brief chronology of the developments since that time.

December 1972: Three weeks after Eleonora's arrival in Israel, Dr. and Mrs. Poltinikov and Victoria were again refused permission to emigrate to Israel, this time on the grounds that "they had no close relatives in Israel."

On the heels of this, Mrs. Poltinikov and Victoria were arrested in Moscow while attempting to present a petition to the Supreme Soviet. They were originally sentenced to six months of corrective labor, but after widespread publicity and protests in the United States and other countries, the sentence was reduced to 15 days' imprisonment. While they were in prison, Mrs. Poltinikov, whose heart had been weakened by her 1965 attack, suffered a complete collapse, while Victoria's latent tuberculosis again became active.

While his wife and daughter were in prison, Dr. Poltinikov received another turndown from the emigration authorities, this time with the explanation that they could not let him go because he—an ophthalmologist!—had had access to army secrets. By this time the family was penniless, living in a cold and unfurnished apartment—unfurnished, because everything had been sold to stave off starvation.

March 1973: Mrs. Poltinikov's father, who had left the country with Eleonora in November 1972, died at the home of relatives in Switzerland. Prior to his death, the relatives with whom he was staying sent many telegrams to the Emigration Office in Novosibirsk asking that his only daughter Irma (Mrs. Poltinikov) be permitted to visit him. All of these requests were refused by the Soviet authorities.

On receiving news of the grandfather's death, the Poltinikov family went on a hunger strike in Novosibirsk, demanding immediate permission to go to Switzerland for the funeral. When this request was refused, Dr. Poltinikov sent back all of his military awards to the government, with an explanatory telegram informing them that he could not keep awards that were bestowed by murderers. When they learned of the hunger strike by the Poltinikov family in Novosibirsk, Eleonora, who was then in London, embarked on a hunger strike outside the Soviet Embassy, while her husband who was at that time visiting America, embarked on a parallel strike outside the Soviet Embassy in Washington.

After fasting for six days, Mrs. Poltinikov, who was diabetic in addition to having a frail heart, was close to death. When Dr. Poltinikov called for an ambulance, the family was visited instead by a KGB car. KGB officers told them that there would be no medical help for Mrs. Poltinikov unless the entire family abandoned their hunger strike.

In London and Washington, the hunger strikes of Eleonora and her husband brought some tentative results. Senator Jackson made a speech about the plight of the Poltinikov family on the floor of the Senate, and the State Department addressed two official communications to the Soviet government urging that the Poltinikov family be per-

mitted to leave for Israel. There was no answer to either communication.

A few days after the State Department's second communication, the Poltinikov family was handed another in the succession of refusals.

June 1973: The chief of the All-Union Emigration Office, General Verein, told the Poltinikovs that he saw no practical reason for keeping them in the Soviet Union since it was obvious that a physician couldn't possibly have any secrets. "Be quiet for two or three months," he said, "and you'll get out." When they asked the general whether it would not at least be possible to give immediate permission to Victoria, he replied that the Soviet government did not want to give the family still another excuse "to scream about the inhuman separation of parents and children."

The Poltinikov family waited for three months quietly, in accordance with the suggestion of General Verein. At the end of the third month there came another refusal.

September 1973: Victoria Poltinikov was arrested for a second time, in consequence of her participation in a meeting commemorating the terrible massacre of Jews which took place in Babi Yar, a suburb of Kiev, immediately after the Nazi occupation. Her criminal act this time was that she tried to light the commemorative candles that had been placed near the memorial. No charge was placed against Victoria, but she was brought to Moscow by the KGB, stripped and searched twice (a harassment ordinarily inflicted only on those who have been convicted of crimes), and then returned to Novosibirsk by freight train.

October 1973: Victoria was called to the KGB office in Novosibirsk. She was warned that if she did not cease her activities, she might wind up in prison. The KGB hinted to her that she might be permitted to leave if she behaved herself, and by way of reinforcing the hint, they permitted her to file an application for an exit permit separate from that of her family.

One month later Victoria was informed that her application had been refused.

February 1974: The KGB embarked on a series of new harassments against the Poltinikov family. Dr. Poltinikov was invited by summons to come to the KGB office. The letter summoning him wound up with the warning that if he did not come voluntarily, he would be taken by force. He sent a reply to the KGB informing them that he refused to do anything under threats. Then he received an invitation to come to the Emigration Office for the purpose of discussing his latest application. When he came there, he was seized by KGB agents. The examination lasted a few hours. The KGB officers told Dr. Poltinikov that he and his family were guilty of seeking to create an anti-Soviet atmosphere in the West and of distributing slanderous information about the USSR. He was told that if his family didn't stop their agitation, they would be placed on trial for conducting anti-Soviet activities. Dr. Poltinikov replied that his family would abandon their campaign the minute they received permission to leave, but they would not do so if they did not receive permission to leave because what was involved was the elementary human right to leave the country for a country of their choice.

From the KGB office, Dr. Poltinikov was taken to the militia station. The commander of the militia told him that if he and his daughter did not start working within 15 days, they would be tried for parasitism and sentenced to two years in prison. When they attempted to find jobs, however, they discovered that a blanket instruction had been sent to various offices in the city health department that the Poltinikovs were not to be employed in any position.

For the moment, they have been able to get around the threatened charge of parasitism thanks to the initiative of some American friends. Dr. Poltinikov has been taken on as a "consultant" by an ophthalmological institute in Detroit, while Mrs. Poltinikov and Victoria have been appointed consultants to two American clinics. The Soviet authorities were notified of their appointments as consultants by the American institutes involved. The letters of notification also contained requests that they be permitted to leave the Soviet Union. This permission again was not granted—but the proof that they had assured sources of income in return for certain duties they were performing made it legally impossible for the Soviet authorities to charge them with parasitism.

This is where the matter stands today.

POSTSCRIPTS.—Eleonora had a long telephone conversation with her parents on the evening of Wednesday, April 17. The Poltinikovs are being harassed with repeated demands that they visit the KGB and the police. The authorities do not recognize their employment as consultants by American institutions because this makes no contribution to Soviet socialism. They threaten to charge all of them with parasitism—including Mrs. Poltinikov, whose official papers describe her as an invalid! Mrs. Poltinikov, was on the verge of an emotional breakdown, and screamed over the phone that the Soviet authorities were trying to kill them by attrition.

April 25–26: Mrs. Poltinikov suffered third heart attack.

THE SECOND ANNIVERSARY OF CAMEROON'S CONSTITUTION

Mr. HARTKE. Mr. President, today marks the second anniversary of the new Constitution of the United Republic of Cameroon.

The President of Cameroon, Ahmadou Ahidjo, addressing his nation in 1972, said:

> Thus, ladies and gentlemen, history is calling us from the heights and sounding one of those calls that she only rarely addresses to men. Those who are remembered by history are those who have perceived the way it was going and have heeded its call. . . .

Since that memorable address, the United Republic of Cameroon has steadily progressed into a viable force on the African Continent.

It was on this date in 1972 that 6 million inhabitants of Cameroon voted by a record of 98 percent in a nationwide referendum to change from a federal to a unitary system of government having one president, one parliament of 120 members, and one government.

The people of this dynamic and democratic bilingual West African country which became independent in 1960, had passed through several colonial governments to achieve their independence. They were ruled by the Germans from 1884 until 1918, when after the defeat of the Germans by a combined British and French force, the territory fell under the administration of the French and the British for approximately 40 years. In 1960, Cameroon gained her independence. This was followed in October 1961, by the unification of the French-speaking and British-speaking sectors of Cameroon and subsequently a federal system of government was adopted having one federal government with one federal assembly represented by members from both sectors and each sector maintaining its own regional government and assembly.

The referendum, therefore, on May 20, 1972, was to usher in a unitary system of government and to concretize and promote the aspirations of the people for total unity, peace, and economic prosperity under the consistent leadership of President Ahmadou Ahidjo.

This 183,000 square miles of territory within 14 years of achieving independence, has been able to build for itself a strong, progressive, and peaceful nation in spite of the diversity of its peoples and the world economic and social instability.

The people believe strongly in the policy of nonalinement and in the interdependence of nations for peaceful coexistence.

Mr. President, it is with a great deal of pleasure that I offer to the Government and people of the Cameroon congratulations on this day.

A NEW LOOK AT CHINA

Mr. HANSEN. Mr. President, an outstanding Wyoming educator, Dr. Everett Lantz, has just returned from what appears to have been a very enlightening trip to the People's Republic of China.

Upon his return he described his impressions regarding that country's life, culture, and education in a paper entitled "A New Look at China: Prepare for a New World Power."

Observations and insights such as Dr. Lantz' help us to visualize how far this powerful and complex society has developed. The Chinese compare their progress not with the so-called developed nations of the world but with what they had accomplished previously.

At the conclusion of his paper Dr. Lantz makes the important observation that for the first time in many generations, this great mass of humanity is united with a strong sense of national purpose.

Mr. President, I ask unanimous consent that this paper be printed in the RECORD.

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

A NEW LOOK AT CHINA: PREPARE FOR A NEW WORLD POWER

(By Everett D. Lantz)

Traveling in the People's Republic of China is no relaxing vacation. It is a kaleidoscope of impressions offering distorted images—a riddle wrapped in mystery. The Chinese operate on different wavelengths than the traditional western mind. Mine was a western view of a powerful and complex society.

I am not a China expert, but I was there in March, 1974. I looked, listened, and felt something of life, culture, and education in this vibrant land.

China is a sea of people dressed alike (Mao uniforms), highly organized, service oriented, and living at a basic level. A nation of more than 800 million people, who traditionally lived on the brink of dire poverty and fear, has met basic needs for food, shelter, clothing, protection, education, and medical care. All of this has been achieved since the Cultural Revolution started only a quarter century ago.

There can be no serious doubt that China is developing an effective social order, with much of the ancient public anarchy grinding to a halt. There is evidence of a continuing movement toward law and order, improved education, and increased economic productivity. New housing, new industrial

plants, reconstruction in education, and basic staples in marketplaces are impressive sights. The Chinese social system would be oppressive to most Americans, but it is not ours to use or to tolerate.

There is no single summary tip for future travelers to China, but one should be prepared to see a proud people, inclined to be robots, who firmly believe that life for them is better than it was before the Cultural Revolution, and that it will continue to improve. This is an admirable attitude, but it is purchased with a high price of freedom and loss of individualism.

Physical comforts are adequate, but they are not considered important in a culture where society supersedes the individual. The new Cultural Revolution is designed to cleanse the individual of false ideology and to glorify the state. "Carry the Struggle to Criticize Lin Piao and Confucius Through to the End," declares the *Peking Review*, February 8, 1974. Mao Tse-Tung declared that "No political party can possibly lead a great revolutionary movement to victory unless it possesses revolutionary theory and a knowledge of history and has a profound grasp of the practical movement." This well-oiled machine appears to be in tune with Chairman Mao's basic philosophy of promoting a "permanent revolution."

Members of our small party of American educators visiting the People's Republic of China in 1974 were warmly welcomed in each institution by members of a local Revolutionary Committee. Briefing sessions were provided by the chairman or his deputy. Differences between the old and the new were always stressed, usually starting and ending with praise for Chairman Mao's inspiring leadership.

Revolutionary Committees, consisting of 17–25 members, appeared to consist of young and old members coming from the proletariat. Leaders are picked because of their knowledge and loyalty to the party. Cadres, active group leaders, are oriented to grassroot activities, always moving away from bureaucracy. The Cultural Revolution is designed to move back to the people. Leaders must mingle with the people, spending a portion of each year in labor on the farm or factory. Intellectuals must work and participate with laborers in order to feel their concerns. In this way, theory and practice, according to Maoism, will be one. There must be a continuing revolution.

EDUCATION

During the brief stay in the People's Republic of China, I visited nursery schools, kindergartens, primary schools, middle schools (high schools), and universities. I was graciously received by members of each institution's Revolutionary Committee. Briefing sessions were well organized and precisely presented, always accompanied with hot tea and cigarettes. This short treatise on education in China is based on notes taken during briefings and actual observations of students, teachers, staff, facilities, and programs.

Student life appears to be interesting, very different and carefully organized. They consider it an impossibility to expose the majority to higher education. This is one reason the People's Republic of China is building what they call "red and expert" colleges, something similar to "folk high schools" designed for the masses. These institutions provide general cultural and ideological education on a part-time basis. The ideological concept comes from the "Great Leap Forward" Period, 1958-1960, which encouraged the doctrine of "combining education with labor."

A dynamic educational reformation is underway, much has been accomplished but more is promised. Mao's philosophy is the foundation of this movement. Education, according to Mao, must serve proletarian politics. Revolution based on a class struggle is the heart of his teaching. Formal education is designed to perpetuate struggle moving toward progress. This political component, Dialectic Materialism is expected to create and maintain desired attitudes, skills, behavioral patterns and values needed to perpetuate cultural revolution.

Education, according to Mao, also needs to be deeply concerned with productivity. An important task for education then is to enhance the skills, information, and knowledge of each individual in order to bolster the gross national product. Feeding, housing, and clothing people are major goals. Schools are directed to carry their proportion of these demanding societal tasks. Individuals who entertain self-centered rather than societal-centered activities are of no value in new China's scheme for the good life.

Schools are geared to prepare students for production rather than for further studies. Work and school are combined at every level of training. Integration of theory with practice is the basic principle. Students must participate in manual labor so that they may better understand information contained in books. Middle schools are terminal for most of the student population. Only a small fraction of secondary school graduates gain admission to universities. Selection for higher education, if it does occur, comes after a minimum of two years' labor or military service.

Integrating practical work experience with formal schooling to develop work skills along with fostering positive attitudes toward labor is the goal of education. Universities are closely linked with farms and factories in a collaborative relationship, particularly in the area of practical research.

To bridge the gap between intellectuals and workers, students are required to spend considerable time in productive work involving manual labor. This exercise is expected to help students identify with labors. Further, it is expected to stop any tendency to look down upon manual efforts. University professors and all others connected with instruction are required to participate in manual labor. By going to rural areas for productive labor, youth attempting to become educated learn from peasants by identifying with them, thus overcoming many shortcomings of young intellectuals.

Peasants, workers, and soldiers are regarded as vanguards of the Chinese Revolution. Educational programs are expected to be designed and administered to enrich the core of the revolutionary masses—peasants, workers, and soldiers.

Administration, leadership, and control have shifted professionals to the laboring masses. Revolutionary Committees are now in charge of China's schools. New institutions for learning are emerging from Mao's philosophy.

Academic proficiency is not the only criterion for promoting students. Achievement is measured in terms of political commitment, attitude, behavior, and productive capability rather than marks made on examinations. Examinations, when given, are often administered within the framework of actual work performance. There are no failures based on academic achievement. Diplomas or degrees are not awarded upon completion of a program of studies.

Pre-Cultural Revolution teaching methods and materials have been eliminated. In their place, new techniques, methods, and materials have been or are in the process of being developed. Proletarian experiences are always integrated in the new materials. Part-time teachers with work experience on farm or factory may be seen in every school.

A summary of educational practices in the People's Republic of China in 1974 should include the following salient points.

Education is controlled by Revolutionary Committees. Each school has a committee and a "Responsible Person" who is the highest authority.

Their school system is characterized by an emphasis on combining theory and practice, stressing manual labor. Various technical schools, emphasizing different productive occupations, have been created. This concept is further enhanced by spare-time schooling for selected individuals engaged in full-time work assignments and through stressing vocational training at all levels.

Half-time work and half-time study schools provide opportunities for students to participate in higher education activities while taking part in the labor force. These schools hope to solve financial burdens through students' providing needed manual labor for selected communes.

"Red and Expert" schools are responsible for offering both academic and career education. These schools emphasize "red" first and "expert" second. The idea, however, is that one must be both politically correct and productively proficient concurrently.

Working class people and their children are given first preference for educational opportunities. The system is multi-track with abundant opportunities for students to switch tracks. It appears to be a very flexible system that is likely to change at any time.

They oppose the idea of estimating individual ability before attempting to teach and compulsory formal education. Perhaps the most obvious observation is that political ends and educational ends are identical.

GREAT WALL AND MING TOMBS

Friday, March 22, is a landmark in my experiences. This is the day that I first saw the Great Wall of China. It is indeed a record of tremendous effort, ingenuity, and engineering skill.

Climbing this mighty fortification let me relive part of China's Golden Age. This monument to ancient battles, winding through the mountains of northern China, is approximately 1,500 miles long, 23 feet high, 22 feet wide, and was started in about 214 B.C. It truly is one of the "Seven Wonders of the World."

Chairman Mao's terse statement, "He who does not climb the Great Wall to the steep peak is not a true man," holds greater credence for me now. I wish all Americans could have the privilege of seeing this magnificent tower that should be dedicated to fear and greed.

Halfway between Peking and the "Great Wall" may be found the Ming Tombs. Thirteen Ming Dynasty Emperors built their tombs in a mountain valley northwest of Peking. Only one of these tombs is excavated and open to the public. Plans have been made, however, to excavate others.

Near the remains of Emperor Ting Ling, lie those of his two wives with several treasure boxes which were buried with them in accordance with ancient Chinese customs. These Treasures are on display in the Imperial Palace in Peking. The craftsmanship of these treasures is impressive.

MACHIAO AGRICULTURE COMMUNE

The "responsible person" of Machiao Commune located north of Peking said, "I extend my welcome to friends from America." He then gave a brief overview of the institution.

We were told that Machiao was one of ten people's communes in the area, organized in September, 1958; it has a population of 36,300 people, 8,021 families and 299 hectares of land.

Their main crops are rice, cotton, vegetables, fruits, and herbs. Other important production activities are dairy cattle, swine, chickens, ducks, boat construction, steel mill and numerous repair shops.

The leader claimed 15 years of successful operation in this commune. In 1973, they produced 12½ tons of grain per hectare, an increase of 3 times over that of 1957. Also they had a good harvest of other crops and commodities; for example, last year they produced 49,000 pigs.

Although Machiao is a labor-intensive institution, mechanization is encouraged. Land is irrigated with electric pumps. They have 43 riding tractors (something like John Deere and Fordson), 122 walking tractors, cultivators, and they are trying to mechanize rice planting.

Education, medicine, culture, welfare, recreation, and the arts are provided. Services in these areas appear to be important in this commune.

Health facilities and services consist of a small two-story frame hospital at the commune level, seven clinics at the productive brigade level, and bare-foot doctors at the production team level. This arrangement is supplemented by mobile medical teams.

Medical care is provided for an annual fee of 3 yuans, half paid by the patient and the balance paid by the commune. The sick, disabled, and aged people, without support from relatives, receive free medical care, housing, food, clothing, and burial. These are the "five guarantees" promised by the Revolution.

Machiao operates 28 primary and 3 secondary schools. The Revolutionary Committee decides on the location, size, level, and construction of school facilities. It is also responsible for recruiting, employing, compensating, training, and maintaining teachers located within the commune. Teachers are paid a fixed wage and do not share in possible commune profits.

There are 1000 family living quarters in the main unit with an average household income of 900 grams. Family units have small plots for private use. Produce from the private garden is non-marketable and is meant for family consumption.

One day per week is given to political instruction and discussion. There is some public entertainment one evening each week, usually Sunday. The central living area of this commune had a public sound system emitting loud music, frequently interrupted by announcements, prevailing during my entire visit.

Self-reliance is emphasized in each commune. The basis of self-reliance seems to imply a difference in growth and income.

Distribution of profits are based on the principle, "To each according to his work." Work is measured in terms of work points designed to measure strength, skill, and motivation of each worker. Work points are determed each month at a public meeting. Each worker suggests his own work points, and this is accepted or rejected by the group; accumulated points determine an individual's share in profits created by the production team. Those who accumulate more points earn more. Perhaps Chinese Communism has a built-in incentive mechanism.

INDUSTRIALIZATION

New China has developed a vigorous industrial outlook. This drive has permitted them to move toward self-sufficiency and a degree of technological autonomy. The rate of industrial growth appears to be high. A policy based on "agriculture as the foundation and industry as the leading factor" was adopted by the Communist Party.

Industrialization has expanded essentially on two fronts: first, expansion of large, capital-intensive, state-operated modern industrial plants that are largely urban centered; second, expansion of small industries that are labor intensive in production technology and located chiefly in rural areas. The Chinese policy of developing industry on two fronts is known as "walking on two legs."

Industries have been established to serve both economic and social objectives. Some plants, we were told, have been established specifically to provide employment for physically handicapped so that they may live productive and useful lives.

Industrial enterprises are operated by Revolutionary Committees. Politics are in command of all production in the People's Republic of China. They claim that this arrangement permits maximum creativity from both labors and professionals. Members of revolutionary committees invariably point out technological innovations developed by laborers and engineers working together in the post-cultural revolution period—innovations, according to the Chinese, that serve both economic and social ends.

Government in China controls the labor market in that individuals are not free to choose their occupation or their place of residence. Equal pay for equal work and narrowing the urban-rural income gap has moderated the heavy migration to urban centers.

At the Shanghai Thermoelectric Plant, I learned something about their struggle to industrialize. This plant had three large steam boilers and three powerful electric generators. Unit number one, built in Switzerland, was originally believed to be an outright gift from Soviet Government.

After a valiant and successful effort by the Chinese people to install and operate this badly needed electrical equipment, Khrushchev demanded exorbitant payment for a gift. This alleged breach of faith has not fostered friendship between these powerful nations. Peaceful relations between the People's Republic of China and the Soviet Union appear unlikely in the immediate future.

PUTU DISTRICT CHILDREN'S PALACE

Visiting a Chinese Children's Palace, similar to a pioneer palace in the Soviet Union, is an eye opener. Young people, with red kerchiefs identifying them as "Little Red Soldiers," welcomed our party with customary applause. Nowhere have I observed a greeting with warmer feeling. A boy suddenly emerged from the crowd and took my hand. With a slight nudge and smile, he made me understand that here was my guide. We were equal in understanding each other's language, but we certainly communicated. Wang, age 10, and I became friends during my stay at the Putu District Children's Palace.

These are after-school and vacation institutions designed for children 7 to 14 years, operated to develop physical, moral and mental stamina.

Youngsters have opportunities for participation and instruction in many exciting activities. Outdoors there was a popular obstacle course, basketball court, and adequate play space and equipment.

Inside, I saw instruction in violin, both western and Chinese, accordion, piano, harmonia, flute, drawing, painting, sewing, knitting, weaving, dancing, ballet, and gymnastics.

Table tennis is obviously a favorite activity. I saw a large room filled with 25 ping-pong tables and many players. An invitation to bat a few balls was accepted. Fortunately, I stopped before my talent in this game showed through the veneer.

Older boys and girls were assembling electric motors, building model boats, automobiles, and air planes, cutting and styling hair, and receiving first-aid instruction.

These young people treated our party with a fine puppet show and an interesting auditorium program. After the state-puppet show, the girls and boys came into the audience to demonstrate their act and displayed equipment and techniques. They appeared to be happy children and pleased with our applause.

The auditorium session was a song and dance program performed by girls, age 12–13 years. This was a most interesting event that excited approximately 1500 enthusiastic young people and me.

These colorfully costumed young dancers performed the following numbers:

1. Chorus "We Will Be Happy After The Harvest"

2. Solo "If I Am Good I Can Become a Member of The Pioneers"

3. Chorus "The Pretty Apple" Presented by eight pretty girls with very red-painted cheeks, blue blouses, bright red trousers, and deep red scarfs.

4. Chorus "We Cut Cloth To Make Clothing"

5. Chorus "We Miss Our Friends In Taiwan Province"

6. Chorus "Soldiers Are Like Beautiful Flowers"

7. Chorus "The Red Flower Is Flying" Very loud marching music emerged—then dancing girls—a very lively dance.

8. Chorus "Goodbye To American Friends"

I agree with Dr. Urie Bronfenbrenner, noted Child Development specialist, Cornell University, who said, "Chinese kids are getting more from society." The Chinese have solved some of the most destructive problems of American society.

It was time for me to go. Wang, my 10-year old escort, may have been told to take my hand, but I don't believe he was told to pull this six-foot American down so he could give a loving hug. I was deeply touched. The Chinese are doing something with their children that on the surface looks impressive.

CULTURAL ACTIVITIES

Life in new China is impregnated with Mao's thoughts. Propaganda teams have firmly instilled the principle of struggle, criticize, and transform society. Movies, opera and ballet make this point quite clear. I saw their newly released film, "Fiery Years." This is a vivid story about so-called reactionaries, who in 1962 created anti-communist and anti-China currents. In a vain attempt to sabotage the Chinese Navy, "self-styled friends" pushed defective steel on China at high cost instead of the special alloy steel contracted for building China's fighting ships. The plot was discovered by loyal workers and the Navy was saved. The film ends with a dramatic scene of Chinese fighting ships plowing the mighty ocean waves. Thus was carried out Chairman Mao's policy of "maintaining independence and keeping the initiative in our hands and relying on our own efforts."

Another propaganda treat was the "Red Detachment of Women," a modern revolutionary dance. The story told by China's best ballet dancers describes formation and maturing of a revolutionary armed force, the Red Women's Company.

An enslaved peasant girl, Wu Ching-hua, flees from the landlord. She is captured by the oppressive landlord and severly beaten. Regarded as dead, she is left in a grave of cocoanut palms.

Wu is found by a member of the Revolutionary Party and shown the way to the Red Army headquarters. She reaches the base and is welcomed by soldiers and villagers who express deep concern for her well-being. Wu angrily denounces the crimes of the landlord. The army commander approves her plea to join the army.

The ballet ends with the red army liberating the village and killing the landlord, thus encouraging all to wage the continuing revolution.

IDEOLOGY

China's goal is the new Maoist man with Dialectic Materialism paving the way. Their aim is to reduce everything—agriculture, technology, government, housing, love, etc.—to a science. The instrument for this planned utopia is class struggle, a continuing revolution.

An autocratic regime prevails over the People's Republic of China. This is the history of China, but the form has changed. Authoritarianism has been their way of life. Perhaps the most striking feature of Chinese life, before the Revolution, was obedience to filial piety. Only one short step away lurks obedience to the party and to the society.

Perpetuating change is serious business that must be approached with complete dedication. According to Chairman Mao, "A

revolution is not a dinner party. . . . A revolution is an insurrection, an act of violence by which one class overthrows another."

The Revolution has fostered integration of theoretical knowledge with practical experience. Education, therefore, is designed to train successors to the cause of the proletariat. To create a working class of intellectuals is the intent. Another important task for education is criticism of "revisionism." But, how does a prudent Chinese distinguish a revisionist from a revolutionist? to a science. The instrument for this planned This is determined in China by "whether or not the person is willing and able to integrate with peasants and workers."

A continued effort must be made to improve society. Society must strive to root out sin by exposing and educating. Evil cannot be dispelled, however, unless the truth is known. New China's leaders believe they have the truth. "If you know the truth, it will make you free." One who has the truth cannot permit compromise because compromise is an error. Mao teaches that he is certain of the truth.

Members of the Chinese Communist Party have been given the truth. They now have the responsibility of spreading the truth. The "new trinity" in China is Marx, Lenin, and Mao. Loyal citizens must foster a program of continuing education that spreads Mao's truth—an educational plan that stresses the new idea by pointing out errors and by removing, through recanting, all false doctrine.

Why the present turmoil, "cultural revolution," in the People's Republic of China? By criticizing Lin Piao through repudiating Confucianism, the Chinese plan to strengthen the party will in turn increase economic production.

Criticism of Confucius is an important part in criticizing Lin Piao's alleged revisionism. Confucius' teaching, "revive states that have been extinguished, restore families whose lines of succession have been broken, and call to office those who have retired to obscurity," is employed in relation to Lin Piao's alleged attempt to "liberate politically." Lin Piao's statements that tend to support Confucius' filial philosophy is considered to be a serious sin against society.

When a new truth is discovered, it is announced through bright red banners, loudspeakers, the Peking Review, Hsinhua, the Revisionist, other publications, and mass rallies. The people are given the truth as revealed by the Central Committee of the Communist Party in China.

IMPRESSIONS

China, over 800 million people, is on the move. Their living standards and general economy have reached only a basic level. Others should be aware, however, of a glowing promise. The man on the street is not comparing his progress with so-called developed nations. He compares his circumstances with what he had before. Many Chinese believe they have a good life, and that there is hope of doing better. This is substantiated by the fact that stores in the places I visited, were amply filled with vegetables, fruits, fish, meat, poultry, canned foods, clothing, household goods, bicycles, watches, and radios. I did not see toys or the usual luxury items for sale.

An important observation is the fact that for the first time in many generations, this great mass is united. New China has a strong sense of national purpose. This is a powerful and important force in a world where oceans, mountains, great walls, and armies do guarantee peace or freedom.

DISTRICT OF COLUMBIA RECONSTRUCTION AND CLEANUP

Mr. HUMPHREY. Mr. President, the problem of rebuilding and cleaning up the city of Washington, D.C., is one of continuing concern. I have written to the chairman of the District of Columbia Subcommittee of the Senate Appropriations Committee, Senator BAYH, about the priorities and needs of the city as I see them for the coming fiscal year, and requesting that a statement of my views be considered during the present hearings before that subcommittee.

Mr. President, I ask unanimous consent that my statement submitted to the subcommittee be printed in the RECORD.

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

STATEMENT BY SENATOR HUBERT H. HUMPHREY

Mr. Chairman, I would like to call the attention of the Subcommittee to the deplorable conditions of the streets and vacant lots in Washington, D.C., and to the continued failure to take the necessary initiatives to rebuild the areas of the city damaged or destroyed in the civil disturbances of 1968.

Many streets and vacant lots in this city at present are covered with trash, refuse and broken glass. The streets give every indication that no sustained effort is made to prevent people from randomly disposing of their trash or to clean up this litter. It is difficult to conceive that in Washington, D.C., a large city of great importance, we cannot take the necessary measures against offenders or institute sufficiently systematic street-cleaning to reduce the present levels of litter. The vacant lots in the city seem to have become unauthorized trash depots. This is another area where significant preventive and corrective action should be taken immediately, in order that we can restore the cleanliness at once of large portions of the commercial and residential sectors of the city.

Many of the city's streets, in addition to being littered, are almost impassable due to potholes. Even main roads are often badly pitted. Such conditions are not only annoying to those whose cars are mildly damaged; they are a hazard which could easily cause accidents. Such a situation requires immediate remedy.

I was encouraged by the recent Committee report on the Fiscal 1974 Supplemental Appropriations bill (H.R. 14013), where the Committee has instructed the Director of the Department of Environmental Services, of the Government of the District of Columbia, to prepare a plan which would begin to turn this city around on these elements of basic cleanliness, and prepare for action for a clean-up campaign.

At my request, I have received information from the Department of Environmental Services that they are in the process of drafting such a proposal and that they hope to take aggressive action against this growing blight. I understand that they will be expanding considerably on their street-cleaning operations, and that they are considering adopting a practice which has been standard fare in other large cities in this country for years—the device of forbidding parking on alternate sides of the streets on specified nights in order to give street-cleaners the opportunity to do their work.

I understand that some residents in the past have objected to the implementation of such a procedure. However, I believe most people do prefer cleanliness, in the interest of promoting the general welfare of the city.

I understand further that there will be an expansion of trash gathering services. This will presumably include the more widespread placement of receptacles for trash, and more regular collections at residents. It is deplorable that there are buildings in the cities where the trash is only rarely collected, where it just fills up the basements or the back yards.

With respect to the vacant lots, there will have to be a truly massive effort to clean up and patrol the tens of thousands of lots in the cities which have been obliterated with refuse. I understand that additional efforts will be undertaken both to patrol and clean these areas. However, I believe there should also be stringent enforcement procedures and regulations to discourage further littering.

If all of this effort is coordinated with a public education program, as planned, I have some hope that the city may begin to look more like a Nation's Capital in the foreseeable future. I would urge that at such time as the Department issues a final report, this Subcommittee examine the proposals thoroughly to determine if they are sufficiently rigorous, and then provide for the funding required to carry out these plans.

It seems shameful that the capital of such a great Nation as ours should be left derelict. Not only have we been unable to maintain basic cleanliness on our streets, but we have been unable to restore areas damaged by civil disturbances which are now more than a full six years behind us. With the 200th anniversary of our Nation fast approaching, it now appears that none of the projects, presently under consideration, for economically and physically restoring devatated areas of the city can realistically be completed by 1976. The present Administration indicated that the restoration of the capital city was a serious priority in 1968. One shudders to think what might have happened had they thought it of little importance. Things are now largely as they were six years ago. Little financial investment has been made in restoration. Little social effort has been made to organize, inspire and coordinate the vast human resources of the city for revitalization. There have been several paper plans, but no Presidential promotion of the pragmatic efforts needed to get the city moving again. The promises of 1969 have been forgotten.

The problems of cleanliness and reconstruction in Washington are not independent. The failure in both has resulted from a failure of executive leadership. Hopefully the newly-won self-rule for the city will enable the city's own leaders to begin taking the initiatives on this issue. But there will still be the need for generous support by Congress and the White House. I have no doubt that this Subcommittee will do everything possible to assist and spur action in the city.

HEARINGS ON NATIONAL HEALTH INSURANCE

Mr. RIBICOFF. Mr. President, on May 21, the Senate Finance Committee will commence hearings on national health insurance.

In designing a workable piece of legislation to assure high quality health care at a price people can afford, we must ask ourselves a number of questions.

First, what is the scope of the problem?

Second, what is the capability of the Federal Government to solve that problem?

And third, what are the taxpayers willing and able to afford?

Recently a number of Connecticut newspapers have editorialized on this important issue.

I ask unanimous consent that these editorials be printed in the RECORD.

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

[From the New Haven Register, May 7, 1974]

MIDDLE GROUND HEALTH PROPOSAL

The Ribicoff-Long bill deserves consideration as a compromise measure that could emerge as the best of the three proposals for national health insurance. The Ribicoff-Long plan seems to provide adequate protection against the dominant cause of concern, catastrophic illness. It would retain the machinery of the private insurance industry, with its competitive efficiencies, and avert the need to build a new, costly, cumbersome federal bureaucracy.

The Nixon Administration bill would continue private insurance companies as agents for administering a program that would cover more ground than the Ribicoff-Long plan. The latter concentrates on better protection against catastrophic illness or accident and the need to provide sound health insurance to low-income groups.

The Kennedy bill puts the entire burden on national health coverage—administration, underwriting and regulation—on the federal government. In opposing this approach, Ribicoff declares:

"We simply do not have the administrative capacity to administer and pay claims for over 200 million Americans, deal with 7,000 hospitals, over 320,000 doctors and countless other segments of the health industry."

The Connecticut senator would give the private insurance companies three years to design a model system for assuring coverage at reasonable rates. If the insurance companies can do the job, they should be allowed to do so.

A strong point of the Ribicoff-Long bill is that it addresses itself to the area of real need. It would keep the government from getting into an area where it shouldn't be—and this could save taxpayers billions of dollars every year. The estimated cost of the Long-Ribicoff bill is $8.8 billion, the Nixon and Kennedy-Mills bills reportedly would cost between $30 and $40 billion in either private insurance premiums or new taxes.

There is no need for the government to extend its health protection function to areas that are taken care of. Today, for half the employes covered under group health insurance, the employer pays 100 per cent of the premiums. For an additional quarter, the employer pays at least 75 per cent of the premiums. Employers overall pay approximately 80 per cent of the total premiums paid for all plans; employes contribute 20 per cent. Why shift these costs to the taxpayers?

Today, most Americans have private health insurance of one form or another. Eighty-four per cent of those with incomes between $7,000 and $9,000 have insurance. And 90 per cent of those with incomes over $10,000 have insurance.

A major problem to be dealt with by national health insurance is that of catastrophic costs. Most Americans do not have insurance to cover the castastrophic costs that can bankrupt almost any family quickly. The government has a legitimate role in making sure that everyone in America has protection against these financial disasters. This is the special objective of the Ribicoff-Long bill. The second part of the problem, insurance for the poor, also is dealt with by the bill.

The Ribicoff-Long proposal could well be the alternative legislation that can get the country moving on national health insurance.

[From the Bridgeport Telegram, May 1, 1974]

HEALTH COVERAGE

Seeking to find the much needed middle ground in one vital area of national health insurance, Senator Abraham Ribicoff has proposed that private insurance companies be allowed three years to design a model system for assuring coverage at reasonable rates.

Mr. Ribicoff and Senator Russell Long are co-sponsors of a health care bill which is considered one of the best proposals put forth. The two other major bills have been developed by Senator Edward M. Kennedy and Representative Wilbur Mills and by the Nixon Administration.

The Kennedy-Mills plan places the entire burden of national health coverage on the federal government.

The plan of President Richard M. Nixon specifies that the coverage be written by private carriers.

Mr. Ribicoff recognizes the potential for problems if the federal government undertakes this mammoth job. At the same time he wants assurance that the insurance companies are capable of meeting the challenge.

Naturally, it would be far better to have the insurance industry involved. There must, however, be strict rules regarding this participation and every effort made to keep premiums to an absolute minimum.

It is clear that the fundamental question of offering national health insurance has been decided. The debate now concerns financing and the form it should take.

The Ribicoff-Long measure would impose the least immediate pressure on taxpayers, about $8.9 billion. The cost of the other plans range between $30 billion and $40 billion.

The overriding need, we feel, is to provide coverage, at reasonable cost, to prevent a family from being wiped out financially because of illness. While the Ribicoff-Long bill is less ambitious in scope than Kennedy-Mills it strikes at the priority need. We would like to see Congress move in this direction.

[From the London Day, Apr. 30, 1974]

TOWARD REALISTIC HEALTH PROTECTION

(By William L. Safire)

The need for common sense health protection capable of meeting the cost of catastrophic illness, in-depth care for the poor and all-round basic coverage for everybody has been recognized for many years. No plan has mustered wide support in Congress for a variety of reasons, ranging from the cry of "socialized medicine" to the contention that less than a comprehensive plan would be worse than no plan at all. Now a realistic compromise appears in the offing which could bring about solid legislation this session of Congress.

Three basic plans have been offered. The Nixon administration proposal calls for federal payment to insurance companies to provide comprehensive coverage. A bill introduced by Sen. Edward M. Kennedy and Rep. Wilbur D. Mills would provide that the federal government itself handle the entire burden of national health coverage—administration, underwriting and regulation.

The third measure, which is a good compromise, is sponsored by Sen. Abe Ribicoff of Connecticut and Sen. Russell B. Long of Louisiana. It would give the insurance companies three years to set up a model system for assuring coverage at a reasonable rate. This is especially important to Connecticut, inasmuch as insurance companies headquartered here already underwrite 30 per cent of the nation's private commercial health insurance. They have an idea of the scope of the problem and they know how to administer programs.

The key to the compromise and the strength of the Ribicoff-Long proposal rests in the fact that 170 million Americans already have health insurance. What the public needs is protection for those hit by catastrophic illness which can wipe out savings in a few weeks' time. We also must find a way to provide basic coverage for the poor, too many of them now actually don't get timely treatment. These are the situations any national health insurance plan must concentrate on; they are the situations the Ribicoff-Long bill would relieve.

In testimony before the House Ways and Means Committee last Thursday, Ribicoff pointed out that there is a middle ground and that it should rely on the expertise and capability of the insurance industry.

Certainly there is no need to duplicate the private systems which now cover 134 million Americans. But there is a crying need for the kind of protection which only the national government could sponsor through the private insurance companies—catastrophic situations and care for the poor, both of which can be provided by very low cost if the burden is assumed by the feds.

Senators Ribicoff and Long appear to have a reasonable plan which will meet needs recognized for many years but still avoid creating a bureaucratic and costly monster.

[From the New Britain Herald, Apr. 29, 1974]

THREE-YEAR TEST

Smart politicians know it is best to put off a decision when it doesn't really have to be made. Shrewd lawmakers recognize when the time is not ripe for a far-reaching legislative commitment. Senator Abraham Ribicoff's mastery of these factors underlie the genius of his proposed compromise in the field of national health insurance.

As the Senator has said himself, a consensus is beginning to build on what such insurance should consist of (and to a lesser degree on costs) among sponsors of the three major health bills Congress is considering—the Kennedy-Mills bill, the Nixon Administration bill, and the Long-Ribicoff bill. The major difference between the administration bill and the Kennedy-Mills bill is over how to pay for the program.

The Kennedy-Mills bill puts the entire burden of national health coverage on the federal government, while the administration bill requires that private insurance companies underwrite the essential coverage. Senator Ribicoff proposes that private insurance companies be given three years to design a model system for assuring coverage at reasonable rates. If they can "do the job of providing basic coverage, they should be allowed to do so," says the former Health, Education, and Welfare Secretary. "If they cannot, an alternative will surely be devised."

Drawing on the past history of the Medicare program and on his own executive experience in the area, Senator Ribicoff carries a lot of weight when he warns the House Ways and Means Committee: "Imposing a giant new federal program would only disillusion many by promising more than it can deliver. We simply do not have the administrative capacity to administer and pay claims for over 200 million Americans. In other words the tent is not big enough yet to accommodate the whole camel, just the nose.

The Ribicoff approach seems to provide a solid middle ground between a federalized health care delivery system which should only be a last resort, and mandatory private coverage with all its inequities and loopholes. We commend the proposed trial period to all congressmen who want to see a health insurance bill passed this year.

CHILDREN OF SOUTH VIETNAM TARGETS OF POLITICAL TERRORISM

Mr. TUNNEY. Mr. President, on the occasion of the Nation's mourning for the 16 children killed in a senseless massacre at Maalot, Israel, I would like to take this opportunity to deplore the fact that the children of South Vietnam are also the targets of political terrorism.

On March 9, 1974, units of the army of North Vietnam shelled the yard of an elementary schoolhouse in the province

of Cai Lay. Twenty-three children died and 40 others were injured.

Only a few days before the Maalot incident, the Songphu Community Primary School in Vinh Long Province was shelled while the children were at recess. Five children died instantly. Three others died later at the hospital. At this time, nine children remain in serious condition.

Mr. President, there is simply no excuse for the dreadful use of innocent children as pawns in political disputes. It is my most sincere hope that the tragedy in Israel will not hinder successful conclusion of disengagement negotiations and that the Cai Lay and Vinh Long Province attacks will no longer be allowed to delay progress in the Paris negotiations between the parties in South Vietnam.

PRESIDENTIAL RESIGNATION

Mr. PEARSON. Mr. President, last week Mr. Alf M. Landon issued a statement on the question of Presidential resignation which I thought was extremely well done. Mr. Landon strongly states the case against resignation at this time and argues effectively that this whole matter can only be satisfactorily resolved through the constitutional provisions of impeachment which bring all relevant evidence to bear and provides the President the hearing that our democratic processes require.

Mr. President, I ask unanimous consent that this statement by Mr. Landon be printed in the RECORD.

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

STATEMENT OF ALF M. LANDON

There has not been a time like this in all history. Within the last 90 days there have been changes of government in England, France, Germany, Israel, Portugal, Canada and Iceland.

In the great United States of America—the keystone of popular government in the world—impeachment proceedings have started against the President. This is only the second time in our history that such action has been taken.

There is a simultaneous widespread call for Mr. Nixon's resignation. This smacks too much of those embarrassing moments in America's history when, as in the cases of Aaron Burr and Andrew Johnson, the pressure of public opinion was excessively whipped up against a Vice President and a President of the United States.

Therefore, I believe the best way to settle all the questions involved in President Nixon's official conduct in this critical sordid Watergate matter, and to the complete satisfaction of the American public, is by the thorough house-cleaning that the congressional impeachment proceedings can furnish.

The alternative—the President's resignation—does not resolve the many ambiguities that exist in the published tapes and the Senate Investigating Committee's record. Resignation sweeps under the rug too many unanswered questions. Impeachment by the Congress that follows the constitutional provisions is the best way for our country. That alone gives the President his day in court, accorded to him under the American way that every accused person must be proven guilty beyond a reasonable doubt.

Any other course destroys a fundamental principle of democratic processes of infinitely greater importance. In other words, how the trial of a president in office is conducted will leave a legacy affecting the citizenry that will long outlive present concerns.

THE WORLD AWAITS THE U.S. CROP

Mr. HUMPHREY. Mr. President, the May 19 issue of the New York Times included an important article, "American Grain Crop: A Life or Death Matter."

The article quotes Lester Brown of the Overseas Development Council, as indicating that at least 80 percent of the world's severe malnutrition is located in two areas: the Indian subcontinent and parts of Africa, and in particular the Sahel.

It is clear that not only the level of production in the United States is of critical importance, but also the degree of response. Secretary Butz feels that additional food can probably be provided for the needy, but thus far no positive steps have been taken by the Department of Agriculture in that direction.

This may well be a critical harvest for the entire world, and it may be up to Secretary Kissinger to see that the administration takes early steps to meet these humanitarian requirements.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

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

AMERICAN GRAIN CROP: A LIFE OR DEATH MATTER

(By Edwin L. Dale, Jr.)

WASHINGTON.—Farmers in the American Southwest last week had already begun the harvest of what will almost surely be a record crop of winter wheat by the time the combines finish in North Dakota. In the Midwest, farmers were planting a massive acreage of corn and soybeans.

A growing number of statesmen, international economists and Washington diplomatic officials have their eyes on what is happening in Oklahoma and Iowa. It is something new for them.

One important reason for their interest was illustrated last week by the latest, and perhaps direst, account of the creeping problem of world malnutrition, if not starvation. Henry R. Labouisse, executive director of the United Nations Children's Fund told his board of directors that between 400 million and 500 million children in the world will suffer from severe malnutrition.

One way or another, the success this year of the American farmers could well determine whether the problem cited by Mr. Labouisse gets worse or better. Troubling as it may be in some ways to the Administration and others, the United States is more than ever the "breadbasket of the world." But, where once America had food surpluses to give away to the starving, now there are none. What will be available for Europe and Japan, who can pay, as well as to the hungry of India and Mali, who probably can't, must come from what the fields produce this year.

A starting point in examining the problem must be those undernourished children. Where are they?

Lester R. Brown, of the Overseas Development Council in Washington, says that "at least 80 per cent and perhaps more" of the world's severe malnutrition, which includes adults, is in two geographical areas:

The Indian subcontinent, which includes about 750 million people in India, Pakistan and Bangladesh, not all of whom, of course, are malnourished.

Sub-Sahara Africa, particularly the Sahel countries of West Africa plus Ethiopia, where the problem has been severe and prolonged by drought.

In addition, according to Mr. Brown and others, there are pockets of serious malnutrition in less developed countries that have a record of general economic progress. Examples are in the northeastern part of Brazil and among the landless laborers of Mexico.

What, then, should the United States do and what is the United States likely to do about the problem?

The first step taken was the decision in early 1973 by the Nixon Administration to cease holding farm acreage out of production. The decision came as surpluses disappeared under a deluge of export demand, partly caused by big sales of wheat to the Soviet Union, and as prices began their steep rise in late 1972. It is this decision that, with any luck from the weather, will bring record crops in 1974. In the case of wheat, for example, the crop is now officially projected at slightly more than 2.1 million bushels, up 24 per cent from last year's record crop of 1.7 million bushels.

THE PROBLEM OF PAYMENT

But a more agonizing decision lies ahead. Countries in which much of the malnutrition exists are extremely poor in foreign exchange, often because of the explosion in oil prices. If they decide they simply must buy more food, can they pay for it?

If they cannot, they can request help from the United States through the 20-year-old Food Aid Program, which began as a way of getting rid of surpluses. With the surpluses gone, the program now operates on the modest scale of $1-billion a year, which can finance only a fraction of the nation's record agricultural exports. But if India, for example, is granted a huge request for help, the net effect will be to increase the total demand in the United States market. This, in turn, could start domestic food prices soaring all over again.

Although it is only beginning to be reflected in the grocery stores, prices of the main farm crops have dropped in anticipation of the enormous crops. Wheat, for example, which topped $5 a bushel last winter, was below $3.50 last week.

Secretary of Agriculture Earl L. Butz says that the difficult choice could arise, but he believes that this year's crops are likely to be so large that additional food aid can be given without undue pressure on prices. The evidence supports Mr. Butz to some degree. For example, the latest crop report indicates that Kansas alone this year will produce as much wheat as Australia.

But Mr. Butz also said in a recent interview: "Food tugs at your heartstrings. I am positive that our body politic is not going to permit starvation any place on earth, no matter what people may think about other aspects of foreign aid."

But even he, a relative optimist on what America can do, concedes two points: The problem is going to get worse unless the world population explosion is brought under control; the United States cannot do the whole job of feeding the hungry. Other affluent nations, not only food exporters, must help, with grain or money.

That may include, ironically, the Soviet Union, which may again be building stocks after the disastrous 1972 harvest. The United States has welcomed a contribution of $50-million by Saudi Arabia, a grain importer, to the relatively modest world food program of the United Nations Food and Agriculture Organization.

The worsening food situation is particularly depressing in light of the high hopes frequently expressed a few years ago that the "green revolution" and its much higher yields of wheat and rice would end famine. India, for example, was confident of self-

sufficiency. The Green Revolution still helps, but it has encountered its own problems, among them the world fertilizer shortage.

In any case, it is probable that the United States will be called upon this year for more food aid, and one of those pressing for the aid will be Secretary of State Kissinger. Even he, supposedly a man who doesn't care much for economics, has begun, according to good authority, to read crop reports.

REPEAL OF PERCENTAGE DEPLETION ALLOWANCE

Mr. RIBICOFF. Mr. President, I am pleased to note the growing support for the repeal of the oil depletion allowance. Clearly, the time has come to eliminate this wasteful and inefficient subsidy to the oil companies and to require these companies to pay their fair share of taxes.

On May 14, Senators MAGNUSON, JACKSON, and I introduced amendment 1326 to H.R. 8217 which would repeal the oil depletion subsidy effective January 1, 1974.

Since that time a number of Senators have joined with us in our effort. They are Senators HUMPHREY, KENNEDY, MONDALE, BAYH, CLARK, HART, MUSKIE, METZENBAUM, PASTORE, and CASE.

I know that many of these Senators have offered a comprehensive package of reforms in the Senate which will be brought up as amendments to H.R. 8217.

I am supportive of much of their work.

The Kennedy-Mondale tax cut proposal is, in my judgment, a measure which is urgently needed not only to provide a needed fiscal boost to the economy, but to help the beleaguered taxpayers of this country in their never-ending battle with inflation.

I also fully support the efforts of Senators HUMPHREY, BAYH, CLARK, HART, KENNEDY, MONDALE, MUSKIE, and METZENBAUM to strengthen the minimum tax and to repeal the Domestic International Sales Corporation—DISC—system of tax incentives for exports.

While it is difficult to assess priorities in tax reform, it is clear that one of the most important steps needed to restore equity in our tax system is repeal of the oil depletion allowance. Senator HUMPHREY has taken a leading role in the effort to remove this glaring tax loophole from the lawbooks and I am sure that with his support we can begin to restore equity to our tax system.

I ask unanimous consent that the cosponsors of the Ribicoff-Magnuson amendment to the oil depletion allowance be printed in the RECORD:

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

COSPONSORING SENATORS

Mr. Ribicoff, Mr. Magnuson, Mr. Jackson, Mr. Humphrey, Mr. Bayh, Mr. Clark, Mr. Hart, Mr. Kennedy, Mr. Mondale, Mr. Muskie, Mr. Metzenbaum, Mr. Pastore, and Mr. Case.

HISTORICAL PROCEDURES AND PRECEDENTS OF SENATE IMPEACHMENT TRIALS

Mr. TUNNEY. Mr. President, John H. Averill, an outstanding journalist for the Los Angeles Times, has written a carefully researched article on the historical procedures and precedents of Senate impeachment trials.

While no one can predict with certaintly the result of the present impeachment inquiry in the House of Representatives, I believe my colleagues will find Mr. Averill's article of great interest.

I ask unanimous consent that the article be printed in the RECORD.

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

HOW TO IMPEACH? HAZY GUIDANCE FROM THE PAST: CONGRESS SEARCHES FOR PROCEEDINGS OF 1868

(By John H. Averill)

WASHINGTON.—Precisely at 1 p.m., the chief justice of the United States took over the unfamiliar chair of the president of the Senate with this declaration:

"Senators, I attend the Senate in obedience to your notice for the purpose of joining with you in forming a court of impeachment for the trial of the President of the United States and I am now ready to take the oath."

Those were the words of Salmon P. Chase on March 5, 1868, as he began presiding, as prescribed by the Constitution, over the nation's only presidential impeachment trial.

Chase presided over the Senate for 41 days in the months of March, April and May as a committee of seven House members sought to convict President Andrew Johnson of 11 charges of "high crimes and misdemeanors."

After seven days of procedural wrangling and 34 days of actual trial, the House committee failed by one vote to muster the two-thirds Senate majority needed for conviction and Johnson was acquitted.

Today, with another presidential impeachment looming, the records of the Johnson trial are in demand as members of Congress grope for guidelines.

However, the Johnson trial leaves much uncharted as an impeachment road map for 1974.

Indeed, the impeachment process has been employed so rarely—there have been only 12 Senate trials, the most recent in 1936—that the guidelines that exist are frequently ambiguous and sometimes wrong, in the view of legal authorities.

Yet, it was the Johnson trial in 1868 that produced most of the ground rules on which the Senate relies for the mechanics of an impeachment trial.

Among these is the oath to which Chief Justice Chase referred when he first took over the Senate gavel in the Johnson trial.

With Samuel Nelson, senior associate justice of the Supreme Court administering the oath, Chase gave this vow:

"I do solemnly swear that in all things appertaining to the trial of impeachment of Andrew Johnson, President of the United States, I will do impartial justice according to the Constitution and the laws: So help me God."

Then one by one, in further accordance with the newly adopted Senate rules. Chase administered the same oath to each member of the Senate, who would sit as jurors in the presidential trial.

Again, as stipulated by the rules, the Senate's sergeant-at-arms at the time, George T. Brown, delivered this somber admonition at the opening of each trial session:

"Hear ye! Hear ye! Hear ye! All persons are commanded to keep silence, on pain of imprisonment, while the House of Representatives is exhibiting to the Senate of the United States articles of impeachment against Andrew Johnson, President of the United States."

The same words, except for the name and title of the person being impeached, exist today in the second of the Senate's 26 rules governing an impeachment trial.

These 26 rules cover 11 pages of the 924-page "Senate manual—containing the standing rules, orders, laws and resolutions affecting the business of the United States Senate."

As a further guide to a presidential impeachment, the Senate has a three-volume, 1,640-page set of the transcript, memoranda and other details of the Andrew Johnson trial.

In contrast, the House of Representatives has few formal rules governing its role in the impeachment process. The House relies on precedents established by the English Parliament, on which the U.S. impeachment procedure is based, and by Congress itself in past impeachments. These precedents, which have not been officially updated since 1907, take up 727 pages of volume 3 of "Hinds" Precedents of the House of Representatives."

In writing the Constitution in 1787, the Founding Fathers borrowed from the British system, under which the House of Commons, acting as the "grand inquest of the nation," initiated and prosecuted impeachments, while the House of Lords tried the cases in the dual roles of jurors and judges.

Thus the Constitution vests the House with "the sole power of impeachment" and the Senate with "the sole power to try all impeachments."

Unlike the British practice, which in the past permitted Parliament to impeach anyone, including private citizens, and impose penalties up to death, Congress may impeach only "civil officers of the United States." And the penalty shall not exceed removal from office and disqualification to hold any federal office in the future.

Since the Constitution went into effect in 1789, the House has undertaken many impeachment inquiries, such as the abortive one in 1970 against Supreme Court Justice William O. Douglas.

But the House has impeached only 13 federal officials—one President, one Cabinet officer, one senator and 10 judges. Of these, all but one resulted in Senate trials. The exception was Mark H. Delahay, a federal judge who resigned in 1873 after the House voted to impeach him but before the charges or articles of impeachment were prepared. The case was then dropped.

Of the 12 impeachments that went to trial in the Senate, two cases were dismissed, six resulted in acquittal and four, all involving judges, ended in conviction.

Impeachment is not equivalent to removal from office. Impeachment by the House is a first step and is equivalent to a formal accusation or an indictment. Removal requires conviction by a two-thirds majority vote in the Senate.

However, an impeachment is comparable to a court proceeding in only a very general way.

This is because an impeachment is essentially a political action. Since the Constitution does not spell out details of how an impeachment should be conducted, the ground rules are whatever a simple majority in the House or Senate wants them to be. They can even be changed in the course of an impeachment trial, as happened at times during the Johnson trial.

In contrast, court proceedings are bound by rigid rules of evidence and by centuries of binding precedents. Furthermore, a conviction in any court can be appealed to a higher court. There is no appeal from an impeachment conviction.

With the chief justice presiding in a presidential trial, he would try to make the proceedings conform as closely as possible to a courtroom pattern.

Yet, as Chief Justice Chase learned in 1868, the Senate is supreme and he was overruled several times on the admissibility of evidence. On one occasion, after he agreed to permit testimony by key witnesses called by the President's lawyers and the Senate re-

versed him, Chase complained bitterly in a letter to a friend.

Describing himself as "greatly disappointed and pained" by the Senate action, Chase said "the vote, I fear, indicated a purpose which, if carried into effect, will not satisfy the American people, unless they are prepared to admit that Congress is above the Constitution."

While it would be hazardous to draw many parallels between the Andrew Johnson trial and the one that could engulf President Nixon, a look at what happened in the Johnson proceedings can be instructive.

Today's political atmosphere is not as poisonous as that in 1868.

Then, the Civil War had ended barely three years earlier. The South was imbittered, prostrate, under military occupation by Northern armies and mostly unrepresented in Congress.

The North and the Republican majorities that controlled the House and the Senate were split over how to treat the conquered South.

Johnson was detested by the Radical Republican bloc in the North that had spearheaded the movement to abolish slavery and was determined to award full civil rights to Southern blacks.

Johnson, a Southern Democrat in a Republican administration, was a political accident. Because as a Tennessee senator, Johnson had been the only Southerner in the State to remain loyal to the Union, President Abraham Lincoln had picked him as his vice presidential running mate on the Republican ticket in 1864.

Succeeding to the Presidency after Lincoln's assassination, Johnson sought to carry out Lincoln's reconstruction policy of treating the South with moderation and compassion.

That policy was scorned by the Radical Republicans even while Lincoln was alive. But Lincoln was a strong leader, a gifted politician with a superb sense of humor and timing. Jackson lacked those assets and his stubborn and often angry defiance of his congressional critics led them to seek his downfall.

An initial attempt to impeach Johnson failed when the House, by a vote of 108 to 57, killed an impeachment resolution by its Judiciary Committee on Dec. 7, 1867.

But on the following Feb. 21, Johnson took the step that made impeachment inevitable. He fired Secretary of War Edwin M. Stanton, an ally of the Radical Republicans, for insubordination.

Stanton's friends contended the firing was illegal under the Tenure of Office Act, which Congress had enacted by overriding a Johnson veto on March 2, 1867. Among other things, that act prohibited without approval of the Senate the firing of any Cabinet officer who had been confirmed by the Senate.

Johnson insisted the act was an unconstitutional infringement on his presidential prerogative—a position that was affirmed by the Supreme Court several years later.

But on the day Stanton was fired, Rep. John Covode (R-Pa.) arose in the House with these words:

"I rise to a privileged question. I offer the following resolution: 'Resolved, that Andrew Johnson, President of the United States, be impeached of high crimes and misdemeanors.' "

The resolution was promptly referred to the House Reconstruction Committee, headed by Rep. Thaddeus Stevens (R-Pa.), an ailing leader of the Radical Republicans.

Unlike today's House Judiciary Committee, which has been considering impeachment resolutions against President Nixon since last October, the Stevens committee met the following day, a Saturday, for "hardly an hour," according to one critic, and approved the Covode resolution.

On the following Monday, the House voted 126 to 45 to impeach President Johnson.

House Speaker Schuyler Colfax (R-Ind.), who himself was the subject of an unsuccessful impeachment inquiry when he was Vice President in 1873, appointed Stevens and Rep. John A. Bingham (R-Ohio) to advise the Senate of the House action.

On Feb. 25, only four days after the Stanton firing, the two-man House committee appeared before the Senate and delivered this message:

"Mr. President, by order of the House of Representatives we appear at the bar of the Senate, and in the name of the House of Representatives, and of all the people of the United States, we do impeach Andrew Johnson, President of the United States, of high crimes and misdemeanors in office; and we do further inform the Senate that the House of Representatives will in due time exhibit particular articles of impeachment against him, and make good the same; and in their name we do demand that the Senate take order for the appearances of the said Andrew Johnson to answer to said impeachment."

In response, the Senate named a special seven-man committee to draft rules for the conduct of the impeachment trial.

Meanwhile, a special House committee was at work preparing articles of impeachment and on Feb. 29 it submitted nine articles, all dealing with the Stanton firing, to the House.

In the angry debate that ensued, Rep. Albert G. Burr (D-Ill.) tore into the Republicans advocating impeachment with words that were to prove prophetic.

"Go on with your project of impeachment," Burr declared. "Pass your articles here by a party vote, under whip and spur. Carry them to the bar of the Senate and sustain them there by a party vote, and the time will come when reflection will secure your condemnation by the American people."

Burr's prophecy has found wide concurrence among historians. They have taken the view that the charges against Johnson were flimsy ones that did not justify impeachment and that the trial was a miscarriage of justice save for the fact that Johnson was acquitted.

In the 1868 House debate on the articles of impeachment, Republican speakers were harsh in replying to their Democratic critics, who were pro-Johnson.

Rep. Harry P. H. Bromwill (R-Ill.) said at one point:

"This worship of the one-man power at the White House has become with the Democratic Party almost a fetish worship—a superstition as unmanly and degrading as that of the benighted Africans (Southern blacks) they so much despise . . .

"It is right in considering this impeachment, when we have found one fact well established showing malfeasance with malice aforethought, to consider in aggravation of the case the many malfeasances and usurpations which have heretofore marked the line of Andrew Johnson's presidential career."

Then there were the remarks of Thaddeus Stevens in the second and final day of House debate when he persuaded the House to add still another article of impeachment. It was a catchall article, cataloging all the major complaints against Johnson and designed to make the strongest possible case against him.

"If my article be inserted," Stevens said, "what chance has Andrew Johnson to escape, even if all the rest of the articles should fail? Unfortunate man, thus surrounded, hampered, tangled in the meshes of his own wickedness—unfortunate, unhappy man, behold your doom."

The Stevens article was overwhelmingly approved, along with still another offered on the floor, as the House voted to present the Senate with 11 articles of impeachment.

To prosecute the case, the House elected a seven-man committee, headed by Ohio's Bingham, to act as House managers of impeachment. During the trial they were addressed as "Mr. Manager. . . ."

Although it is traditional that the official being impeached be present for his Senate trial, the rules declare that if he fails to appear "the trial shall proceed, nevertheless, as upon a plea of not guilty."

President Johnson chose not to make a single appearance during his trial. Instead, he was represented by a panel of distinguished lawyers, whom Raoul Berger, the Harvard authority on impeachment, described as "as valiant a group of advocates as can be found in the annals of the American bar."

They included Benjamin R. Curtis of Massachusetts, who had resigned from the U.S. Supreme Court after writing one of the two dissents in the Dred Scott case; Henry Stanbery of Kentucky, who resigned as attorney general to defend the President, and William M. Evarts of New York, who was to become secretary of state in 1877 under President Rutherford B. Hayes.

Being counsel for the President was not a popular role in the violently anti-Johnson atmosphere on Capitol Hill at the time.

In his book "Impeachment: The Constitutional Problems," Berger wrote that the House managers "indulged in vituperation without restraint by the Senate; yet defense counsel, who must have felt themselves in the midst of a pack of wolves, never lost their composure, never departed from measured, reasoned advocacy."

When the defense lawyers made their initial appearance in the Senate, Stanbery asked that the defense be given 40 days to prepare their case.

But the Senate was in little mood for delay and gave the President 10 days to file his answers to the articles of impeachment. On March 23 he submitted detailed responses, challenging the legality of the Tenure of Office Act he was accused of violating, and the trial was set to begin on March 30.

For the members of the Senate, the trial placed them in the unfamiliar role of being muzzled. All the arguments, motions, examination and cross-examination of witnesses were handled by the House managers and the defense lawyers.

If a senator wished to ask a question he had to put it in writing and submit it to the chief justice, who would read it.

However, demonstrating how little its character has changed, the Senate spent three days before the trial debating, sometimes acrimoniously, how to allocate seats in the Senate gallery to the public.

The Senate eventually decide to issue 1,000 tickets a day, most of them to be distributed by members of the Senate and House. Since the galleries contained just 866 seats, compared to 616 now, the aisles were often jammed and the sergeant-at-arms was almost fired for failing to keep order.

Another major seating problem that would occur now would be how to accommodate members of the House. During the Johnson trial the entire House membership attended each trial session. Since the membership then numbered 193 compared to 435 today, they were able to be seated in the rear of the Senate chamber. There were then 54 senators; today there are 100.

Yet another problem to be decided in another presidential trial would be the question of the voting rights of the chief justice.

On at least one occasion, Chief Justice Chase voted to break a tie on a question involving trial procedure. There was an immediate effort to revise Senate rules to prevent the chief justice from voting. But no decision was reached and the precedent of his voting was left.

However, Senate Minority Whip Robert C. Byrd (D-W. Va.), an authority on Senate rules, and the current Senate parliamentar-

ian, Dr. Floyd M. Riddick, take the view that the chief justice should not vote.

"I see no grounds for the chief justice to have the right to vote," Byrd said.

Riddick said it would be a matter the Senate would have to decide.

If there is an impeachment and if the Senate fails to reach a verdict before the end of the 94th Congress, the trial would resume in the new Congress, according to Senate Majority Leader Mike Mansfield. He said newly elected senators would be provided with transcripts of the proceedings to date.

From a dramatic standpoint, the Johnson trial reached its climax on May 16, 1868, when the Senate agreed to begin voting on the articles of impeachment.

Believing the 11th article to be the strongest charge against the President, the House managers persuaded the Senate to vote on that first.

As the secretary of the Senate called the roll, the chief justice would pose this question to each senator as his name was called:

"Mr. Senator . . . how say you? Is the respondent, Andrew Johnson, President of the United States, guilty, or not guilty, of a high misdemeanor, as charged in this article of impeachment?"

Thirty-five senators replied "guilty" and 19 "not guilty." Since this was one vote shy of the two-thirds majority required for conviction, the President was acquitted on that article.

The senator credited by history for saving the President was Edmund G. Ross (R-Kan.), one of seven Republicans who voted for acquittal.

Ross, whose vote earned him a chapter in the late John F. Kennedy's book, "Profiles in Courage," stood out from the others because he was the lone senator whose position remained unknown until the last.

Following their defeat on Article 11, the anti-Johnson forces obtained a 10-day recess in an effort to change votes.

But when the Senate reconvened on May 26 and voted on two other articles, the result was identical with the earlier vote, 35 to 19. The Johnson foes then threw in the towel and the trial ended with the President acquitted.

A TRIBUTE TO EARL WILSON ON HIS 68TH BIRTHDAY

Mr. HARTKE. Mr. President, recently, I received a letter from a dear friend and advisor, Leon Charney, concerning the approaching 68th birthday of columnist Earl Wilson.

Mr. President, I would like to share Mr. Charney's thoughts with my colleagues, and ask unanimous consent that the text of his letter to me be printed in the RECORD.

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

MAY 15, 1974.

Hon. VANCE HARTKE,
U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR HARTKE: On May 20th, Earl Wilson, one of America's most famous syndicated columnists, will celebrate his 68th birthday. As one who has had the privilege of advising you from time to time on immigration matters, I have had the occasion to meet Earl Wilson and to know of his abiding concern for human rights.

Although Earl Wilson may be known to most people for his "It Happened Last Night" column which focuses on the doings of people in show business, the American people should be aware of his humaneness and his willingness to help those who are deprived or persecuted.

This past January, Earl Wilson asked me for an interview. We talked about the plight of oppressed people. Following our conversation, Mr. Wilson took fully one-half of his regular column to make the public aware of the tragic problem of three Russian dissidents in danger of losing their freedom.

As a direct result of this and many prior writings, Mr. Wilson has been instrumental in alleviating the despair and suffering of oppressed human beings.

In the American tradition, he has selflessly and unhesitatingly lent his name, effort and column to alert millions of his readers to the tragic problem of people who are denied their basic rights. Because of the concern and courage of people in private life like Earl Wilson, and people in Congress such as yourself, many of these people are living in freedom today.

In view of the fact that Mr. Wilson's mother, Mrs. Cloe Wilson, lives in Fort Wayne, Indiana, and because of your deep personal involvement in international human justice, I believe that it would be most appropriate for you to pay tribute to this man on the floor of the Senate so that his devotion to his fellow man can be recorded permanently and serve as a lasting testimonial.

Sincerely yours,

LEON CHARNEY.

A NEW STATUTORY BASIS FOR FEDERAL PROCURMENT

Mr. CHILES Mr. President, ever since the distinguished chairman of the Government Operations Committee (Mr. ERVIN) decided last year to create a new ad hoc Subcommittee on Federal Procurement, we have been attempting to direct our attention on the most important and critical Federal procurement reforms that were recommended by the Congressional Commission on Government Procurement.

The No. 1 priority item for attention was the creation of the central office of Federal procurement policy. Legislation to create this office (S. 2510) has now passed the Senate and I anticipate under the leadership of Congressman CHET HOLIFIELD in the House, we will see this office established by law this year.

Among the other high priority areas for procurement reform that will be the high payoff measures is the need to provide a new modernized and consolidated procurement statute to replace the current statutory fragmentation that exists.

The basic problem is that procurement law is presently split between the Armed Services Procurement Act and the Federal Property Administrative Services Act, a division that no longer serves the needs of the Federal Government, the individual agencies, or the American taxpayer. The need to provide such a new statutory baseline for procurement was one of the Commission's most important and urgent reforms.

At a recent subcommittee meeting, Senator ROTH, the ranking minority member, Senator NUNN, Senator HUDDLESTON, Senator BROCK, and myself agreed that our intention this year should include moving a new procurement statute. A draft is now being prepared and we expect to be holding hearings after introducing the bill in cooperation with the Armed Services Committee.

In advance of direct legislative action, I would like to submit for the information of my colleagues an excellent article describing some of the current problems that exist under the Armed Services Procurement Act.

The article, which discusses not only the present status but also the history and evolution of the Armed Services Procurement Act of 1947, was written by Mr. Robert B. Hall, currently Assistant Director of the General Accounting Office Procurement and Systems Acquisition Division. In addition to his long and distinguished career with the General Accounting Office, Mr. Hall also serves as the study leader for one of the procurement commission's most important and controversial study areas, acquisition of major systems.

Mr. President, in anticipation of future Senate action on the procurement statutes, I ask unanimous consent that Mr. Hall's article be printed in full in the RECORD.

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

THE ARMED SERVICES PROCUREMENT ACT OF 1947 SHOULD BE REFORMED

(By Robert B. Hall)

GAO has consistently taken the position that the preferred method of Government procurement should be on the basis of formal advertising because it is considered to be the method best designed to obtain the most advantageous contract for the Government and to give all interested parties an opportunity to compete for the Government's business on an equal basis. The Armed Services Procurement Act of 1947 reflects this preference. In the following article, the author takes issue with this concept as applied to much of defense and space procurement and develops his personal view as to the desirability of changes in the law.

The opinions expressed in this article are those of the author and do not represent official GAO positions.

Formally advertised procurement pervades the whole structure of the Armed Services Procurement Act of 1947.[1] It is, in fact, mandatory and the only procurement method formally recognized in the act. The reigning inference is that formally advertised procurement is universally applicable and the "one best way."

This procurement method, most everyone will agree, is very efficient in its proper arena: the buying of low-technology, standard items. It has enhanced full and free competition and has saved money for the taxpayers. But for acquiring complex products, including major weapon and space systems, it has little or no relevance. As indicated in the Secretary of Defense Posture Statement for fiscal year 1970: * * * The complexity of most military products is such that formal advertisement procedures simply cannot be made to work in the vast majority of cases * * *. It is the substance, rather than the form, of competition which should be of principal concern to the Congress and the public * * *.

Procurement methods (acquisition strategies) for advanced technology devices have departed markedly—of necessity—from the formal advertising method. The statute does not recognize these more relevant methods. Rather, it discriminates against them by loading on unnecessarily burdensome (and ineffectual) requirements.

Even in the minority of procurement spending where formal advertising is used,

Footnotes at end of article.

a substantial amount involves two-step procurement actions which embody competitive negotiation in the first step.

Patently, formally advertised procurement is out of touch with the real world. Regulation and practice are disjoined. Since practice must respond to fundamental changes in the environment, clearly it is the act that should be reformed. A viable statute recognizes and deals with prevailing conditions.

The purpose of this article is to propose certain major reforms to the act. In thrust they are not new; procurement literature of the past 10 to 15 years has emphasized the need for this kind of modernization.

The article first points out the widespread impact of this important act on nearly all Government procurement and much of industry. Next, the history of the act is described to help explain how its relevancy has withered away. The suggested reforms, summarized immediately below, are then discussed in detail. In the conclusion, methods of bringing about and implementing the reforms are laid out.

This article does not contend that the Armed Services Procurement Act is at the root of all procurement problems. Rather, that an act which reflects the best policy for today's needs might also improve understanding and encourage progress in other areas—a sort of chain reaction may set in.

In brief, the proposed reforms to the act are:

1. Eliminate the fiction of formal advertising as the dominant procurement method, and the need for reciting the "17 exceptions" (it seems ludicrous to contract for 85 percent or more of DOD's needs on an "exception" basis).

2. Recognize acceptable procurement methods in actual use and prescribe the criteria for their application.

3. Include a statement of current congressional policy on "competition" based on a broader definition of the term, emphasizing the substance of competition rather than its precise form.

4. Clarify the "competitive range" and the parameters within which discussions should and should not be conducted—especially when factors other than price are crucial.

5. Illustrate the "other factors" and when they become more dominant than price.

6. Improve communication with the Congress concerning procurement actions and the degree and scale of competition.

7. Raise the formal advertising exemption from $2,500 (1958) to $5,000, or higher, and provide minimal policy guidance over some 7 million small procurements per year.

8. Delete the stereotyped and pointless paperwork connected with preparation of "Determinations and Findings" now required when using certain exceptions to formal advertising and contract types.

THE ACT'S IMPACT

The Armed Services Procurement Act directly applies to three agencies: the Department of Defense, the National Aeronautics and Space Administration and the Coast Guard. The procurement regulations in these three agencies are quite voluminous and implement the act and other statutes. In the DOD, the implementing document is called the Armed Services Procurement Regulation (ASPR). NASA has the NASA procurement regulations (NASA PRs). In all other executive agencies, the Federal Procurement Regulations (FPR) govern the procurement practices. The FPRs and NASA PRs are influenced by and for the most part patterned after the Armed Services Procurement Regulation. This is understandable since the title III procurement procedure of the Federal Property and Administrative Services Act[2] is patterned directly after (our friend) the Armed Services Procurement Act.

This means that the Armed Services Procurement Act directly or indirectly governs almost all Federal procurement, which exceeds $50 billion annually, and influences the actions of some 100,000 people in the Government who participate in the award and administration of contracts. In addition, the act and its implementing regulations have a direct impact on thousands of private companies in virtually every major industry in the United States.

BRIEF HISTORY OF THE ACT[3]

Perhaps the history of the Armed Services Procurement Act can best be summed up as a compromise reached in 1947 between two extremes. The one extreme was the historical preference for formal advertising which existed in this country up until the time of World War II. The other extreme was the almost universal use of negotiation during World War II. This latter extreme extended to a prohibition during the war against the use of formal advertising unless the agency was especially authorized by the War Production Board.[4] The act simply combined these two extremes and permitted the Defense Department sufficient leeway to go in either direction. The act said nothing about obtaining competition through means other than formal advertising. Negotiation was and still is defined in the act as "make without formal advertising."

HISTORICAL PREFERENCE FOR FORMAL ADVERTISING

The historical preference for formal advertising dates back to the early 1800's. A literal interpretation of the first Federal statute, in 1809, indicated that contracting officers had a choice between two equally available methods of procurement, "open purchases" or "advertising for proposals." This meant that items could be purchased in the open market in the manner of ordinary commercial transactions and negotiations used (negotiation is designed to give scope to normal purchasing practices and permits innovations in procedures).

However, in 1829 the Attorney General interpreted the original statute as requiring advertising except where public exigencies necessitated immediate contract performance. Thus, groundwork was laid for using formally advertised bidding as a foundation for the competitive bidding system in the Federal Government. In 1842, a statute was passed requiring advertised bidding for stationery supplies and printing. In 1860, a landmark statute was passed requiring advertising for supplies and services by all departments of the Government. It was incorporated in 1874 in section 3709 of the Revised Statutes, and with certain exceptions continued to regulate military procurement up until World War II.

THE 17 EXCEPTIONS

The first legislative exceptions to formal advertising were for "public exigency" (fires and floods) and "personal services." Through the 1800's and up until World War II, eight additional exceptions were added in order to exempt procurements such as medical supplies (1845), purchases outside the United States (1845), perishable goods (1847), purchases for national emergencies (1864), small purchases (1892), and a catchall type exception (number 10) to be used where it was deemed impractical to secure competition through formal advertising (1901) (present DOD regulations contain 17 illustrative conditions under which exception 10 may be used).

Throughout most of this period, U.S. weaponry was relatively simple and it was obtained primarily through in-house development and production—the so-called arsenal system. Also, up to this point the basic consideration in the minds of the Congress in emphasizing the formal advertising procedure had been the prevention of favoritism.

During World War II the greater part of the national defense needs were obtained from private industry through negotiation. Several lessons were learned from this wartime experience.

The first lesson was that negotiated procurement, with flexibility for bargaining contract types and terms, far from leading to higher prices or the concentration of procurement in the hands of larger and more favored producers, more often led, on the contrary, to a wider distribution of suppliers and to lower costs.

A second lesson was that the military services had demonstrated an ability to use with judgment and common sense the broad procurement powers granted.

The third lesson was that to compel a return to the inflexible procedures of formal advertising would mean that supplying the needs of the military would soon revert to a relatively small group of professional Government suppliers, with the consequent loss of know-how and industrial capacity, and of a broad mobilization base. Perhaps the outstanding lesson of the war was that industrial power is a critical factor of no less value than trained manpower and that true national defense is impossible except on the foundation of a powerful, broadly based industrial structure.[5]

World War II experience showed also that additional exceptions to the formal advertising rule were needed, and exceptions 11 through 16 were added. The new exceptions related to such things as research and development work, secret purchases, and technical equipment requiring standardization. The 17th exception simply permitted the use of negotiation where otherwise provided by law, as in the case of a 1926 Aircraft Production Act.

The 17 exceptions are so all encompassing as to permit the use of negotiating authority under almost any conceivable circumstances. In fact, the 15th, not mentioned above, permits negotiation when advertising is unsuccessful. In order to use negotiating authority under many of the exceptions, the agency must prepare written determinations and findings. In the case of some of the exceptions, such determinations have to be made by the agency head.

Passage of the 1947 act combined the first 10 exceptions legislated over the previous 100 years with those exceptions developed from World War II experience. The 1947 act also unified procurement authority throughout the Department of Defense, provided small business opportunity to secure military contracts, gave finality to decisions of a department head, authorized joint procurement between the departments, and repealed archaic and unnecessary procurement statutes.[6]

PUBLIC LAW 87–653 AMENDMENTS

Several minor amendments and one major one have been made to the act since 1947. The major one involved Public Law 87–653, enacted in 1962. This law, which restated the longstanding preference for formal advertising, required agency written determinations to clearly illustrate that this method could not be used when negotiating through many of the 17 exceptions. It also required the agency, when negotiating, to solicit proposals from the maximum number of qualified companies consistent with the nature and requirements of the procurements and to hold discussions with those concerns whose proposals were in a competitive range.

Additionally, where competition is lacking, Public Law 87–653 requires the agency to obtain certified cost or pricing data from the contractor and to provide rights in the contract for reducing the price if defective data was submitted and relied upon in negotiations.

EXPERIENCE UNDER THE ACT

Twenty years of experience under the act in DOD reveals that formally advertised procurement has ranged from a low of about 10 to a high of about 17 percent. However, a

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significant portion of this amount represents a two-step procurement procedure under which competitive negotiation is used in the first step to obtain acceptable technical proposals and advertised bidding is used in the second step.

The use of negotiation on the other hand, both in DOD and NASA, has become the customary way of doing business with private industry. Within the broad framework of "negotiated procurement" varying amounts of technical and price competition have been obtained over the years, and more often a combination of both. This has been averaging in DOD, according to published statistics, about one-third of all procurement. The balance, about one-half, represents single-source procurement.

In NASA, advertising accounts for about 2 percent, competitive negotiations about 65 percent, and single-source procurement about 33 percent.

ACT SHOULD RECOGNIZE ACCEPTED METHODS OF PROCUREMENT AND A BROADER FRAMEWORK FOR COMPETITION

As presently written, the act gives primary recognition to only one method of procurement—formal advertising. The general tenor of the act is that the agency shall use the formally advertised method of procurement and that any other method of procurement is to be performed through an "exception" process. This fetish for the use of formal advertising and the resulting pressures it brings to bear can cause this method to be used in inappropriate situations. Such inappropriate use sometimes complicates the procurement, leads to protests, and in fact may endanger success of procurement actions and increase ultimate cost to the taxpayer. Furthermore, it promotes the distorted notion that anything less than a formally advertised procurement is bad per se.

LIMITATIONS OF FORMAL ADVERTISING PRECLUDE ITS USE AS A PRIMARY TOOL FOR COMPETITIVE PROCUREMENT

The major disadvantage of formal advertising as a primary tool for competitive procurement is its limited application to defense and space activities. It cannot be used for classified material—or where there are no fixed specifications—or to enlist specific sources whose existing know-how or facilities are crucial to the success of the procurement—or to obtain new knowledge or techniques in order to avoid early obsolescence—or to permit early start of procurement and great speed of delivery.[7]

Foundation for use has gradually disappeared. Probably the most significant factor in modern times to limiting the use of formal advertising is the fact that the very foundation for its use has gradually disappeared as it has become increasingly difficult to precisely define what is being procured. An absolute requirement for formal advertising is that the Government must be able to accurately specify its exact needs in detail so that all offerors will have a complete understanding of what is required and can compete on an equal basis. In order to be considered "responsive," each offeror's proposal must conform to these specifications in every respect. Any time that aspects of these detailed specifications are incomplete or defective, the Government is exposed to a claim from the contractor to whom the advertised contract was awarded.

The kind of technical data and manpower skills needed for great specificity in procurement did generally exist within the Government during the 1800's and early 1900's when the weapons for the national defense were less sophisticated in nature and were largely produced in-house, with the assistance of Government laboratories. During the past 40 years, however, weapons have reached a high degree of sophistication, with speed of delivery a critical factor, and there has been a trend toward almost complete reliance on industry for their development and production.

As a result, the military services are no longer able to assume responsibility for complete engineering of their equipment. This point was one among many raised by a recognized authority in connection with an evaluation of formal advertising during a congressional hearing. He observed that too many new kinds of items and vast new technologies and the need for standby manufacturing competence had brought about a military-industry partnership with the military providing funding and overall direction. Today, in order to prepare the adequate, complete, and realistic specifications necessary for formal advertising, the Government would have to duplicate industry's engineering competence. He indicated this would be highly impractical in view of the gigantic cost of such duplication, the lack of available manpower skills, and the resultant retardation of the defense effort.[8]

Technical barriers. Even where engineering competence still exists in certain areas with varying capabilities to specify Government's needs for purposes of formal advertising, other obstacles exist in the present day procurement environment.

1. The design of the item must remain stable during an extended period of time which overlaps a similar period when the Government's need for the item is sufficient to attract other companies into the field—a not too frequent occurrence in today's defense and space procurement environment.

2. The difficulty and expense, estimated at several hundred million dollars annually, of obtaining and maintaining up-to-date, unrestricted, and complete technical data and drawings.

3. The difficulty in having the Government act as an intermediary in transferring technical know-how, drawings, and data to a company that has never produced the item.[9]

4. The problem of inducing contractors to submit fixed-price bids in formal advertising on untested sets of drawings and specifications when there "is little or no comprehension of the pitfalls which may be hidden in the drawings and specifications."[10]

5. The questionable value of such data in view of the different manufacturing processes in industry.

Competition limited to price. Another serious problem with formal advertising is that competition is limited to price alone and procurement officials must accept the lowest (apparent) bid price—since the burden of not doing so is fraught with difficulty. There are many cases where the low bidder's capabilities are suspect on account of inadequate financing, technical ability, quality and incompetent management. However, it is difficult for a procurement official to disqualify this company because of the lack of conclusive evidence or records.[11]

In much of defense and space procurement, factors other than price play a major and sometimes a more dominant role in making competitive awards. These factors include: the past experience, ability, and reputation of the company; the quality and reliability required to be built into the product; the later cost of operating and maintaining it; and the life of the product itself. Injecting such considerations into the rigid advertised procurement process is difficult if not impossible.

Awards may be based on few or only one bid. Advertised procurement may also result in only a few bid responses with award made on something less than a truly competitive basis. In this connection a Rand Corp. study prepared in 1966 of formally advertised procurement showed that, of some 2,300 procurements, 45 percent resulted in three bids or less, 32 percent resulted in two bids or less, and 8 percent resulted in only one bid. Rand concluded that the indiscriminate use of this method of procurement can lead to acceptance of price higher than those desirable or obtainable.

Rigidity limits exercise of judgment. The rigid procedures built into formal advertising many years ago to avoid favoritism in the letting of contracts have also done much to limit its application in the present day procurement environment. Formal advertising is so mechanized that the buyer can exercise little judgment or responsibility or otherwise influence the contract award; whereas, major contract awards today in DOD and NASA require maximum exercise of judgment and responsibility by "professionals."

Industry, with its even greater amount of procurement than that of the Government, would naturally have the same fear of favoritism in the letting of the contract. However, "the solution for business was not to retain an outmoded and impractical technique such as advertised bidding—but to improve the negotiation process by establishing a force of higher calibre personnel who were required to use judgment and accept responsibility * * *."[11]

Limits development of individual's competence. Finally, it must be observed that formal advertising is a creation of the Government and that, during its 150 years' history, this method has not been adopted on any widespread basis by private industry. It was explained to a congressional committee as follows, "* * * industry seems to have learned from management research and study that the fuller utilization of the individual's competence is important * * *." and "Industry strives to attain this by job analysis, personnel training and development, increased responsibility, improved organization, and management control techniques. The very spirit of the advertising system, with its rigidity, is in opposition to this concept * * *."[12]

OTHER METHODS OF PROCUREMENT PLAY A MORE VITAL ROLE IN DEFENSE AND SPACE ACTIVITIES

It seems reasonable that the Armed Services Procurement Act should clearly recognize other commonly accepted methods of procurement (e.g., competitive negotiation and single-source negotiation) and prescribe general criteria for their use.[13] Competitive negotiation could be further defined in the law to distinguish between those procurements that primarily involve price competition and those that involve an overall technical and business/management competition as well, including such factors as design approach, scientific skill of personnel to be assigned to the project, facilities, cost control, past performance, and management capabilities.

These other forms of competition have been used more extensively than formal advertising and they play a more vital role in satisfying needs of the Defense Department and NASA. For example, the act exempts the procurement of research and development from the requirement for formal advertising, yet the competition obtained in some of these procurements, particularly where source selection is being made for new weapons, is more intense than many competitions under formal advertising. The winner of these competitions may ultimately become a single-source supplier for follow-on procurement under a program lasting as long as 10 years. Under the present act, however, these large and violent competitions are considered exceptions to the formal advertising rule.

The one basic fundamental difference between formal advertising and negotiation is that, in negotiation, the procurement offi-

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cial may question and explore the soundness of the proposal; whereas, in formal advertisement, the lowest bid must be accepted without discussions. Negotiation does not, as some think, necessarily imply a reduction in competition or the number of companies invited to bid. Rather:

It enables exploration of the proposers' cost data in order to elminate unnecessary costs based on misunderstood requirements.

It elicits technical contributions to achieve a desired end result or even a sounder kind of counterproposal.

It permits the controlling factor(s) to influence the award (i.e., technical competence, support of mobilization plans, employing existing facilities, economies of standardization).

It enables development of a more competent, more stable corps of professional procurement personnel "* * * through utilization of more individual initiative and ability and by encouraging careers for able personnel through maximizing their opportunities for contributions." [14]

ONE APPROACH TO SPELLING OUT CRITERIA FOR SELECTING PREFERRED PROCUREMENT METHOD

It is fair to say that there is no single method of procurement in DOD and NASA, but rather several methods, each being not only acceptable, but preferred in certain circumstances. Thus, a way must be found to bridge the gap between this reality and the Armed Services Procurement Act which statutorily provides for one method—the least applicable one—while others are buried in the "exception" process.

The following illustration explores but one approach to the problem. (Other approaches would have to be considered as well, and perhaps a final solution would lie in some combination of the best parts of several.)

In the case of formally advertised procurement, there are already fairly well established criteria in procurement procedures and regulations. We know, for example, that we are generally talking about low-technology, standard items or services and that:

There must be well defined and fairly detailed specifications or purchase descriptions not restricted by security or proprietary design which permit all bidders to compete on an equal basis. (This means that the item not only must have been fully developed, but also previously manufactured in at least a comparable configuration.)

There must be a known production base that will provide a number of suppliers willing and able to compete for the item. (This means that a civilian product or conventional military item is involved.)

There must be sufficient cost experience to permit entering into a firm fixed-price contract and the selection of the successful bidder on the basis of *price alone*.

There must be sufficient time to perform the administrative procedures required for formal advertising.

There must be sufficient amount of purchase to warrant use of formal advertising (exception in law is now stated at $2,500).

Professional and personal services must not be involved.

The item must not be for authorized resale (since customer preferences have to be considered here).

The item must not be of a subsistence nature (since perishable and seasonal factors generally preclude advertising).

If criteria along the lines of the above were adopted, it could be preceded by a statement generally as follows: "All purchases of any contracts for property and services within the U.S. shall be made by formal advertising when they meet the following criteria." After including such criteria, the law could then state that: "Whenever the agency finds that one or more of the above-mentioned criteria are not present, and they cannot be satisfied by use of the two-step formal advertising procedure,[15] purchases of property and services will be made through the competitive negotiation method of procurement (as defined elsewhere in the act)."

The competitive negotiation method would thereafter prevail and generally would involve procurement of high-technology, nonstandard items or services except where it was determined by the agency to be in the best interest of the Government to purchase the property or service from a single or sole source. Some suggested criteria for the latter would be:

A public exigency (requiring immediate contract performance) precludes soliciting other sources.

A sole source of supply or service.

A company has already established itself in a preeminent position and it is impracticable for reasons of time, money, and mission objectives to compete the item with other potential sources.

A follow-on procurement—unless additional capacity is needed or it is technically feasible and economically desirable to establish other sources.

Most single-source procurement would normally fall under the last-mentioned criterion, and regulations could illustrate its application. There are many reasons, as discussed in the next section, why timely and effective procurement dictates returning to an established source or to the developer of the item who would normally have been selected on a competitive basis.

ANOTHER APPROACH SUGGESTED BY SENATE BILL 500

Another approach to revision of the 1947 act can be found in one feature of a bill (S. 500) on which the Senate Armed Services Committee held extensive hearings in 1959. This bill, known as the "Saltonstall bill," provided that competitive negotiation be given equal status with formal advertising (rather than authorized through the 17 exceptions). It also provided for a third method, "negotiation," which was to continue to be authorized through the 17 exceptions. Other features of the bill were somewhat controversial at the time, and, although the bill was considered by many to be courageous and constructive in nature, it was not acted upon.[16]

One fear expressed at the hearings on S. 500 was that competitive negotiation, if given equal status under law, might replace advertised bidding in situations where this method was still appropriate. Another fear was that the minimum requirement of two proposals stated in the bill, for competitive negotiation, might become the standard and qualified companies excluded from participation in Government procurement.[17]

SOME ADVANTAGES OF ESTABLISHING ACCEPTABLE METHODS OF PROCUREMENT, AND CRITERIA FOR THEIR USE

The use of some criteria to guide procurement personnel in selecting the most effective procurement method seems to have several advantages over the present procedure of operating principally by exceptions to one legally accepted method. One of the more important advantages would be to develop a competitive bidding system within the Federal Government not founded solely on rigid and outdated formal advertising procedures.

Another advantage, however, would be to strengthen the use of the advertised method of procurement by clearly setting out in a positive way the conditions when its use is in the best interest of the Government. In other words, it would help to ensure use of formal advertising in circumstances best suited for it.

Perhaps an even more important benefit would be to formally recognize the competitive negotiation method of procurement and encourage its use where formal advertising is neither practical nor feasible.

Today, almost full reliance is being placed on private industry for the development of complex military items in an environment of rapidly changing technology. A national policy reflected in law that these procurements would be awarded in fully competitive atmospheres (even though formal advertising could not be used) would ensure that industry has a clear incentive to seek out better technical and economical solutions to military requirements.

Also, in redefining accepted methods of procurement in the act, a stigma could be removed from the use of single-source negotiation. This method may not only be the preferred one but, in fact, the only practical alternative to meeting the Government's needs under certain conditions. For example, once a company has won a major weapon system design competition, the major investment in time and money to finally get into production would ordinarily make it unbusinesslike to establish another company as a supplier unless mass production is required.

Other reasons for follow-on procurement with an already established source include (1) the need for special, otherwise unobtainable, services from the developer of the item, (2) the avoidance of unacceptable delays in the procurement, (3) the assurance of quality, maintainability, and reliability of the product and safety of the people using it, (4) the need for absolute interchangeability of parts, and (5) the economies of standardization.

A further situation would be when one company has developed and produced an item at its own expense and the item best satisfies the Government's particular need. This recognizes another form of competition—the so-called indirect competition that takes place within industry. In this competition a particular company, rather than waiting for or relying on a Government development contract, takes the initiative to become preeminent in its field and develops a technical approach to fulfilling an agency's need. To compete this procurement with other companies would mean duplication of development and substantial delay of procurement and production—and inhibition of entrepreneurial efforts.

ELIMINATION FROM THE ACT OF THE 17 EXCEPTIONS TO FORMAL ADVERTISING

By developing sound criteria for the use of the basic methods of procurement and various forms of competition there is serious question as to the need for and the benefits to be derived from administration of the present 17 exceptions in law. They were developed over the past 150 years as exceptions to the general rule that formal advertising was generally applicable to procurement situations. As indicated, conditions have changed and this rule is no longer applicable.

It is well known that the exceptions have forced the agencies into the use of stereotyped findings and determinations or the costly and time-consuming preparation of findings and determinations which serve no practical purpose and prolong the procurement process. It is also clear that the exceptions have been abused over the years and that the exceptions do not truly reveal the nature of the procurement situation or the extent of competition obtained.

For example, restricted advertising for unilateral small business set-asides, balance of payment situations, R. & D. procurements from $2,500 up to $100,000, and labor surplus area awards have, at one time or another, been classified under exception I, "national emergency, declared by the Congress or the President." The purpose of putting the many R. & D. awards under this exception, even

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though there is a separate exception for research and development work, has been to eliminate the needless, paperwork otherwise required up through top secretarial levels to justify not using formal advertising.[18]

In addition, small business awards, even though the advertising is restricted to small companies, are frequently highly competitive They could be recognized as such, rather than recorded as negotiation exceptions

The exceptions in general, and particularly number 10 (advertised competition impracticable), cover such a wide range that the average procurement man is simply faced with the problem of choosing the right exception, and perhaps the easiest one from an administrative viewpoint, and then going through the usual stereotyped justification requirements By creating so many of these exceptions in law, the Congress may have accomplished the one thing it sought not to do—develop on environment for noncompetitive procurement A reappraisal of the need for the 17 exceptions seems overdue

REPORTING TO THE CONGRESS UNDER THE ACT SHOULD BE REVISED

The agency sends reports to the Congress on the use of exceptions and the nature of the procurement actions entered into. The requirements for these reports stem from the act or separate agreement with congressional committees. Such reporting requirements need to be revised—irrespective of other revisions made to the Armed Services Procurement Act.

Reporting requirements, especially to the Congress, build up pressure and result in establishment of goals that procurement people must meet down through the chain of command. In other words, poor reporting requirements can lead to poor procurements. At the present time, goals are used throughout the Department of Defense for formal advertising, although this method of procurement may not be the best indicator of progress for the particular items being purchased at some procurement centers. As other forms of competition and methods of procurement may be more applicable to the circumstances, poor procurement and increased cost may result.

Another reason for revising the reporting requirements is that there is widespread misunderstanding between the Congress and the agencies as to what is meant by the statistics being reported on competition. Often the agency may mean that a competitive price was established under a so-called threat of competition when only one bid was received—or that other forms of competition were present. The Congress, on the other hand, tends to construe these statistics as meaning that at least two companies and probably many more were actively contending for the contract—strictly on a price basis.

ACT IMPOSES UNNECESSARY REQUIREMENTS ON TYPES OF CONTRACTS

Present law requires the agency to make special determinations for the use of cost-plus-a-fixed-fee and incentive types of contracts, showing that these contract types are likely to be less costly or that it is impractical to procure except under such a contract type. The requirement under the act for special determinations for use of types of contracts has, as in the case of the 17 exceptions, simply created costly and time-consuming paperwork and stereo-typed comments, without serving any really useful purpose. Since these contract types cannot be used in formal advertising, the requirement to justify their use further illustrates how this method of procurement pervades the statute.

In the late 1950's the pendulum swung too far in favor of the use of cost-type contracts. More recently, the pendulum has swung the other way to fixed-price contracts, perhaps too far. These actions were influenced administratively rather than by statute.

There have been attacks from some quarters on the use of incentive-type contracts since they were first put into widespread use in the 1950's. Perhaps some of these attacks stemmed from a fear that incentive contracts were thought of as some kind of panacea. Incentive contracts have had problems—inflated target costs and some poor structuring and misapplication of performance and delivery incentives. These problems may be reduced with additional experience, guidance, and training.[19]

Certainly, no one can rationally question the objective of the incentive contract to achieve better contract performance, particularly in areas crucial to success of the procurement program. It has the further advantage over cost-type contracts of forcing the contracting parties to clearly define their objectives at the outset. A limitation placed in the Armed Services Procurement Act of 1947, in a different procurement environment and before widespread use was ever made of incentive contracts, does not seem pertinent today.

For many years regulations have prescribed considerable criteria for the use of types of contracts, and these regulations were recently refined due to concern that fixed-price contracts were being overused in high risk areas. It is doubtful that legislation should cover this area except to prohibit, as it does, contract types contrary to the public interest.

RAISE THE DOLLAR AMOUNT AND PROVIDE LEGISLATIVE COVERAGE FOR SMALL PURCHASES

Current law provides exemption authority from the requirement for formal advertising of small purchases in amounts up to $2,500 (advertised bidding procedures are expensive). This amount has been in law since 1958 but economic trends since then indicate that it should be at least $5,000 or perhaps higher. In addition, present law contains no coverage or guidance in connection with the making of such procurements.

About 7 million of these actions take place annually in DOD alone totaling several billion dollars. To avoid misunderstandings and improve the procurement process, the Congress should consider including some general guidance in the act dealing with these procurements. For example, the law could provide a basic policy statement on minimum and simple competitive procedures to be followed and require the agency to periodically streamline its small purchase operations based on bi- or tri-annual studies of industry practices and modern management techniques.

CLARIFICATION SHOULD BE MADE OF COMPETITIVE RANGE IN NEGOTIATED PROCUREMENT AND WHEN DISCUSSIONS ARE REQUIRED

There is some confusion as to what constitutes a competitive range under negotiated procurement, when discussions should and should not be held with those offerors within the competitive range, and how to conduct such discussions in such a way as not to violate the prohibition against auction techniques or violate another requirement to reject late or modified proposals. In these circumstances, it appears that the procurement official can do no right—or wrong.

The act, by amendment in 1962, requires oral or written discussions with all offerors in a competitive range in negotiated procurement except where adequate competition or prior cost experience without such discussions. (This exception language in the law apparently had in mind only production sometimes be available.) The exception is permitted only if offerors are notified that the award may be made without discussion.

The act does not define a competitive range, or the factors to be considered in the range, other than price. Nor does the act or related regulations contain criteria as to the type of areas in which oral and written discussions are expected once a competitive range has been established.

On the other side of the fence, there is an absolute prohibition in the Armed Services Procurement Regulation against using auction techniques (ASPR 3-805.1(b)). The regulation also provides that late proposals or modifications received during the negotiating process should be rejected unless they are of extreme importance to the Government or only one other proposal was received (ASPR 3-506). These provisions are designed to operate against the contractor who submits something less than an adequate proposal in order to "buy a ticket to the ball game" as well as against the contractor who at the last moment, when full competitive opportunity has been afforded, slashes his price when he believes another company may be receiving the award.

In order to get the maximum benefits from competitive negotiation, but avoid undermining the competitive process, there seems to be a need for establishing basic criteria:

Clarifying the term in the act "price and other factors considered" and the circumstances in which the "other factors" tend to dominate.

Defining a competitive range both in the early and later procurement stages.

Describing when discussions should and should not be conducted with those concerns in the competitive range.

Describing the type of areas in which discussions should be held and their extent.

For example, at some reasonable point after development and initial production, competitive range could relate primarily to price since there would normally be sufficient pricing and cost experience to either avoid discussions or confine them to price. When there is sufficient experience to permit entering into a firm fixed-price type of contract, discussions may be avoided altogether.

The lack of any discussions is not inconsistent with negotiated procurement and may at times be in the Government's best interest. It is desirable for contractors to come forth with their best prices on the basis that the lowest price may be accepted without discussions. Otherwise, contractors have been known to hold back their best prices preferring to wait until they were at the bargaining table to discuss their final offers. This sometimes leads to repetitive rounds of negotiation and the danger that auction techniques will be used or a competitor's information disclosed, both of which are unethical and prohibited.[20]

The situation is different, however, in the earlier stages of the competitive process of selecting R. & D. sources for new weapons or space vehicles. In such cases, factors in determining competitive range would emphasize the technical aspects but include business/management factors as well. More extensive discussions would ordinarily take place with those concerns in the final running after the field had been narrowed down and would concentrate on critical areas of the proposals.[21]

SOME THOUGHTS ON HOW TO BRING ABOUT REFORM OF THE ARMED SERVICES PROCUREMENT ACT

Defenders of the Armed Services Procurement Act say that over the years the agencies have adjusted to its provisions; that these provisions have not proved themselves inadequate; and that a new act would bring about the loss of a body of court decisions and Comptroller General decisions interpreting the present law. It is also candidly admitted that the agency has sufficient flexibility under the present act to conduct procurement in almost any manner it sees fit.

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In addition, there is an "overriding fear" that congressional review and revision of the act would result in more restrictive legislation and, therefore, loss of existing flexibility.

Although historically the GAO has strongly supported provisions of the act, in recent years under the present Comptroller General it has not taken an official position on the need for change. A forward step was taken in June 1968 when the Comptroller General testified before the Senate Subcommittee on Antitrust and Monopoly Legislation on "Competition in Defense Procurement." His statement to the subcommittee recognized that three basic methods of procurement in the Defense Department had evolved over the years; namely, formal advertising, competitive negotiation, and single-source negotiation. He said, "Each of these methods, when used in appropriate situations, is an acceptable method of procurement."

To sum up, it seems clear that the act discriminates against, and has helped to create widespread congressional and public misapprehension over, perfectly normal and effective procurement methods. These methods are most widely used only in the DOD and NASA but also in our own private lives, in commercial and industrial practice, and in nearly all advanced civilizations of the world.

To bring about reforms in the Armed Services Procurement Act that would recognize accepted methods of procurement based on a much broader definition of competition would probably require a combination of many things to happen. Some examples follow:

1. Resolving the basic policy issue of whether the Government is going to let the "fear of favoritism," etc., be the overriding factor in dictating procurement procedures or let the needs of the procurements themselves dictate the procedures. A policy in favor of the latter would mean relying more on professionally trained personnel (with backgrounds in engineering, procurement, and logistics) and fully utilizing their backgrounds in acquiring items "competitively"—not at the lowest initial cost—but at the lowest ultimate cost including consideration of quality, simplicity of design, ease of maintenance, and operating costs over the life of the item. It would mean also relying on the integrity of procurement disciplines, the integrity of review processes, and the integrity of the people themselves to curb favoritism. To help accomplish this would probably require more visibility of contracting relationships between the military and industry and promoting the career development and professional identification of procurement personnel to a much greater extent than ever before.[23]

2. More information needs to be furnished to the Congress in a convincing and an understanding way on DOD's current procurement practices. When problem areas are exposed, they need to be dealt with in proper perspective. GAO can play an effective role here.

3. More constructive industry participation at congressional hearings, particularly those involving new legislation and policy. Since industry is so directly affected by the Government's procurement process and contracting practices its (professional) views need to be considered more often in congressional hearings.

4. More forums for discussion among members of the legislative branch, the executive agencies, industry, and educational institutions. An example of this would be the action of the current president of the National Contract Management Association to invite members of the GAO and others of the legislative branch into the organization as participating members.[23]

5. More positive leadership within the agencies for change and for providing a continuing educational program for the important committees of the Congress having cognizance over procurement matters. This includes providing in-house facilities and staff to perform this function and to conduct research and testing of new procurement techniques—and, in general, making efforts to improve the procurement system.

6. Establishing the Commission on Government Procurement. A bill was reintroduced in the House of Representatives on January 3, 1969. It will, if it is established, provide a broad forum for considering improvements to the Armed Services Procurement Act and other procurement statutes.[24]

7. Discussions of the benefits of competition should point out also the dangers of excessive competition—which could weaken Government and industry (1) by wasting key national resources through oversolicitation of expensive technical proposals, (2) by encouraging buy-ins that could put a company out of business or induce it to cut corners affecting the quality or safety features of military and space equipment, (3) by eliminating needed services from the developer of the product, (4) by causing unacceptable and costly delays in procurement, and (5) by impairing the reliability of an item or the system in which it functions.

8. Stressing on the other hand the need for optimum competition and consideration of a prequalification of bidders for high-technology items—so that where appropriate only qualified companies will be solicited but with ample public notice and equal opportunity to become qualified.[25]

9. Insuring the practicality and effectiveness of any proposed legislation to reform the act by subjecting it (1) to a trial run of several hundred procurements in each military department, the Defense Supply Agency, and NASA, and (2) to intensive hearings during which the best procurement minds in Government and industry could offer suggestions and approaches.

10. Demonstrate effective preplanning of proposed procurements in other than extremely urgent situations—particularly when establishing "new sources." Such preplanning, among other things, would outline the strategy under which competition would be obtained initially and to the extent practicable during the life of the item. This planning document would, in effect, select from various alternatives the one which provides the most effective and practicable means of obtaining competition for the particular item under the expected procurement environment. A comprehensive Advance Procurement Planning Guide issued by the Navy in 1967 and a revised and more extensive requirement for advance procurement planning placed in the Armed Services Procurement Regulation in the same year represent major steps in this direction.

11. Establishing separate policies and regulations applicable to substantially different procurement arenas:

Small purchases.

Low technology, standard items.

High technology, nonstandard items.

Present statutes and their single set of implementing regulations are oriented primarily toward procurement of unsophisticated items.

In an attempt to deal with all procurement situations, the regulations have become so voluminous and complex over the years that no one procurement official, or private company (particularly a small one), can reasonably expect to be knowledgeable of them or keep up with the continuous changes. It might be much more useful to publish a separate set of regulations tailored specially to each major procurement arena: (1) Small purchase operations, (2) standard or conventional items for which there is a civilian production base, and (3) highly sophisticated, complex hardware or weapons systems.

A separate set of regulations developed for each of these distinctly different procurement arenas ought to be considered for the sake of simplicity and utility. And instead of different sets of regulations in Federal agencies (DOD, GSA, NASA, AEC) there could be a uniform set for use throughout the Government to achieve the much needed uniformity in Government contracting. This will provide also regular channels to coordinate Government procurement practices and to automatically extend use of sound regulations developed by one agency to other agencies.

FOOTNOTES

[1] Now 10 U.S.C. 2301–2314.

[2] 41 U.S.C. 251 et seq.

[3] History based largely on series of white papers submitted in hearings by DOD officials during part I of a procurement study in 1960 by the Senate Armed Services Committee (A Study of Military Procurement Policies and Practices as Required by Section 4(a) of Public Law 86–89, Amending the Renegotiation Act of 1951).

[4] Part I (p. 52) of hearings mentioned in footnote 3.

[5] "Our Legal System of Defense Procurement," by F. Trowbridge vom Baur, formerly General Counsel of the Navy Department, a paper included in 1959 Senate Armed Services hearings on Senate bill 500 (p. 506).

[6] Navy Contract Law, Second Edition, Chapter 3, Procurement by Negotiation, prepared by General Counsel of the Navy Department.

[7] Paper included in 1959 Senate Armed Services hearings on S. 500 entitled "Background Leading to Present Law and Practice" by Helge Holst, then treasurer, Arthur D. Little, Inc.

[8] "How Procurement is Accomplished Today" by B. Edelman, Western Electric Co., Inc., presented during 1959 Senate Armed Services hearings on S. 500.

[9] This issue is raised in a special paper prepared by G. R. Hall and R. E. Johnson of Rand Corp. entitled "Competition in the Procurement of Military Hard Goods." The paper was presented June 17, 1968, in hearings conducted by the Senate Subcommittee on Antitrust and Monopoly on "Competition in Defense Procurement." The paper pointed out that a great deal more information is needed by a new supplier than just drawings; e.g., "operation sheets and machine instructions sheets; machine-loading control data; treatment data; tools, jigs, and fixture data; product, process or assembly data; and plant layout, machine tools, and work station data. * * * To sum up, it appears that engineering drawings and specifications are underlying data rights often fail to provide access to technology sufficient to support competitive manufacturing."

[10] From statement presented by Prof. Ralph C. Nash, Jr., associate dean, National Law Center, The George Washington University, on Sept. 10, 1968, before the same subcommittee mentioned in footnote 9. He also said:

Many experts in Government procurement will privately state that advertised procurement is not an effective way to obtain competition in these situations. However, there is a great fear of forthrightly stating this proposition before Congress because of the continual congressional statements which seem to indicate that advertised procurement is sacrosanct. It is time to recognize that Congress desires competition in the procurement process but that such competition should be obtained in the most effective way, depending on the product being procured. This subcommittee would make a substantial contribution to the procurement process if it sponsored legislation which clearly stated this proposition. Open and public competition may be fine for buying pencils and paper, but it is an archaic technique for buying technical products.

[11] Paper presented at 1959 Senate Armed Services hearings on S. 500 entitled "How Procurement is Accomplished Today" by B. Edelman, Western Electric Co., Inc.

[12] See footnote 11 on p. 10.

[13] Statement of Robert B. Chapman III, executive vice president, Aircraft Armaments, Inc., during 1959 Senate Armed Services hearings on S. 500, included the following: "It is recommended that revised legislation clearly establish the conditions under which each method of procurement is preferable, rather than state a preference for one method over the others * * *."

"The mere recognition that there are more than two methods of procurement is not enough. To be fully recognized and accepted, legislation would be required which would establish and identify these methods—along with general criteria for their use." Views of Col. William W. Thybony, former Chairman, ASPR Committee, The Government Contractor's Communique, dated Nov. 11, 1968.

[14] See footnote 11 on p. 10.

[15] See discussion on these procedures in early part of article under "Experience Under the Act."

[16] See "Report on Procurement of the Committee on Armed Services, U.S. Senate, 86th Cong., 2d sess., S. Rept. 1900, additional views of Senator Saltonstall (p. 30).

[17] For further information on this bill see "Hearings Before a Subcommittee of the Committee on Armed Services, U.S. Senate, 86th Cong., 1st sess., on S. 500 Amending Title 10, United States Code, with respect to procurement procedures of the Armed Services." These are the richest hearings the writer was privileged to read. Yet the Senate report (identified in footnote 16), which purportedly covered hearings in both sessions, ignored these hearings completely.

[18] This was done with knowledge of the Armed Services committees. The situation has been somewhat alleviated by amendment to the act permitting below-secretarial delegations of determining and findings for R. & D. procurements under $100,000.

[19] DOD and NASA are currently improving their incentive contracting guides.

[20] Headquarters Naval Material Command, Procurement Newsletter, "Let's Discuss Discussions," by George W. Markey, Jr., Assistant to the General Counsel (March-April 1968).

[21] For further elaboration, see paper entitled "Government Selection of Contractors for Research and Development," by Paul A. Barron, Deputy Director of Procurement, NASA, contained in the Proceedings Manual of 1968 Conference on U.S. Government Research and Development Contracts, Nov. 7–8, Washington, D.C.

[22] Based on trends in industry, it appears that raising the career development level of procurement personnel and giving them wider experience, more authority, responsibility, and opportunity to make real contributions to the procurement process would probably in the long run bring about the greatest savings in Government procurement costs. DOD initiated a departmentwide program in 1966.

[23] Another example would be the hearings conducted by Senator Hart on "Competition in Defense Procurement," before the Subcommittee on Antitrust and Monopoly of the Committee on Judiciary, U.S. Senate, 90th Cong., 2d sess., June 17 and 21, and Sept. 10, 1968.

[24] Supported by the Comptroller General in various statements presented to congressional committees. For example, see H. Rept. 890, 90th Cong., 1st sess., and Comptroller General's concluding remarks in hearings referred to in footnote 23.

[25] Proposed by Prof. Ralph Nash, George Washington University, in a statement presented to Senate Antitrust and Monopoly Subcommittee on June 21, 1968 (hearings identified in footnote 23). Prequalification of bidders also supported by Col. William Thybony, former Chairman, ASPR Committee.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, it was over a generation ago that President Truman first brought the International Convention on Genocide before this body for ratification. At the time, the United States was at a new height in world prominence. We were deeply concerned about global problems and global solutions. We recognized that only international understanding and cooperation could solve the conflicts and disputes that existed between the nations. Our concern in this area was reflected in our efforts in support of the United Nations.

The first step toward achieving the goals that we sought was the laying down of the principles that would be our guide. The next step was the transformation of these principles into concrete, international law. The first move in this direction was the drafting of the International Convention on the Prevention and Punishment of the Crime of Genocide. The United States played a leading role in the introduction of this document in the United Nations. And it was largely due to our support of the treaty that it passed the General Assembly unanimously.

Since that time, Mr. President, many political observers have seen a tendency toward isolationism in this country. Many claim that we are ignoring the problems of the other nations of the world and thus denying our place in the international arena. I hope this is not true. I hope that we will always live up to our responsibilities as a world power. But many look upon what we have not done as proof of our growing isolationism. And one of the things that we have not done is to ratify the Genocide Convention.

In these times of great domestic problems, we must not allow ourselves to forget or to ignore the apparently less pressing global problems. I call on my colleagues in the Senate to act with speed on the ratification of this important international treaty.

SMALL BUSINESS WEEK, 1974

Mr. BIBLE. Mr. President, the week of May 19 has been designated as "Small Business Week" by a proclamation signed by President Richard M. Nixon, following a practice going back to 1965.

The proclamation looks back into history and quotes the remarks of the Frenchman de Tocqueville, who visited our country in the 1830's and marveled at the "innumerable multitude of small undertakings." This reference recalls similar comments by Sir Edmund Burke to the English Parliament 200 years ago about business enterprise among the American colonists:

> The spirit by which (their enterprises) have been exercised ought. . . (to raise) your esteem and admiration. . . (There is) no sea which is not vexed by their fisheries; no climate that is not witness to their toils. Neither the perseverance of Holland or the activities of France nor the dexterous and firm sagacity of English enterprise ever carried (such hearty industry to the extent to which it has been pushed by this recent people. . . .

Thus, Small Business Week has accomplished an initial purpose by reminding us of one of the foundations of the economic and political success of our country.

A second objective of Small Business Week is served by alerting us to the necessity of preserving this venturesome spirit—and the institutions of freedom of opportunity, fair competition, and small business which encourage it—so they can continue to serve the Nation.

Some three decades ago, President Franklin D. Roosevelt recognized that problems existed in this respect and went so far as to state his impression that "private enterprise had ceased to be free enterprise." In 1938, the Temporary National Economic Committee was created as a part of "a program to preserve private enterprise."

Two years later, the Senate created its first special committee to study the problems of small business, and the House of Representatives followed suit in 1941. These were the predecessors of the present Select Committees on Small Business.

It has been pointed out by a senior member of our committee, the Senator from Wisconsin (Mr. NELSON) that concentration and bigness in the economy have become a greater problem in recent years than in the 1930's: the number of mergers in all industries rose from 1,361 to 4,040 last year, peaking in 1969 and 1970 at 6,132 and 5,173 respectively.

It is a matter of some concern that the 200 largest manufacturing corporations have, in the last 25 years, increased their share of manufacturing assets from 47 to 60 percent, and that by 1970 the top 102 corporations controlled about 48 percent of U.S. manufacturing assets and 53 percent of profits in this vital sector of the economy.

Small Business Week also serves as a reminder that governmental policies also have a major impact on whether small businesses can continue to survive. In recent years Federal, State, and local governments have added substantially to the burdens of business in the areas of taxes, reporting, and compliance with regulatory standards.

The observance of Small Business Week once each year has a fortunate effect in bringing together those inside and outside of government who are disturbed by these problems and working hard to find solutions in behalf of the hard-working small business men and women, and their employees who make up fully half of the work force in this country.

During the past 10 years, we have seen an increasing number of small business organizations of national scope such as the National Small Business Association, National Federation of Independent Business, and the National Business League, as well as such excellent regional groups as the Smaller Business Association of New England, the Smaller Manufacturers Council of Pittsburgh, the

Independent Business Association of Wisconsin, and the Council of Smaller Enterprises of Cleveland come to Washington for the week's activities. It has been encouraging to see this list grow in size over the years.

We are looking forward this week to the presentations which these associations will make on legislative, administrative and other small business problem areas. Our own committee will mark these proceedings on Tuesday, May 21, with a public hearing on problems experienced by small firms supplying goods and services to the Federal Government. On Wednesday, May 22, the Small Business Administration—the independent agency created to assist and represent America's 8.5 million commercial business firms—will conduct the annual subcontractor conference. That will be the occasion for recognizing the subcontractor of the year and other successful small business contracting firms, many of which may have benefited from SBA procurement, management or financial assistance.

In my opinion, Small Business Week this year will have an additional dimension which, perhaps, it has not had as strongly in past years. During the past 12 months, our country has seemed to enter a new economic era. Instead of our accustomed circumstances as a land of abundance, we have come face to face with scarcities of energy and materials, lack of capacity in basic industries, and shortages of capital and skilled labor. If our citizens are to retain their standards of living and if our country is to keep its position in the world, we will need all of our heralded American ingenuity in solving these problems in the years ahead.

In doing this, Small Business Week can remind us that the best guide to the future is the success of the past. We need to preserve the economic institutions which provide maximum freedom, flexibility and personal incentive, that is, the market mechanism, free enterprise, small business and competition.

As we enter Small Business Week, 1974, we take pleasure in participating in and observing its activities as a living laboratory for fashioning the techniques that we hope can preserve our cherished economic institutions of the past and apply them to our problems of the future.

I commend all of those who have been planning for and will be participating in the meetings and discussions of Small Business Week, 1974, and hope their resolve and their hands will be strengthened in this endeavor.

I ask unanimous consent that the President's proclamation on Small Business Week be printed in the RECORD for the interest of all concerned.

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

SMALL BUSINESS WEEK, 1974, BY THE PRESIDENT OF THE UNITED STATES OF AMERICA, A PROCLAMATION

The history of America is in large measure the history of independent enterprise. From the earliest days of our history, the trader and the merchant, pushing westward, laid the foundations for what has become the world's greatest economic achievement. "What most astonishes me," wrote de Tocqueville of our young Nation in the 1830's "is not so much the marvelous grandeur of some undertaking as the innumerable multitude of small ones."

It is upon the foundation established by those small undertakings that the most dynamic society known to man has been built. And today America's small businesses continue to thrive.

Nineteen out of every twenty firms are considered small business. They provide approximately 35 million jobs and contribute more than $476 billion annually to the gross national product.

The pioneering spirit that underlies our success as a Nation will continue to flourish for as long as the small businessman remains the mainstay of our economy and our society.

Now, therefore, I, Richard Nixon, President of the United States of America, do hereby designate the week beginning May 19, 1974, as Small Business Week. I ask all Americans to share with me during this week a deep pride in the many accomplishments of our Nation's small businessmen and women, and in the invaluable contribution they have made to our free way of life.

In witness whereof, I have hereunto set my hand this fourth day of April, in the year of our Lord nineteen hundred seventy-four, and of the Independence of the United States of America the one hundred ninety-eighth.

RICHARD NIXON.

COMMISSION ON UNITED STATES-LATIN AMERICAN RELATIONS

Mr. CHILES. Mr. President, I was pleased to go to New York last week to a dinner at the Center for Inter-American Relations to launch the newly formed Commission on United States-Latin American Relations. This Commission of 23 accomplished Americans chaired by Sol Linowitz, former U.S. Ambassador to the OAS, will meet frequently over the next several months. They will seek to reassess U.S. relations with Latin America and to publish a report of their findings and recommendations, focusing especially on feasible U.S. policy actions.

I am pleased to see that a Commission of this type has been formed to seriously consider different opportunities and alternatives for improving U.S. relations with Latin America. This I hope will be a way of providing some fresh thinking for the Government as well as providing a means of focusing attention on the need for a renewed relationship with Latin America and generating the kind of public understanding and support this area of our foreign policy requires.

Sol Linowitz gave an excellent presentation the other night at the Center for Inter-American Relations in New York which I ask unanimous consent to have printed in the RECORD along with a list of the members of the Commission on United States-Latin American Relations.

I wish the Commission well in its work and look forward to the results which I expect will be useful to the Congress in making decisions relating to U.S. policy toward Latin America.

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

REMARKS BY SOL M. LINOWITZ, CHAIRMAN, COMMISSION ON UNITED STATES-LATIN AMERICAN RELATIONS, TUESDAY, MAY 14, 1974

I am pleased to welcome my distinguished colleagues on the Commission on United States-Latin American Relations and the eminent guests who have joined us on this occasion to launch the work of the Commission.

I want first to express my appreciation to the Center for Inter-American Relations for its stimulus and sponsorship of the project we are undertaking and to the Ford Foundation, the Rockefeller Brothers Fund, and the Clark Foundation for their financial assistance. Although this Commission will be wholly independent in its operations and will make its findings and recommendations directly to the American people, the fact is that we could not have undertaken this project without the generous support of the Center and these three Foundations.

When I was asked to assume chairmanship of this Commission, I thought about it very carefully before saying yes. I know only too well—as do all of you—that over the years we have had study upon study setting forth the policy needs and proposed approaches to United States relations with the countries of Latin America. We also know all too well how many of these reports and recommendations have gathered dust on crowded bookshelves, disappointing both those who labored over the reports and those who expected that perhaps this time words might be translated into action.

The real question, therefore, is why a new commission at this point, once again to study and report on United States-Latin American relations. It is my own conviction—in the words of Ecclesiastes—that "to all things there is an appointed time"—and that this is "the appointed time to re-evaluate and reassess relationships in this hemisphere, taking into account the changing realities in the world which are affecting political and economic conditions in the United States and Latin America."

Let us just step back for a moment and see what these new realities are.

In the first place, it is all too clear that we are living in a world in which international relations as we have experienced them in the past are drastically changing. No longer do security and military considerations dominate our thinking as they did during the past 35 years. And the Cold War affected not only our attitude toward the Communist world but it also accounted for much of our relationship with the developing nations of the Third World. For to a substantial extent the Third World was, in effect, the battlefield on which superpowers flexed their muscles or shadow-boxed for positions of influence. While some attention was paid to economic and social development, clearly this was a secondary concern, viewed by many as a form of immunization against Communism. But today we have begun to recognize our interdependence in our global environment; and this is displacing security in its narrow sense as the raison d'etre for America's foreign policy.

Today we have come to understand that there are other important centers of power in the world besides the superpowers. We know that transnational forces including the multinational corporation have become important actors on the international scene. And we know, too, that the line between domestic and foreign policy has become increasingly blurred and that our interests abroad are now inextricably intertwined with our interests at home.

Today when we think of security we must think not only of military and political power, but also of oil and copper and bauxite. We must think of the implications for our own future of the urgent prospect of world famine due to the scarcity of food and fertilizer. Recognizing that Latin America has the fastest growing population in the world, we must think of the impact of the population problem on this planet—that next year 4 billion people will dwell on this earth; that by the turn of the century there will be 8 billion or more.

ternational system—detente, multipolarity, transnationalism, scarcity of raw materials and foodstuffs, population growth—it is both pressing and timely to re-examine relationships between the United States and Latin America against the backdrop of this changed world picture.

At the same time, we recognize that great changes have been taking place within various countries and regions of Latin America. Rapid urbanization and mass communications have produced political awareness among people not yet participating in the economic growth of their countries. As a result, governments face increasing demands to provide jobs and services. To meet these internal demands, Latin Americans seek freer access to United States and other developed nation markets for their manufactured and semi-manufactured products and their raw material exports. They seek higher and more stable prices for these commodities. And they seek better access to both capital and technology. In their search for helpful responses to these needs, the Latin American countries have become increasingly active participants in the world community beyond the confines of our hemisphere. Our policies must be much more mindful than in the past of these developments. They must listen with understanding to the voices of identity, of nationalism, of outrage at lingering dependency now coming from Latin America.

Not long ago Secretary of State Henry Kissinger voiced his recognition of these changes both within Latin America and in its place in the world picture. Following a call for a new dialogue first voiced here in this room, Secretary Kissinger said at the General Assembly of the OAS in Atlanta last month: "Industrialization and modern communications have transformed economic and social life. A new generation is molding strengthened institutions. A sense of regional and national identity has acquired new force. A commitment to modernization has become fundamental."

What the Commission faces today is the complex and difficult task of determining how the United States can and should respond to this diversity and change in Latin America. Will we be ready to discard myths and stereotypes and try to work out a framework for policy consistent with a realistic assessment of our common and diverse interests and values? How should the United States today seek to relate to these countries of the Caribbean, Central America and South America? In what way should we try to differentiate our Latin American policies from policies toward other developing nations? To what extent and in which areas should we attempt to relate to and deal with Latin America on a regional basis? To what extent should we develop relationships on a bilateral basis? What should be the United States Government's attitude toward internal political developments? What part should the United States play in the economic and social development of the region and the particular countries? Through what mechanism and channels can this be done effectively without increasing real or perceived dependency? What should be the United States Government's involvement in the protection, promotion or regulation of United States corporations operating in Latin America? How can we advance mutual interests by closer coordination on international trade and monetary matters?

These and a number of other questions are among those to which this Commission will undertake to address itself in the course of its deliberations over the next several months. While there will be divergences among us on these and other matters, of one thing I am clear: We will approach this assignment recognizing that there are no simplistic answers or instant solutions to these problems, many of which have been festering for so many years. Nor do we expect to be able to deal with the whole sweep of relationships. Although we hope to undertake a fairly comprehensive review of United States-Latin American relations, we will obviously be able to focus attention only on a limited number of critical issues—issues that are current, contentious and most susceptible to feasible policy action. And I am sure we will come to recognize the wisdom of the nameless philosopher who said: "There is no problem, no matter how complicated, which—when looked at in the right way—does not become more complicated."

Already experts in various professional fields are at work on analytical papers to be presented to the Commission dealing with specific topics of significance. As we proceed we will be seeking alternative and diverse points of view from both North Americans and Latin Americans. We will invite all sides of the political spectrum to present their perspectives and positions.

Our goal will be to complete a concise and useful report by September. We hope that our report will be widely disseminated throughout the country and will stimulate discussion and consideration both within the Government and among citizens groups and in the media. We hope that the Executive Branch will find our report worthwhile; and it is my hope that the Senate Foreign Relations Committee and the House Foreign Affairs Committee might consider it deserving of public hearings so that more members of Congress may be encouraged to familiarize themselves with programs affecting United States-Latin American relations.

Our hope is that the report will help develop an effective constituency in this country to provide the support needed to assure the adoption and implementation of its recommendations. If we are able to succeed in generating this interest and support, I believe that our report can be a real instrument for change.

Let me add just one more comment about the spirit in which we undertake this effort: Quite clearly we will not be trying to prescribe for Latin America. Today Latin Americans are rightfully insistent upon building their own structures and finding their own solutions—they want to achieve not a better United States way of life but a better Colombian or Brazilian or Jamaican way of life. In viewing their problems and the way we can cooperate with them most effectively, we can only approach them with modesty and humility. For if with all of our wealth and know-how, we continue to have such major difficulties in dealing with our own urban and rural blight; if with all of our technological and scientific knowledge, people in this country still go hungry; and if with all of our commitments to democratic institutions there are still among us—even in high places—those who resort to undemocratic means—then we should have some sense of the effort that will be required in Latin America as it seeks to achieve its own goals.

I hope that from the work of this Commission will come a helpful contribution towards a better understanding of how we can work together toward the achievement of those goals and how in our mutual interest we can cooperate most effectively to advance the prospects for developing the kind of hemisphere we want—one in which men can live together in freedom and in dignity, free from war and free from want.

MEMBERS OF THE COMMISSION ON U.S.-LATIN AMERICAN RELATIONS

Sol M. Linowitz (Chairman), Senior Partner, Coudert Bros., Former U.S. Ambassador to OAS.

Michael Blumenthal, Chairman, Bendix Corporation, Former Special Trade Representative.

Harrison Brown, Professor of Science and Government, California Institute of Technology, Foreign Secretary, National Academy of Science.

G. A. Costanzo, Vice Chairman, First National City Bank.

Albert Fishlow, Chairman, Department of Economic, University of California (Berkeley).

George Harrar, Former President, Rockefeller Foundation.

Rita Hauser, Attorney, Former U.S. Representative to the UN Human Rights Commission.

Alexander Heard, Chancellor, Vanderbilt University.

Henry J. Heinz II, Chairman, H. J. Heinz Company, Chairman, Agribusiness Council, Inc.

Andrew Heiskell, Chairman, Time, Inc.

Father Theodore Hesburgh, President, University of Notre Dame, Chairman, Overseas Development Council.

Lee Hills, Chairman, Knight Newspapers, Inc.

Samuel C. Huntington, Professor of Government, Harvard University, Co-editor *Foreign Policy*.

Nicholas Katzenbach, General Counsel, IBM, Former Under Secretary of State.

Thomas Messer, Director, Guggenheim Museum.

Charles A. Meyer, Vice President, Sears, Roebuck & Company, Former Assistant Secretary of State for Inter-American Affairs.

Arturo Morales-Carrion, President, University of Puerto Rico, Former Deputy Assistant Secretary of State for Inter-American Affairs.

Peter G. Peterson, Chairman, Lehman Bros., Former Secretary of Commerce.

Elliot L. Richardson, Distinguished Fellow, Woodrow Wilson International Center for Scholars.

William D. Rogers, Attorney, Former Deputy Coordinator of the Alliance for Progress.

Nathaniel Samuels, Senior Partner, Kuhn Loeb & Co., Former Under Secretary of State for Economic Affairs.

Kalman Silvert, Program Advisor, Latin American Division, Ford Foundation.

Clifton Wharton, Jr., President, Michigan State University.

HOSPITAL EMERGENCY ROOMS

Mr. JAVITS. Mr. President, as Congress debates the various legislative proposals for a program of national health insurance, there is at least one concern shared by all participants—adequate coverage for the medically indigent.

In New York State alone voluntary hospitals anticipate a $60 million loss this year in their emergency room and outpatient departments due to nonreimbursable services to the medically indigent. Sister Evelyn M. Schneider, executive director of St. Vincent's Hospital and Medical Center of New York, has said that—

St. Vincent's suffered a deficit of $2.5 million in emergency-room and outpatient services in the last two years and that the viability of the hospital was threatened.

I am concerned that a curtailment of operations in this area would impact most severely on the segment of the population least able to make alternative arrangements for their health needs.

The executive vice president of the Hospital Association of New York, George B. Allen, has stated that—

Reduction of outpatient services would inevitably compel greater use of the more costly inpatient facilities, thus raising the costs for all patients and their carriers.

Efforts are now underway in the State Legislature of New York to require medical insurers—private and public—to underwrite a portion of the operational costs of these vital services. I believe the long-term requirements of our health care delivery system can only be met by a national commitment to a comprehensive health insurance program for all based on an equitable sharing of the financial requirements.

Mr. President, I ask unanimous consent to have a recent editorial from the New York Times highlighting this critical problem printed in the RECORD.

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

[From the New York Times]

HOSPITAL EMERGENCY

The State Senate is considering a bill that would require medical insurers to underwrite part of the losses sustained by voluntary hospitals in the operation of their emergency and outpatient facilities. Since it appears that Federal law will not permit charging of such costs to Medicaid, the task would essentially fall to Blue Cross.

The arguments for a prorated subsidy of ambulatory and emergency services are persuasive. The hospitals' deficits are expected to run to $60 million this year. Since approximately half of the outpatients are classified as "working poor"—unable to pay for much of the clinics' services but ineligible for Medicaid, the hospitals are saddled with a major part of the cost. Without aid, the hospitals have two equally unsatisfactory options: To reduce or discontinue ambulatory services, thus placing an inordinate burden on the municipal hospitals and leaving wide areas of the city inadequately covered; or they could admit more of the ambulatory cases to inpatient care in order to collect insurance, thus wastefully increasing overall costs.

Apart from the predictable clash of interests between the hospitals and the private insurers, the issue underscores the unsatisfactory nature of the existing financing of health services. The aid that would be procided to the hospitals by the bill is clearly needed; yet it is also obvious that such subsidies are merely a temporary mending tape that cannot hold together the creaking structure of this or any other state's health services. Nothing short of an effective National Health Insurance can do that job.

SMALL BUSINESS WEEK

Mr. CRANSTON. Mr. President, May 19 to 25 marks the annual observance of National Small Business Week to highlight the accomplishments of the Nation's small businessmen and women and the vital contributions they have made to the American way of life. During this week the Small Business Administration will hold its sixth annual subcontracting conference and awards luncheon here in Washington. The theme is "Small Business Problems in Today's Environment." At this presentation the subcontractor of the year and the small businessmen of the year will be honored.

There are presently 8½ million small businesses in the country and an estimated 870,000 in California. Opportunity is the byword for small business in America. Small, free, independent, enterprise is the heritage of our past and the lifeblood of our future.

It is, therefore, very appropriate that we recognize small businesses and the small businessman and women through the observance of Small Business Week.

I ask unanimous consent Mr. President, to have my article from the May 15, 1974, issue of Forbes magazine entitled "The Preservation of Small Business Is the Preservation of Our Independence," printed in the RECORD.

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

[From Forbes Magazine, May 15, 1974]

THE PRESERVATION OF SMALL BUSINESS IS THE PRESERVATION OF OUR INDEPENDENCE

(By Senator Alan Cranston)

Americans like to think of the U.S. economy in terms of large corporations. But Alan Cranston, senator from California and chairman of the Senate Banking Subcommittee on Small Business, argues that small businesses still come close to being the bedrock of the U.S. economy.

By small, Cranston means businesses with less than $1 million a year in sales and under 500 employees. Such businesses generate 40% of the U.S. gross national product, provide something like 40 million jobs, employing roughly half the entire U.S. civilian work force, and altogether number 10.5 million or so separate enterprises.

"In fact, 97% of all businesses are small businesses," says Cranston, who quit the real estate firm his father founded to go into politics in 1958. "Outside of farming, the bulk of small businesses operate in service industries. Retail comes next, then manufacturing, but not too much of that because manufacturing requires pretty heavy investment."

Cranston doesn't claim that, by the yardsticks familiar in bigger businesses, small business is especially efficient. "Economic efficiency means in this instance giving people what people want." Small businessmen willingly work long hours for what would be considered sweatshop wages in any other industry, and, even at that, most small businesses are inherently marginal enterprises that are inordinately vulnerable to any economic downturn. "They fail," says Cranston, "predominantly because of lack of capital and lack of proper management guidance." These are the deficiencies that the Small Business Administration—over which Cranston's committee has jurisdiction—is supposed to be trying to correct.

Says Cranston: "There are an awful lot of Americans who want to be independent, want to be able to make their own decisions and are willing to take some risks in return for that. They take risks, they earn less and they keep at it under very difficult circumstances. They have sort of the American pioneering individualistic spirit. Instead of letting such people get lost in the bureaucracy of some big enterprise, I think we should continue to provide these Americans with such opportunities."

Any consumer who has ever dealt with a plumber, a television repairman, or an auto mechanic may imagine that the small businessman resembles the highway robber more than he does the pioneer. Moreover, several generations of American literary observers, from Sinclair Lewis with his Babbitt to William Faulkner with his rapacious Snopes family, have tended to suggest that small business represents the free enterprise system at its most mean-spirited—self-interested, immoral, penny-pinching, sharp-dealing, corrupt, rapacious and largely immune to any sense of public responsibility. Great Atlantic & Pacific Tea Co. can be embarrassed, and has been, by being found out charging higher prices in ghetto neighborhoods than it does elsewhere, but small businessmen can and do profiteer in such fashion with impunity.

For all its faults, Cranston argues, small business does what big business cannot do: give personalized service. "It's in the service industries that small business is very predominant—shoe shine, barber shop, beauty shop, shoe repair and so forth, and I doubt that big business can handle these operations. People get fed up with the mass-production, chain approach. Small businesses provide better service and more individual attention. They give people what they want. That's why they survive."

Small business provides jobs on a vast scale. The average small business, Cranston figures, has six employees. More likely than not, those employees are neither highly skilled nor well educated and might be hard put to find employment elsewhere. Cranston complains, for instance, that 10,000 people lost their jobs last year when 1,800 small businesses went bankrupt because $48 million of the Small Business Administration's direct loan funds were frozen. "Not even counting the cost in human suffering," Cranston says, "this is bad economics."

"Since virtually all that loan money would have been paid back, its impoundment is no real saving to the taxpayer. By contrast, those 10,000 people who were thrown out of work could have collected more than $54 million in unemployment compensation payments, part of which is tax money. And if each of those 10,000 people normally pays only $500 a year in income taxes, their forced unemployment means a reduction of $5 million in tax revenues."

In short, the care and feeding of small business is in part a highly productive and economically efficient alternative to welfare.

"I think the preservation of small business is very much the preservation of our independence," Cranston says, "just as I think the maintenance of government at the local level is vital to our survival. You can get *at* your local city government, and the same goes for small business."

To assure its survival, Cranston these days is sponsoring a bill to help small businessmen hurt by the energy crisis to refinance their loans. He would also like to see small business protected against big-business competition, through more vigorous prosecution of the antitrust laws.

But Cranston is hardly doctrinaire. He was also a prime mover in winning $250 million in government-guaranteed loans for one of the U.S.' largest business enterprises—ailing Lockheed Aircraft Corp.—and he did so for much the same reason that he favors the protection of small business. "At no risk to the Government, those loans kept in business a company that provided 30,000 jobs in California, as well as a tremendous number of small business subcontractors. They also enabled Lockheed to diversify into a civilian kind of enterprise—the L-1011. I think it was a healthy thing to do at that time, for small business and for big business."

Cranston thus comes close to agreeing with Irving Kristol (p. 74) that sheer efficiency should not be and cannot be the sole guide to which businesses are allowed to survive and which not. Adam Smith's "unseen hand, he would argue, needs considerable holding."

B–1 BOMBER STUDY

Mr. McGOVERN. Mr. President, under the auspices of Members of Congress for Peace Through Law, Congressman SEIBERLING and I have prepared and are releasing today a comprehensive study of the proposed new strategic bomber designated the B–1.

The B–1 program has been plagued by performance underruns and cost over-

runs. Official program cost estimates have increased by an astounding $5.6 billion since 1970. When armaments, a probable new tanker requirement, and operating and maintenance costs are added, the B–1 program promises to be the most expensive weapons system in history.

Yet it will provide an aircraft that represents only marginal and largely meaningless improvements over existing bombers. And it is for a role that is entirely secondary—one of insurance against the exceedingly remote risk that both our submarine-launched missiles and our intercontinental ballistic missiles might simultaneously fail. Considering that missiles have flight times of 30 minutes or less, while the B–1 would take 8 hours to travel the same distance, it is likely that any nuclear war would be over before the bomber even got a good start on its mission.

Mr. President, I ask unanimous consent that the report I have described be printed in the RECORD.

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

MEMBERS OF CONGRESS FOR PEACE THROUGH LAW

REPORT ON THE B–1 BOMBER PROGRAM

(A research paper* prepared by Senator GEORGE S. MCGOVERN and Congressman JOHN F. SEIBERLING)

CONCLUSIONS

1. Strategic nuclear bombardment by aircraft now plays only a marginal role in U.S. deterrent or war-fighting posture. Bombers protect only against a massive failure or destruction of thousands of nuclear warheads which are based in hardened silos or under the oceans, and which can be delivered on target in about one-twelfth the time required for a manned aircraft to travel the same distance.

2. Both the nature and the size of the planned strategic bomber force are based on preparations for a counterforce role which is wholly implausible—the premise that bombers would be useful in striking Soviet ICBMs on the ground after a nuclear war is already underway.

3. Bombers do have utility in complicating still further the enormous defensive or counterforce problems which any adversary would have to solve to attain a first strike posture. But a force designed expressly for this purpose would be much smaller and less complex than the B–1.

4. The B–1 has only slight advantages over the later model B–52s, and almost none that are likely to be relevant to its mission. The high altitude supersonic capability has no real relevance and could actually detract from the ability to penetrate at low altitudes. If Soviet defenses were massively upgraded, the most important countermeasures for U.S. bombers would lie in electronic countermeasures, decoys, stand-off missiles, and other technology which can be applied to the B–52 as well as to the B–1.

5. There is no time urgency for a production decision on the B–1 by late 1976. The existing force of B–52Gs and Hs and FB–111s can be operational through the 1980s. In fact, the B–1 is planned as an addition to, not as a replacement of, those forces. As such, it would represent in the 1980s an unnecessary increase from the present 21 million pound payload of U.S. strategic bombers to nearly 52 million pounds.

6. Because of costs and risks, manned strategic bombers can have no sustained role in conventional wars except against targets—such as those in South Vietnam—which are almost entirely undefended. The U.S. lost 15 B–52s to Soviet SA–2s in 11 days of bombing North Vietnam in 1972. 90 days of bombing at the same loss rate would have wiped out the entire B–52 force assigned to Southeast Asia. If B–1s, which are vulnerable to SA–3s, had been used, the loss of 15 would have represented nearly $1 billion worth of airplanes shot down—by missiles costing about $50,000 apiece.

7. Between 1970 and 1974 the cost of the B–1 program has gone from $9.4 billion to $15 billion—an overrun of $5.6 billion, before the first prototype has even flown. The projected cost of each aircraft has doubled. And the $15 billion figure excludes such added costs as a new tanker, armaments, decoy missiles, and operation and maintenance, which will push the total up to a minimum of $35.5 billion and possibly up to $70 billion if costs continue to rise proportionately. And as costs have been going up, performance characteristics have been going down.

8. The last complete cost-effectiveness study of the B–1 was made in 1966. Rising costs and declining performance make the results of those earlier studies almost meaningless.

9. With the B–58 in mothballs, the B–70 in a museum, and the B–1 in trouble, the history of strategic bomber development programs gives scant reason for confidence in the ability of the Air Force to evaluate independently the various strategic bomber options.

10. In the current economic context, the B–1 program makes inflationary pressures still more severe and, because it is intensive in costly materials and technology, it is an extremely inefficient method of providing jobs. The B–1 now employs 25,650 people directly; the fiscal 1975 B–1 request, if devoted exclusively to payroll, could produce 50,000 jobs at $10,000 a year. Almost any kind of public investment would create more jobs for the same money. For long term job stability, B–1 workers would be better served through conversion programs which could shift skills and facilities now devoted to the B–1 to such civilian needs as transportation.

RECOMMENDATIONS

I. The B–1 development program should be scaled down and rescheduled to a timetable which would set the production decision no sooner than 1980.

II. Programs should be developed to assist in the conversion to such priorities as public transportation, housing, and new energy sources, of workers and facilities who would be displaced by a decision to reschedule the B–1 program.

III. A new and comprehensive cost-effectiveness study of various strategic bomber options should be undertaken immediately, under the following conditions:

A. As recommended by the General Accounting Office, assumptions and methodology should be reviewed in advance by the Armed Services and Appropriations Committees of both the House and the Senate.

B. The study should include not only a comparison of various options, but an assessment of the strategic practicality and plausibility of the nuclear mission profiles planned for strategic bombers in the 1980s and beyond.

C. To assure an independent assessment, personnel who have worked for the Department of Defense or on military contracts in private industry in the prior three years should make up no more than one-half of the expert manpower employed on the cost-effectiveness study. The special capabilities lodged in the Office of Technology Assessment should be given consideration in preparing the study.

D. The study should include cost-effectiveness comparisons for:

a. The B–1 bomber,

b. A redesigned version of the B–1 bomber with the supersonic capability excluded,

c. The existing B–52G and H/FB–111 combination,

d. The FB–111G,

e. The B52–I,

f. Various designs of a strategic aircraft/missile combination designed exclusively for launching missiles from beyond the reach of the adversary's defensive systems, and

g. The option of excluding manned strategic aircraft entirely, and relying on improvements in SLBM and ICBM systems as necessary as insurance against failure or degradation of those systems.

SECTION I—INTRODUCTION TO THE B–1

(A) Characteristics

The B–1 is a proposed new intercontinental strategic bomber designed to be phased into the U.S. Air Force in the early 1980's, to replace a portion of the existing force of B–52's as they are retired.

With a length of 143.3 feet and a gross weight slightly under 400,000 pounds, the B–1 is comparable in size to the Boeing 707 commercial aircraft—relatively small for an intercontinental strategic bomber. Yet it is designed to carry a maximum payload of 75,000 pounds internally, plus another 40,000 pounds externally, for a total approaching two and one-half times the payload of the B–52. However, because of payload for fuel tradeoffs, the B–1 is not expected to carry substantially more than the B–52 on typical missions—10 to 12 nuclear weapons.

In addition to gravity bombs, the B–1 will be designed to carry nuclear-tipped standoff missiles (SRAM) with a range of 70 to 100 miles, so it can attack from outside terminal defenses. The Air Force is studying whether it should also carry armed decoy missiles such as the subsonic cruise armed decoy (SCAD). But that system, designed for the B–52, would require major modifications if it were to be included in the B–1 arsenal.

The new bomber will have a variable geometry, or swing wing design, so the wings can be swept back for supersonic flight at nigh altitudes and swept forward for takeoff and landing and for flying at reduced speeds at low altitudes. It will be manned by a crew of four, and will have an unrefueled range of approximately 6,000 miles, boosted to 10,000 miles with one refueling.

The Air Force claims two major advantages for the B–1 over the B–52. First, it will have a better survivability before and during launch. It will be a "harder target" on the ground, which means that an explosion would have to strike closer in order to destroy it prior to takeoff. It will also take off much more rapidly—in as little as four minutes according to ambitious estimates, compared to roughly fifteen minutes for B–52's on ground alert. It will be able to take off from shorter and narrower runways, permitting wider dispersal on bases in the United States. It will be painted white to reflect thermal energy from nuclear blasts.

Second, the B–1 is expected to have an improved ability to penetrate Soviet defenses. It will have a smaller radar cross-section and infra-red signature, which will make detection more difficult. At low altitudes, between 200 and 1,000 feet off the surface, it will travel at slightly higher speeds than the B–52, although still less than the speed of sound. Aside from SCAD, it will carry the full range of penetration aids, including electronic countermeasures which are now being incorporated into the later series B–52's.

*This research report will be circulated to the Committee, the Steering Committee, and to all MCPL Members for their use and individual endorsement.

(B) Development history

The concept of a new manned bomber has been under active consideration since well before the last of 744 B–52's rolled off the production lines in 1961. In that year recommendations were received for a Subsonic Low Altitude Bomber (SLAB), followed by the Extended Range Strike Aircraft (ERSA), the Low Altitude Manned Penetrator (LAMP), the Advanced Manned Precision Strike System (AMPSS), and the Advanced Manned Strategic Aircraft (AMSA) in 1962 through 1965.

With the advent of high speed, high altitude surface to air missiles, these studies generally recognized low-level flight to avoid radar detection as the one feasible method of penetrating hostile airspace. The major exception was a costly failure. The XB–70 "Valkyrie" was terminated in 1966 after two flying prototypes had been built and $1.4 billion had been spent. The B–70 was designed for high altitude supersonic penetration. And the essential lesson was that aircraft flying even at twice the speed of sound or more cannot outrun SAM's flying at up to 11,000 knots.

By the same token, the most advanced bomber in the present force, the FB–111, was designed and built to penetrate at low altitudes. The FB–111 is the bomber version of the TFX built by General Dynamics, and it is the one aircraft in that multipurpose program that is fully operational. It is a swing wing aircraft which flies at 2.2 times the speed of sound at high altitudes and slightly over the speed of sound at sea level. It entered the Strategic Air Command inventory in October of 1969, but because its range and payload are limited (the range is 3,300 nautical miles without refueling; that can be extended with external tanks, but at the expense of payload), the Air Force does not regard the FB–111 as the answer to the strategic bomber requirement.

The B–1 itself is the outgrowth of the AMSA studies of the mid-1960's, and it, too, is designed for low altitude penetration. Like the FB–111, however, it also incorporates the high altitude, supersonic features of the B–70. Originally it was expected to be supersonic at low altitudes as well, but that feature was deemed infeasible and excessively costly before the advanced research and development program was underway.

The development program for the B–1 was approved in June of 1970. It has proceeded on the basis of three flying prototypes and 27 test engines, with the first flight originally scheduled for April of 1974 and the production decision for July of 1975. The prime research and development contract was awarded to Rockwell International (formerly North American Rockwell). General Electric is building the engines, and Boeing is designing the integration system for the avionics. Smaller but nonetheless sizeable B–1 subcontracts are held by nearly 70 divisions of these companies or separate companies in seventeen states.

As recently modified, the total research and development program for the B–1 will cost $3.5 billion in "then year" dollars. Counting earlier ASMA studies, roughly $1.6 billion in current dollars had been approved through fiscal 1974.

By mid–1973 the B–1 development program had encountered serious schedule slippages and management problems. In August of that year, in response to congressional concern, Secretary of the Air Force John McLucas appointed a task force headed by Dr. Raymond Bisplinghoff, Deputy Director of the National Science Foundation, to review the program. Based on the task force's conclusions, the B–1 development effort now includes a "pre-production" phase involving funding a fourth and possibly a fifth aircraft out of development funds and postponing the production decision until November of 1976. The task force also projected increased costs and possible deviations from performance standards, based primarily on an increase in the B–1's gross takeoff weight from 360,000 pounds to 395,000 pounds.

(C) Force levels

If the B–1 is produced, it would enter the force in the early 1980's, replacing initially the 80 B–52D's which are now being modified to extend their operational life into that period. These are the oldest B–52's presently in service.

While the general impression may be to the contrary, the B–1 would not initially replace the latest model B–52's, the G and H models, which are presently organized into 17 squadrons with 255 assigned aircraft, nor will it replace the four squadrons of FB–111 bombers with 66 assigned aircraft. Both can remain operational at least through the 1980's.

Hence, based on the projected buy of 244 B–1's organized into 14 squadrons, the B–1 is an additive rather than a follow-on and represents a dramatic increase in the payload of the U.S. strategic bomber force. The following table compares maximum payloads for the existing force with those of the force of the mid–1980's.

STRATEGIC BOMBER PAYLOAD

Aircraft	Payload per aircraft (pounds)		Total payload
	Internal	External	
1974:			
B–52D,F,G,H (397) [1]	31,000	20,000	20,247,000
FB–111 (66)	4,400	4,200	567,600
Total			20,814,600
1984:			
B–52G, H (255)	31,000	20,000	13,005,000
FB–111 (66)	4,400	4,200	567,600
B–1 (244)	75,000	40,000	38,060,000
Total			51,632,000

[1] 120 B–52D's and 22 B–52F's are included even though these aircraft have been operational almost entirely in conventional roles or in training. They are not capable of low altitude penetration, and their nuclear role would be limited to targets other than the Soviet Union. The payload of present strategic aircraft oriented toward the Soviet Union is about 13,500,000 pounds.

The table demonstrates that under current plans, with the B–1 entering the force well before the B–52G's and H's and the FB–111's are phased out, the B–1 represents far more than a replacement of existing capability. It would increase the overall maximum payload capacity of U.S. strategic bomber forces by two and one-half times, from about 21 million to nearly 52 million pounds of bombs.

SECTION II—NUCLEAR STRATEGY

(A) Forces for deterrence

It is impossible to make a valid assessment of the strategic bomber program without considering the country's overall strategic posture. Bombers share a purpose with other offensive systems—sea-launched and intercontinental ballistic missiles. And the need for and the timing of massive expenditures on a new strategic aircraft obviously depend on the reliability of those other systems in meeting the overall objective of deterring nuclear war.

It is also important to note that for all practical purposes the exclusive function of nuclear weapons and delivery systems is deterrence. Within the constraints of both arms control agreements and technology, it is impossible for either the United States or the Soviet Union to prevent their own destruction if nuclear war does occur. A small proportion of the weapons already in the Soviet arsenal could wipe out most of American population and industry within a matter of minutes, and the reverse is also true. A full scale nuclear exchange would render both countries and much of the rest of the world uninhabitable.

Hence, the mission of U.S. nuclear forces is not so much to fight a nuclear war as to prevent one. And prevention means demonstrating to any potential attacker that we could—and would—absorb a first strike and deliver a society-destroying blow in return. It is a matter of convincing the leaders of the Soviet Union, in particular, that they can never hope to win or even gain the slightest advantage through a nuclear strike against the United States or its allies.

Since deterrence is as much a mental as a physical process, it is impossible to calculate with any degree of precision the size and nature of the nuclear force necessary to accomplish the mission. Just twenty-six warheads could, for example, strike every city in the United States with 500,000 or more people. Some 160 individual missiles could strike every community of 50,000 or more. It is hard to imagine a provocation which would cause a rational American President to accept damage of that kind, and it is similarly hard to imagine a Soviet leader accepting the assured destruction of that country's ten, twenty, or 100 largest cities.

But there is one practical measurement of how much is enough, and that is the number of targets big enough to be worth attacking. Once the adversary's major counter of population and industry have been accounted for, it probably does not add much, if anything, to deterrence to be able to strike rural communities or agricultural regions. In the case of the Soviet Union, some 34 percent of the population and 62 percent of the industrial capacity is concentrated in 200 cities, all of which could be destroyed by a slightly larger number of weapons equivalent to a one megaton blast. Doubling the number of warheads would destroy only another six percent of the Soviet population and another ten percent of industrial capacity.

But a Soviet leader who would not be deterred by our ability to destroy more than a third of his population and two thirds of his industry would probably not be much impressed by the incremental ability to destroy a few percentage points more. Therefore, 300 to 400 missiles or bombs or their equivalent would seem to provide all that it is possible to accomplish in fulfilling the strategy of deterrence. Beyond that figure additional warheads must be counted as redundant or as insurance. In all likelihood even fewer would suffice.

On this basis it is clear that both the United States and the Soviet Union have built massive overkill into their nuclear forces. In mid-1974, the United States operational force will include 7,940 force loadings—bombs and separately targetable missile warheads. Through the continuing deployment of multiple independently-targetable re-entry vehicles (MIRV's) on both land and sea based missiles, we are building toward a total of 10,000 force loadings by 1976. The Soviet Union will have 2,600 force loadings in mid-1974, and they have also begun testing MIRV's. The following table compares existing forces for both sides.

UNITED STATES AND U.S.S.R. STRATEGIC FORCE LEVELS (MID–1974)

	United States	U.S.S.R.
ICBM launchers	1,054	1,575
SLBM launchers	656	660
Intercontinental bombers	596	140
Total force loadings [1]	7,940	2,600

[1] The force loadings total includes independently-targetable warheads and bombs; as opposed to the number of launchers, it is a measure of how many separate targets the force can strike.

(B) Assured destruction, the Triad and SALT

But deterrence requires more than numbers. The potential adversary must also be convinced that the warheads could actually be delivered on target—that adequate numbers could survive a surprise first strike, and that the warheads would penetrate defenses and inflict unacceptable damage.

To make this guarantee the United States has not only considerable numerical overkill, but three different delivery systems—1054 intercontinental ballistic missile launchers, 656 sea-launched ballistic missiles, and 496 intercontinental bombers (comparable figures for the Soviet Union are 1575 ICBM's, 660 SLBM's, and 140 bombers). Each of the three systems—each leg of the "triad"—has more warheads than there are major Soviet targets. Each creates its own challenge to counterforce or defensive technology. ("Counterforce" means generally destroying a weapon before it can be launched or fired—hitting ICBM's in their silos, for example, or destroying bombers on the ground. Defensive systems are those, such as surface to air missiles or ABM's, designed to intercept weapons on their way to target.) Therefore, each leg of the triad insures against any failure or degradation of the other two.

While it was limited in scope, the 1972 Strategic Arms Limitation Agreement with the Soviet Union marked an important step in determining how much of this insurance will be necessary in the future. Whether or not the concern has been justified by the state of ABM technology, the possibility that the Soviet Union might build an antiballistic missile shield to intercept our ICBM's and SLBM's has been a major rationale for additions to the U.S. nuclear force. Our own development and deployment of MIRV's was, for example, justified primarily by the system's ability to overwhelm ABM defenses. And the threat of a Soviet ABM has also been used to strengthen the case for a new bomber. While SLBM's have a somewhat flatter trajectory and would thus be more difficult to intercept, both they and ICBM's involve warheads following ballistic trajectories into the atmosphere; similar ABM technology would apply against both. A low-flying aircraft armed with gravity bombs and short-range missiles creates an entirely different set of problems for the defense.

But through the SALT I agreement, both the United States and the Soviet Union have foresworn active ABM defenses. Both have agreed, in essence, to remain vulnerable at least to ballistic missiles which cannot be countered prior to launch. And if the threat of a Soviet ABM made the unique flight characteristics of bombers more urgent, the SALT I agreement makes them much less so.

(C) The precise bomber role

It is undisputed that with the development first of intercontinental ballistic missiles in the 1950's and then of sea-launched ballistic missiles in the 1960's, the long-range bomber has been displaced as the leading edge of the U.S. nuclear arsenal. It is, in fact, the least equal of the three legs of the triad, if for but one reason: while even an advanced aircraft such as the B–1 would take four hours to fly 6,000 miles, at supersonic speeds all the way, ICBM's and SLBM's have flight times of 30 minutes or less. If nuclear war did occur, there could be eight successive nuclear missile salvos—four on each side and each answering the one before—before the B–1 could be in a position to do any damage. The war would be over before it could get into the action.

The position of the strategic aircraft has been further eroded by comparative costs. Delivery of nuclear warheads by ballistic missiles costs far less than their delivery by manned aircraft.

Defenders of the B–1 program have attempted to sustain a primary nuclear war mission for bombers with the contention that it would have an important counterforce role. The thesis is that in initiating nuclear war the Soviet Union may fire some of its missiles at military targets—including ICBM and SLBM launchers—and that others would be held back for a possible later attack against American population and industrial centers. American bombers, it is argued, would be uniquely capable of flying over the Soviet Union before the attack on population comes, to spot and strike ICBM's which have not yet been fired. This scenario is central to the case for bombers, and even more so to the case for a bomber force of the size contemplated. It means that payload requirements are set not according to the number of soft population and industrial targets we need to cover for deterrence, but the number of hardened military targets—ICBM silos—to be covered for damage limitation.

But for several reasons, the counterforce scenario is wholly unrealistic. While flying at altitudes of under 1,000 feet to escape detection, and at high subsonic speeds, the crews would simply not be able to see enough to distinguish between loaded and empty missile silos. Further, if the Soviet Union did adopt such a scenario, they would likely fire their most accurate missiles—their ICBM's—in the first round against hardened military targets, and hold back SLBM's which, because they are less accurate, are better suited for striking population and industry. The B–1 would not be useful against SLBM's. Finally, and most decisive, there is hardly any reason to believe that Soviet commanders—knowing that the B–1's were on their way to attack retained ICBM's—would continue to retain them for the necessary four to six hours. Indeed, any professed capability to degrade their weapons in less than total war is probably the best way to guarantee that nuclear war, if it comes, will in fact be total.

It seems clear, therefore, that aside from political steps such as placing them on airborne alert as shows of force, the mission of manned aircraft in the nuclear context is secondary. They are maintained to complicate enemy defensive problems, and to discourage defensive efforts against missiles because the costs of defending against all systems would be too high. And they would be counted upon to deter attack—to be in a position to actually strike Soviet targets—only in the exceedingly unlikely event that the adversary discovered a way to (a) destroy all or nearly all ICBM's and SLBM's simultaneously before they could be launched, or (b) intercept thousands of incoming ballistic missile warheads from both ICBM's and submarines.

The latter would, of course, involve a violation of the Strategic Arms Limitation Agreement, and even then the better—and less expensive—response might be to simply add more ballistic missiles to overwhelm interceptors. The former—prelaunch destruction of both ICBM's and SLBM's—would involve solving enormous and seemingly insoluble problems of coordination, of tracking and attacking 41 nearly silent submarines hidden in a minimum of three million square miles of ocean, and of hitting more than 1,000 hardened missile silos with pinpoint accuracy. Even then the Soviet Union could never be sure that we would not adopt a "launch on warning" strategy, under which our missiles would be fired as soon as theirs were sighted.

All of this does not lead to a hard conclusion that bombers do not have an important role to play in U.S. nuclear strategy. Their presence can and does insure against the unknown—against, for example, any breakthrough in antiballistic missile or counterforce technology, possibly in the laser field, which could disarm ICBM's and SLBM's. In one sense they help to insure compliance with the SALT I agreement on ABM's, by nullifying the strategic worth to the Soviet Union of any violation. For what it's worth, they can be launched and recalled in times of crisis, such as the 1973 crisis in the Middle East, in order to actively demonstrate national will.

Perhaps the most significant contribution of the manned bomber lies in its protection of ICBM forces against a counterforce attack. In effect, it is physically impossible for any adversary to attack both bombers and missiles on the ground at the same time.

Our ICBM's cannot be attacked by Soviet submarine launched missiles because those forces are not accurate enough to score direct hits on hardened missile silos. However, bombers on the ground are much softer targets, and Soviet SLBM's could, in theory, destroy them there in a surprise attack, if they were fired from close enough to the U.S. coast and on sufficiently flat trajectories to avoid detection before it was too late to scramble the bomber force. That is why U.S. bombers are stationed inland, and why the faster launch time and satellite basing planned for the B–1 are deemed useful.

So if the Soviet Union found a way to neutralize our nuclear-armed submarines and wanted to launch a first strike, they would have to strike U.S. ICBM's with their own ICBM's and U.S. bombers with their SLBM's. But there is no way to coordinate such an attack. Once fired, their ICBM's would be detected about 20 minutes before striking their targets—ample time to put the bombers in the air. If, on the other hand, they struck our bombers first, the nuclear detonations on SAC bases would give us enough assured notice that a nuclear war was underway to warrant launching our ICBM's.

In effect, through this "box phenomenon" we know that under any first strike strategy the other side would adopt, the prelaunch survival of either our strategic bombers or our ICBM's would be fairly well assured. The bomber gives us the assurance that our ICBM's will be available without any need to place them in a destabilizing and dangerous launch on warning posture. In the absence of Soviet ABM's and a Soviet ability to track and attack submarines, the concept of a Soviet first strike is beyond the realm of possibility anyway, unless a suicidal madman were in charge. But the presence of bombers does serve to solidify the impossibility.

So the strategic bomber is not completely without utility in today's nuclear context. In an age of overkill capacity on both land based and sea based missiles, any reliance on bombers to play a primary deterrent or nuclear war fighting role is exceedingly remote. But given the options presented to the Congress, that fact bears less on whether bombers should be retained than on whether and when enormous sums should be invested to expand and upgrade bomber forces.

(D) The bomber operating environment

Both proponents and opponents of a new U.S. intercontinental bomber have cited Soviet bomber programs in support of their respective positions. Opponents of the B–1 have noted that the Soviet Union has a small and aging intercontinental bomber fleet made up of 100 turboprop Bear aircraft and 45 jet powered Bisons, both of which are older and substantially less advanced than our B–52's. Proponents of the B–1 point to the Soviet development of a newer bomber, designated Backfire, which is expected to have swing wings and a supersonic capability. However, despite regular annual assertions that the Backfire was nearly operational, it is still not deployed. And in any case the Backfire would require two refuelings to attack the United States. It is far more likely directed elsewhere.

Attempts to relate U.S. bomber programs to Soviet bomber programs are nothing new Indeed, there is some evidence that the orig-

inal production of B–52's was increased by half because U.S. analysts in 1955 miscounted the number of bombers in the Soviet fleet, when the bombers were being flown in circles as a defensive tactic. Like the "missile gap" of the 1960's, there were alarms sounded about a "bomber gap" in a decade before.

But whether they help to either make or break the case for a new U.S. bomber, such comparisons are largely irrelevant. We do not send our bombers into battle against their bombers; we send our bombers against their bomber *defenses*. And the critical question is whether a substantial proportion of the U.S. intercontinental bomber force would be able to survive a counterforce attack, overcome defenses, and actually deliver warheads on target.

As of mid-1974 the Soviet Union had approximately 2,600 fighter-interceptor aircraft of varying capabilities, down from 2,800 the year before. They have also retained a relatively constant force of about 9,800 surface to air missiles, although in that case in particular the numbers are deceptive. During the brief period after World War II when the United States enjoyed a nuclear monopoly, the Soviet Union had an overwhelming incentive to build defenses, concentrating on the one method of delivering nuclear weapons—high flying bombers—which then existed. The great majority of the Soviet SAM's inspired during that period and in the force today would have no capability against modern strategic aircraft and tactics.

As noted previously, the key to penetrating these defenses is to fly at low altitudes to escape detection. A strategic bomber cannot outfly a SAM or air to air missiles, nor can it outmaneuver a fighter-interceptor built for high maneuverability and high speed over short distances. But all of those defenses are nullified if the attacking bomber cannot be detected. And ground-based radars such as those in the Soviet Union, while they can detect high-flying aircraft from hundreds of miles away, cannot spot low altitude bombers unless or until they come within 25 to 35 miles of the station.

And interception between the time of detection and the time over target is still an extremely difficult matter, even after the planes are spotted. Only about 40 percent of today's Soviet fighter-interceptors are modern versions, and even they could not separate the bomber from radar ground echoes; they would have to get below and behind the bomber to lock on. Under such conditions their range would be sharply limited and their maneuverability would be greatly reduced because of the denser air and reduced room at low altitudes. Meanwhile, the 1,200 to 1,500 Soviet SAM's which have some low altitude capability, principally SA–3's, are also subject to range limitations because they depend on ground radars to identify targets. Even at subsonic speeds, a low flying bomber would pass through the effective range of these missiles within about three minutes, which is probably far too little time for launch.

Further, both manned and missile interceptors can be countered by a series of measures, ranging from course variations to chaff and highly sophisticated electronic countermeasures (ECM) that would jam enemy radar. Standoff missiles such as the short range attack missile (SRAM) and Hound Dog can also be used to blind the defense by knocking out radars. The Quail decoy presently in the U.S. force is equipped to look like the B–52 to Soviet radars, and another program now in development, the subsonic cruise armed decoy (SCAD), would combine the same features with a longer range and a small nuclear warhead.

In sum, the Air Force today has justifiably high confidence that our bombers can penetrate Soviet air defenses.

Those defenses could, of course, be strengthened over a period of several years, if the Soviet Union chose to apply a great deal of money and time to the project. Specifically, we know from U.S. developments that an over-the-horizon radar can be constructed, and the U.S. is developing an airborne warning and control system which, according to the Air Force, would be capable of spotting our own B–1 flying at low altitudes. In combination with these systems, it is theoretically possible to construct an effective "look down-shoot down" capability using advanced interceptor aircraft and air to air missiles.

However, there is no indication that the Soviet Union is working on such a capability. Given their agreement in SALT to remain vulnerable to U.S. ballistic missiles, it seems highly improbable that they would undertake a massive and costly effort to defend against U.S. bombers. And even if they did, countermeasures already in force or in the development stage would probably still assure that a sizeable number of bombers would get through.

SECTION III—CONVENTIONAL ROLES

(A) Prior experience

The one obvious attribute strategic bombers have that missiles do not is the fact that they can be employed in conventional wars. At least publicly, no one has suggested replacing nuclear warheads on ICBM's or SLBM's with conventional bombs and launching them against, say, insurgents operating in Cambodia or in the Philippines. For one thing, it would be outlandishly expensive. But B–52's armed with conventional bombs were used throughout the Vietnam conflict, and they inflicted massive damage. Hundreds of conventional bombs were used to literally demolish target boxes the size of several football fields. In their one planned penetration of North Vietnamese airspace in late 1972, "Operation Linebacker," B–52's flew some 730 sorties and were credited with knocking out four-fifths of North Vietnam's electric power capacity and one-fourth of its petroleum supplies in a space of just eleven days.

The strategic bomber is unquestionably a formidable conventional weapon. But the discussion cannot end there. With specific reference to the B–1, the real question is, if the B–1 program cannot stand on its primary nuclear mission, is its incremental value in possible non-nuclear conflicts sufficient to warrant its enormous costs?

First, it must be noted that since World War II the United States has only once used heavy strategic bombers over defended targets in a conventional war. In Korea, the high altitude tactical bombing environment was so hostile due to Soviet-manufactured anti-aircraft weapons and MIG fighters that neither our first-line strategic bomber of that era, the B–47, nor its predecessor, the B–36, were used. The aging B–50 was employed, but it was restricted to night missions because daylight losses became prohibitive. Throughout Vietnam, up until "Operation Linebacker," B–52 missions were restricted to undefended areas in South Vietnam, in this case because North Vietnam was defended with Soviet SA–2 surface to air missiles. And when B–52's were finally ordered north, 15 were shot down and many more were disabled in only 11 days of bombing.

(B) Economic and risks

The experience of "Operation Linebacker" does not suggest that strategic bombers cannot perform their nuclear mission. The SA–2 is by no means a primitive missile; on the contrary, it is most effective against high flying aircraft, and the B–52's attacking North Vietnam were coming in at high altitudes, using few or none of the countermeasures which would be employed in nuclear war. Further, although 15 bombers were shot down, the loss rate was only about three percent. In a nuclear war there would be just one mission, not repeated sorties in which our aircraft would be repeatedly exposed to attack. Considering the incredible destructive power in every aircraft, a 97 percent penetration rate in a nuclear war would be very high indeed.

But the experience does suggest that if for economic reasons alone, it makes little sense to rely in conventional wars upon bombers that are designed for long range nuclear missions. Because they are built for long range, high payload operations, they will inevitably be less maneuverable and more vulnerable than their contemporaries in the fighter-bomber class. So if the B–1 will be highly capable compared to today's strategic bombers, it will nonetheless be cumbersome compared to even today's fighters and fighter-bombers, let alone more advanced tactical aircraft that will be in the force in the same time frame as the B–1.

Further, in conventional war, the prudent strategy is to increase the number of aircraft the defense must intercept, not to concentrate more and more offensive power in a single extremely expensive aircraft which can be knocked out by a single surface to air missile. The wise strategist wants to increase the number of targets, not cut them down.

The economic and vulnerability arguments can both be best made through some comparison.

Had B–52's flown continuously over North Vietnam at the same loss rate experienced in "Operation Linebacker," we would have lost the entire B–52 force assigned to Southeast Asia in about 90 days time.

Alternatively, had 15 B–1's been shot down over North Vietnam, we would have lost nearly $1 billion worth of airplanes in eleven days.

A SA–2 Guideline missile site such as those used in North Vietnam represents an initial investment of around $6 million, including six missiles and launchers plus the radar complex. But the launchers can be reloaded indefinitely, with missiles costing $70 to $80,000. In Vietnam those missiles were knocking out B–52's that cost $8 to $10 million apiece—more than 100 times as much.

The B–1 could have avoided the SA–2 missiles, since they are designed to intercept at high altitudes. But the low altitude SA–3 could be at least as effective against the B–1 as the SA–2 was against the B–52. And SA–3's cost less—$40 to $50,000. The current estimated B–1 cost, $61.5 million—is 1,230 times as much as the SA–3. Even counting site costs and assuming relatively low kill ratios, the economics come down hard on the side of the defense.

Further, by the time the B–1 is operational it is possible to envision a small, cheap surface to air missile that could be fired by hand and still be very effective against low flying bombers.

So it is clear that when posed against probable conventional defenses, and when compared to other aircraft which are being designed and built exclusively for tactical missions, the long range strategic bomber is at an overwhelming disadvantage in a conventional war environment—except in rare cases when it would be sent against undefended targets. If these strategic bombers are deemed essential to the deterrence of a nuclear war which could completely destroy America in a matter of minutes—and that, after all, is their main justification—that surely no responsible commander would suggest risking them in a conventional conflict such as Vietnam.

(C) What wars?

If B–1 advocates still base their case on its conventional utility, it is also pertinent to ask what specific conventional wars they have in mind.

As noted previously, the B–1 represents a dramatic increase, from 21 million pounds to nearly 52 million pounds, in the payload of

the U.S. strategic bomber force in the 1980's. It is in the conventional war context that this figure becomes especially relevant because conventional missions are usually not intercontinental, so fuel for payload tradeoffs do not apply. To the extent that B–1's would be assigned to conventional wars, nearly all of the added payload capacity—two and one-half times that of the B–52—could be devoted to weaponry.

The magnitude of that payload capacity is indicated by the fact that flying just one mission a day, the U.S. strategic bomber force programmed for the mid-1980's could drop in just one week as many pounds of conventional bombs as we dropped on Japan throughout World War II. It would take about four months, again with just one mission a day, to drop as many pounds as we dropped in all theaters in World War II and Korea combined. Just one mission by the entire force could unload, in conventional bombs, an explosive force two and one-half times as great as the atomic bombs which destroyed Hiroshima and Nagasaki.

Combined with fixed wing tactical aircraft and helicopter gunships, the force of some 120 B–52's operating in Vietnam provided massive damage to the undefended areas over which it could be in that country. It churned up vast areas which may never be truly restored to their original condition. Even if we are planning future Vietnam-type conflicts—and policymakers of all shades of opinion profess that we are not—there should be no need for such a vast escalation in bomber payload capacity for use against primitive targets. At the very least it is not so compelling a need as to justify the cost of the B–1.

SECTION IV—COSTS AND PRIORITIES

(A) Rising costs

Even at original cost estimates the B–1 bomber promised to be the most expensive weapons system ever built.

In mid-1970, when B–1 engineering development began, the total program cost was estimated at $9.4 billion, broken down at $2 billion for research and development and $7.4 billion for production. That was doubtless too low because inflation was not included. But it was the official estimate upon which Congress based its decision to proceed. In 1969 the Defense Department had calculated the cost for each aircraft at $25 to $30 million, and the mid-1970 estimate was on the high end of that range—at $29.2 million.

Since then costs have risen astronomically. As of April, 1974, the research and development estimate was $3.5 billion, up 75 percent over 1970, and the production figure was $11.5 billion, up 55.4 percent. Since 1970 *the total research and development and procurement figure has risen by $5.6 billion*—and that with the system still only about halfway through the research and development stage.

For the sake of rough comparison, just the $5.6 billion cost overrun to date on the B–1 would have been nearly enough to fund the entire Poseidon conversion program for 31 nuclear submarines. It is more than the total estimated program cost for the F–14A carrier-based aircraft. It would buy 560 highly sophisticated F–15 supersonic fighters—more than twice as many F–15's as the planned buy of B–1's, just for the B–1 cost overrun. It would buy 1,860 A–10A close air support aircraft, or it would buy five nuclear-powered aircraft carriers.

On a per unit basis, the B–1 costs have more than doubled since 1970. The current figure is $61.5 million. By comparison, the first U.S. nuclear bomber—the B–29 which dropped atomic bombs on Hiroshima and Nagasaki in 1945—cost about $700,000. Each B–1 will cost about 88 times as much. The latest model B–52's cost about $10 million, or less than one-sixth as much as the B–1.

But the B–1 program cost is deceptive because it does not include armaments, support, or operation and maintenance costs. Some of these will, of course, be incurred whether or not the B–1 is built, so long as the United States retains a strategic bomber fleet of any kind. But they will be substantially higher for the B–1. For example, existing KC–135 tankers could probably service the B–52 force through the 1980's and beyond; the B–1 will require a new tanker that can offload more fuel and—if they are to mean anything—that can match both the B–1's quick takeoff capabilities and hardened airframe for survival. As a supersonic aircraft, the B–1 will carry and consume a great deal more fuel than the B–52. A new tanker fleet could cost as much as $8.5 billion.

In addition, a SCAD designed for the B–52 would not work on the B–1, and a B–1 SCAD would be more difficult to build because it would have to match the smaller B–1 configuration. A new SCAD would likely cost in the range of $2 billion, over and above the cost of the B–52 model. Based on a 20 year operational life span, operations and maintenance would probably add at least another $10 billion. Although it is admittedly a rough figure, these additions, which leave out the basic armaments such as SRAM and gravity bombs and which do not account for new armaments such as the Long Range Attack Missile, nonetheless push the total system cost to $35.5 billion. And that accepts today's estimates of procurement costs, assuming no more overruns.

The likely costs can also be calculated in another way. In mid-1970 there was an attempt to arrive at a total strategic bomber systems cost by adding up the official Air Force estimates for the B–1 and all related systems and operating costs for a twenty year period. That analysis produced a total of $43.9 billion. If the other costs included in that analysis have escalated at the same rate as B–1 research and development and production costs, the comparable figure today would be close to $70 billion.

It must also be noted that there are currently some unusual conditions with respect to materials which could cause B–1 costs to soar still more. In particular, higher fuel prices have brought great inflation in the cost of producing aluminum and titanium. Each B–1 bomber contains 27,000 pounds of titanium and 54,000 pounds of aluminum, or 6.1 million pounds and 13.2 million pounds respectively for the entire fleet. It takes eight kilowatt hours to produce a pound of aluminum, and 20 kilowatt hours for a pound of titanium. These metals are both in short supply, and prices are rising rapidly due to higher energy costs.

(B) Contract problems

Rising B–1 costs have been accompanied by delays in the development process and also by declining expectations on performance.

The Air Force originally projected the initial operating capability for the B–1 at mid-1976. That was when the first production models would have entered the force. Although the program was fully funded by the Congress, that date had slipped by two full years by 1970. Now it has been put off nearly three years more, to March of 1981—almost five years later than originally projected, even though the Congress has been funding the program at the maximum levels that could be used by the contractors.

As to capabilities, it was apparent even in 1970 that capability was being traded in to keep the price down. Between 1969 and 1970 there was a cutback of 25 percent of the B–1's internal capacity for SRAM and SCAD missiles, and the low altitude supersonic capability was dropped completely. Further, the size of the avionics package had been greatly reduced, by an amount that should have produced a savings of $5 to $6 million for each aircraft. Yet even then the estimated price per aircraft was $29.2 million, at the very top of the $25 to $30 million range which was the official 1969 estimate.

The study of the B–1 begun last August and headed by Deputy Director Bisplinghoff of the National Science Foundation, while its recommendations were directed principally to the program's management, also had some significant findings on the aircraft's probable performance. The most serious potential difficulties come from a projected increase in gross takeoff weight, from the original estimate of 360,000 pounds up to at least 395,000 pounds. The weight increase in turn affects such other performance characteristics as the distance required for takeoff and landing, the range and rate of fuel consumption at various speeds and altitudes, the maximum altitude, and potential payload.

The Bisplinghoff report specifically:

"Did not attempt to comment on the acceptabilities of the reduced performance values since this judgment must rest with the Air Force."

And the Department of Defense is expressing confidence that the B–1 would be operationally effective against the full target spectrum.

This does not, however, square with the calculations supplied by Major General Douglas Nelson, the former B–1 System Program Director, to the Senate Armed Services Committee in April of 1973. He said in part:

"Based on analyses, the B–1 design has the flexibility to accept a weight increase up to the point that takeoff gross weight reaches 395,000 lbs. Beyond this point, additional fuel could not be added to offset the range degradation caused by the increased aircraft weight. We can achieve our full maximum distance of (deleted) miles of which (deleted) miles are at low altitude with a gross takeoff weight of 389,772 pounds."

So the gross takeoff weight of the B–1 is already projected at more than the level calculated for maximum range. It is, in fact, at the very top of the acceptable limits. Obviously there are real grounds for doubt about the ability of the B–1 to perform its mission as advertised.

Nor should the Bisplinghoff report be taken as the ultimate in critical technical analysis of the B–1 program. As noted, its scope was limited, and there is also cause for concern about its perspective. Of the 31 members of the task force besides the chairman, 25 were officials of private defense contractors such as General Dynamics, Boeing, Gruman, and McDonnell, including at least two companies which have sizeable B–1 research and development contracts. Five more were officials of the National Aeronautics and Space Administration. Only one came from the private sector—James A. McDivitt, a senior vice president of the Consumers Power Company (and Brigadier General, United States Air Force, Retired). And the primary task force recommendation in terms of management was that two more prototypes be included in the research and development part of the program, bringing the total back up to the five that the Air Force originally wanted. This does not suggest that the study was not an honest evaluation, but simply that its limitations must be recognized.

The B–1 program has also been reviewed recently by the General Accounting Office. The April 17, 1974, report of that agency noted that no comprehensive cost-effectiveness study for an advanced bomber has been made since 1966. It is clear that since that time, and since 1968 when the basic design decisions for the B–1 were made, B–1 costs have gone up sharply and B–1 effectiveness has gone significantly down. It seems likely that a current cost-effectiveness study comparing the B–1 to possible alternative designs would lead to conclusions at variance with the studies of eight years ago.

(C) Time urgency

The B–1 program as presented to the Congress is more than a plan to buy a given number of aircraft at a certain price. It is a plan to buy them over a relatively certain period of time—specifically, so they can enter the force at the beginning of the 1980's.

Survival is obviously the first of all national priorities. If it is possible to perceive a risk to national survival which (a) will be posed in that certain time frame of the 1980's, (b) could not be countered by existing nuclear forces, and (c) could be countered by the B–1, then no one would question the wisdom of going ahead with all due speed, regardless of the cost. Complex systems such as the B–1 do have long lead times, and production decisions must be made well in advance of the time when the new system is required in the active forces.

But in the case of the B–1 program, the overriding question to be asked is whether there is any risk that the U.S. deterrent—counting not only bombers but SLBM's and ICBM's, and accounting for any improvements in those other systems scheduled in the interim—will fail or be seriously degraded by the early 1980's. And while it is not ordinarily wise to make categorial statements about defense policy, this is a case where a categorical statement can probably be made in complete confidence. There is no such risk. On the contrary, we should be able to proceed on the assurance that both bombers and missiles will be able to reach and destroy their targets through the mid-1980's and beyond.

As noted, active missile defenses are ruled out on both sides by the Strategic Arms Limitation Agreement. The United States is nonetheless already compensating for active missile defenses by deploying MIRV's. And long lead times apply to the Soviet Union as well as to the United States—any violation of the SALT agreement would necessarily be detected well in advance, giving the United States ample time to take whatever additional countermeasures might be necessary.

Where counterforce attacks on SLBM's are concerned, our Polaris/Poseidon submarines cannot be detected, let alone destroyed, and they are expected to remain invulnerable well beyond the 1980's. The U.S. is substantially ahead of the Soviet Union in antisubmarine warfare technology; according to the Trident programs coordinator Rear Admiral R. Y. Kaufman, testifying before the Senate Armed Services Committee in June of 1973:

"Right now we don't think we have a big problem. The Soviets aren't a match for us in ASW. However, if you ask us what will happen in 30 years, our foresight isn't too good."

And the U.S. is nonetheless moving ahead with the Trident submarine program, including as the first step, placing Trident missiles in existing submarines and thereby extending their area of deployment from three million to fourteen million square miles.

Neither is a counterforce attack on U.S. ICBM's significant risk for the 1980's, the Soviet MIRV testing program notwithstanding. Assuming the Soviet MIRV's were sufficiently accurate to destroy hardened U.S. Minuteman silos, they would still have to be fired in phases in order to avoid the problem of having the blast from one warhead disarm, destroy or disrupt the flight path of the one adjacent to it. Under such an attack, the Soviets can be assured that most of our ICBM's would still get off.

More important to the prelaunch survivability of Minuteman, we can be quite certain that the "box phenomenon" described in Section II of this report will continue to be effective in protecting both our missiles and our bombers because bombers and missiles cannot both be attacked before launch and we know that existing strategic bombers will be able to penetrate in the 1980's time frame. On Soviet air defenses, Major General William Evans, assistant deputy Air Force Chief of Staff for Research and Development, supplied the following information to the Senate Armed Services Committee in 1973:

"The most likely solution to the Soviets (deleted). There is no indication that they are developing a 'look down-shoot down' capability. It is estimated, however, that they desire such a capability and could achieve it in the late 1970's . . .

"This would pose a threat to bombers penetrating at low level. However, high penetration speeds, countermeasures, and counter tactics would decrease the significance of this threat."

Read closely, this does not suggest that the Soviet Union is building or even planning to build a defense capability that could intercept existing B–52 and FB–111 bombers. On the contrary, the only evidence given is speculation about Soviet desires—hardly a strong justification for a multibillion dollar military program. And it speculates a foolish Soviet desire since, having agreed to remain vulnerable to SLBM's and ICBM's, it would not make such sense for them to spend billions of rubles to defend against bombers.

Finally, it is worth noting that the bomber force the U.S. will have assigned to nuclear roles without the B–1 into and through the 1980's will be no smaller than the bomber force we have now. The 22 B–52F's are used mostly for training, and they have a limited nuclear delivery capability because they are not equipped to fly at low altitudes. The 120 B–52D's have nearly all been assigned to Southeast Asia, and their capabilities are similar to those of the B–52F. So we have been operating with 255 B–52G's and H's and 66 FB–111's—all of which can be operational through the 1980's—without sensing any fundamental weakness in our overall deterrent.

In sum, there is no real time urgency for having a new bomber in the force early in the 1980's. On the contrary, the outlook underscores one very significant benefit of the "triad" which is too often neglected. By supplying the assurance that the entire deterrent will not fail if one or even two legs are temporarily degraded, it should be seen as allowing a more deliberate approach to the development of new nuclear weaponry—an opportunity to wait somewhat longer, and to see more, on the development threat, and to fully evaluate all possible alternatives for meeting it. In light of the rising costs and doubtful performance of the B–1, it is a case where a moderate approach of that kind is obviously warranted.

(D) Economic context

If the B–1 is not a time urgent project, then it is fair to place it in an economic context and to compare it with other public needs which are competing for finite national resources during the proposed development period. The Congress and the American people may not want to explore all of the technical details of a complex and controversial military program. But they certainly can make judgments about what they want government to accomplish, and on whether they want the B–1 more than other results the same money could buy.

One primary alternative to the B–1 would be to lessen, rather than worsen, the highest and most persistent peacetime inflation in American history.

Military procurement spending is inherently inflationary in times of chronic deficits because it creates demand in the marketplace without creating any offsetting supply. For an admittedly oversimplified example, if a worker makes $200 a week building refrigerators, his salary amounts to $200 more in demand in the economy each week. But the economy gets around $200 worth of refrigerators as well, to make up for the added buying power. The salary of a worker on the B–1 contract also creates more demand, but the product obviously does not go on the public market. So the B–1 worker's salary simply bids up the price of the other consumer goods—like refrigerators—that can be bought and sold in the marketplace.

Since much of the current inflation is a consequence of rising energy prices, the B–1 adds to inflation in another way. It uses specialized materials—titanium, magnesium, aluminum, and others—which take vast amounts of energy to produce. So it contributes in particular to the energy shortage and to rising prices for fuels.

Hence, one option would be to minimize the B–1 program and reduce the deficit. The overall impact on the economy would not be great, but it would at least be in the right direction—toward less inflation rather than more.

With reference again to the energy crisis, the Administration has recommended a five year, $10 billion program to develop new sources of energy and to achieve independence from foreign fuel supplies by 1980. Savings from the B–1 program alone in the same period could pay for that energy program. Or they could be used to double it.

Gasoline shortages have focused new attention on mass transit and rail transportation as energy-efficient methods of moving people and goods. But large public investments are required. The annual savings brought by a decision to forego production of the B–1 would, under the likely production schedule, be enough to make up the entire $2 billion yearly investment deficit of the nation's railroads. The $61.5 million cost of each B–1 bomber could buy 2,460 boxcars—or 1,662 modern air-conditioned buses. The fiscal 1975 B–1 request of $499 million could pay for 1,660 mass transit rail cars, enough to supply about four medium-sizes cities. Or part of it could be used to free the $375 million for urban transit that has been impounded. Over time, all of these investments would help to conserve fuels, rather than increase fuel consumption. They would help stem rather than stimulate inflationary pressures.

The question is whether national needs such as these are as compelling and as time urgent as the need to have the B–1 bomber operating in the early 1980's.

Inflation is not the only economic concern. In recent years we have had the unique experience of suffering record inflation and rising unemployment at the same time. And the B–1 project does provide jobs. Some jobs would be lost if the program were ended or curtailed.

Of course the job impact of a decision to reduce the program now would be far less than it would be if the program were cut once the contractor and subcontractors had geared up for full production. By that time many more workers will have become dependent on the B–1, and the economic pressures to continue will be that much greater.

But beyond that, military procurement, particularly on sophisticated programs such as the B–1, is a very inefficient method of providing employment. Compared to other kinds of enterprise, a greater proportion of the military procurement investment goes for such items as costly materials and fuels, and less goes directly for payroll. Using the prime contractor's own estimates, for example, the B–1 research and development program is employing 25,650 people directly. But if the funds requested for the B–1 in fiscal 1975 were invested entirely in payroll it could produce 50,000 jobs at an average annual salary of $10,000 a year—nearly twice as many. Or it could create more than 100,000 public service jobs at the minimum wage. Any kind of more job-intensive public investment—including housing, transit construction, and others—would produce some net increase in employment for the same amount of money.

Any threat to the workers who have already grown dependent on the B–1 contract should be taken as a matter of concern to the national policymakers who created the dependence. To the maximum extent possible, any decision to reduce the program should be accompanied by steps to counteract the adverse local economic impact and the loss of jobs. In this context it is significant that three of the states most heavily dependent on the B–1 program—California Washington and Ohio—all have urgent needs in the public transit field. It is possible that workers and facilities now devoted to the B–1 could be productively employed to help meet those pressing requirements in a civilian sector. Over the long term this is a far more promising course for workers who are now or may become dependent on the B–1 contract only to have it cancelled because it is deemed not worth the enormous investment.

In summary, considering its impact on inflation and on the employment outlook, the B–1 compares poorly with alternative high priority uses of the same funds.

SECTION V—THE B–1 AND ALTERNATIVES

(A) Strategic air options

Various alternative approaches to the manned strategic aircraft role were considered in the course of arriving at the basic B–1 design. However, a number of additional options have surfaced since the B–1 development decision was made in 1968. There has also been additional time to evaluate the developing threat. Further, the dramatic changes in cost and performance expectations should stimulate a reevaluation of the B–1 even in comparison to alternatives which were considered and rejected six years ago.

The following are brief descriptions of various strategic air options:

(1) No Manned Strategic Aircraft:

Clearly the lowest cost option would be to conclude that the development of advanced intercontinental and sea based systems has rendered the entire concept of a strategic bomber obsolete. This would involve deactivating all of the existing 27 squadrons of strategic bombers, and would save in the range of $700 to $800 million annually in operations, maintenance and personnel costs.

While this could also be the highest risk option, the rationale for such an approach has been strengthened substantially by the SALT I agreement. The strongest element of the case for retaining strategic bombers has been the fact that as compared to ballistic missiles they pose an entirely different set of problems for the defense—if it were possible for the Soviet Union to design an antiballistic missile that would be wholly effective against both ICBM's and SLBM's, it still would not work against bombers and the U.S. deterrent would therefore still be assured. The force of this argument falls considerably if we can be assured that there will be no Soviet ABM.

Assuming compliance with the SALT I agreement, the major risk of this "diad" posture would be in the realm of counterforce—the risk that the Soviet Union could find a way to threaten the prelaunch survivability of both Polaris/Poseidon submarines and ICBM's. Bombers help assure that this could not be done.

(2) The B–52/FB–111 Combination:

Even against greatly improved Soviet defenses, the existing combination of B–52G and H models and FB–111's will remain a highly potent force through the 1980's. It is not true that these latest model B–52's represent the technology of the 1950's; in reality it would have been logical to give them a new numerical designation because they differ so sharply from the earlier members of the B–52 series. For example, their low level flight capabilities are not the result of later modifications, but were designed into the original production aircraft. Other substantial improvements have been made since. And a $3 billion program for further modernization is now underway, including the same electro-optical viewing system (EVS) that will go into the B–1, using television and infra-red sensors to allow sustained flight at an altitude of 300 feet or less. Most important, these models, based on the Air Force's average annual flight times, will not exceed the 12,000 to 13,000 range of flying hours until 1990. Their operational lifetime should extend at least that long.

The newer FB–111, meanwhile, although it is limited in range and payload, can still strike at least 75 percent of the strategic targets in the Soviet Union if it is refueled just prior to its descent to low altitudes. It can fly slightly faster than the B–1. The models currently in the force can carry six SRAM missiles, so the payload limitation is significant only to the extent that the FB–111 cannot fly around and hit as many separate targets as the B–1 or B–52—and it is questionable whether in a nuclear war context any strategic bomber would want to remain exposed to defenses long enough to strike more than a few targets.

In addition, far too much is made of the special penetrating characteristics of the B–1 aircraft, as opposed to the penetration aids which the B–52 can also carry. There are basically three special B–1 aircraft features—a slightly higher speed at low altitudes, a smaller radar cross-section, and a smaller infra-red signature. But if the aircraft is detected and defensive systems can be locked on, the higher speed of the B–1 will not help it outrun a surface to air or air to air missile that can fly 20 times as fast, or even a manned interceptor that could fly twice as fast at low altitudes. Nor are the radar cross-section and infra-red signatures likely to be decisive improvements. It may be somewhat more difficult, but if the Soviets can build warning and control systems and a look down-shoot down capability that would operate effectively against the B–52 it would probably work just as well against the B–1. They can be made smaller, but neither the radar or infra-red signature can be made to disappear. It is admitted that our own proposed AWACS system could spot the B–1, and it is claimed, under what has now become the major rationale for that system as a means for conventional battlefield control, that it could even pick out smaller tactical aircraft or troop movements on the ground. And no technological monopoly lasts very long.

If the Soviet Union should greatly upgrade its air defenses, therefore, by far the most important steps to assure that we can continue to penetrate lies not in the characteristics of the airframe but in such devices as SRAM, SCAD, decoys, chaff, and other electronic countermeasures which can avoid, confuse or suppress defenses. All of those same devices can be applied to the B–52; many can also be used on the FB–111.

As to prelaunch survivability, the takeoff characteristics for the FB–111 are similar to those contemplated for the B–1, and the reaction time of B–52's and KC–135 tankers is also being improved through quick-starting devices, satellite warning and communications systems, rebasing, and alert-dedicated runways. With these changes, there should not be a significant difference between the B–1 and B–52 in terms of capability to survive an SLBM attack. In fact, the quick reaction time of the B–1 is not necessarily required for protection against SLBM's on inland bases, but would rather permit it to be based closer to the U.S. coastline.

Various mixes of weapons could be employed. But the B–52G and H and FB–111 combination could carry, for example, a total of 2,826 SRAM missiles with nuclear warheads in the medium kiloton range, plus 2,430 SCAD decoys on the B–52's—certainly an ample force for a bomber deterrent.

(3) Stretched FB–111:

The builder of the FB–111, General Dynamics, has suggested that this aircraft could be redesigned to make it a true intercontinental bomber. The proposal, the FB–111G, would have somewhat more range and payload, and it could still retain the FB–111A's speed advantages over the B–1—the limited supersonic capability at low altitudes. The contractor has estimated the cost for 210 FB–111G's at about $3 billion, or $15 million for each aircraft. The Air Force set it higher, at $17.8 million per aircraft or $3.7 billion for the program.

Despite obvious cost advantages, the Air Force has studied and rejected this option, on the principal grounds that the FB–111G would be less cost effective than the B–1 on the basis of weapons spaces, the cost per target destroyed and the cost to the adversary of countering the system. However, the validity of those ground rules is highly dependent on the extremely implausible counterforce scenario described earlier in this report, under which the role of bombers would be to attack retained ICBM's after one or more counterforce exchanges have already occurred. If the bomber is considered more realistically as insurance against failure or degradation of ICBM's or SLBM's—as a means of sustaining assured destruction against soft targets—then the total payload of the force could be much less than is contemplated for the B–1 and the comparative cost-effectiveness of the FB–111G should rise accordingly.

(4) The B–52I:

The builder of the B–52, Boeing, has come up with another alternative—fitting the B–52G's and H's with the newer and larger engine which is now used on the C–5. The aircraft would be redesignated the B–52I. The change would reduce the B–52's dependence on tanker support, shorten its takeoff time and distance, and slightly improve performance in some other respects. It would not significantly extend the lifetime of the airframe, but neither, according to Boeing's engineers, would it shorten the period over which the B–52 can be expected to perform satisfactorily. Costs for this modification have been estimated at between $2 and $3.3 billion, including the cost of the new engines. The major benefit would be greater prelaunch survivability plus—as compared to the stretched FB–111 option—retention of the much higher B–52 range and payload, including room for more penetration devices in the event that Soviet defenses are upgraded.

(5) Redesign of the B–1:

It would also be possible to make cost-saving changes in the design of the B–1. A primary candidate for exclusion would be the feature of supersonic flight at high altitude.

Since any strategic aircraft must penetrate at low altitudes, where the B–1 is subsonic, the high altitude supersonic capability is not relevant anyway to the problem of penetrating Soviet defenses. In fact, the supersonic capability is the one reason for having a swing wing on the aircraft, and that, as opposed to a fixed wing, could actually detract from stability at low altitudes, at the same time limiting the payload that can be carried externally. Further, there is some indication that an aircraft shifting from high altitude supersonic flight to low altitude subsonic would leave an infra-red afterglow that would almost guarantee its detection.

Dropping the supersonic capability would, of course, increase the time required for the aircraft to complete its mission, since it is now contemplated that a portion flown outside of the range of Soviet radars would be supersonic. But supersonic flight requires drastically more fuel, which detracts from

payload. Further, when missiles can cover the distance in 30 minutes, the difference between the flight time of ten hours at high subsonic speeds and eight hours with some supersonic flight hardly seems likely to have a serious bearing on the bomber's role in nuclear war.

Eliminating the supersonic flight capability could, therefore, cut several billions of dollars from the cost of the program, without any serious reduction in the B–1's important performance characteristics.

(6) Standoff Aircraft:

Another option recommended by the authors of this report several years ago would be to forego the gravity bombing approach and initiate work on an aircraft/missile system capable of attacking targets in the interior of the Soviet Union without having to penetrate defenses.

The SRAM is a step in this direction, since it can be launched from 70 to 100 miles away from the target and eliminates the need to penetrate terminal defenses. The Hound Dog missile now operational on the B–52 has a longer range and a larger warhead than SRAM, but it is a relatively slow cruise missile which could be intercepted by advanced defenses, and it must still be launched from within Soviet airspace. The optimum concept would be a high speed ballistic missile which could be launched from outside the range of Soviet radars, thereby eliminating the need for the entire range of costly flight characteristics needed if the aircraft itself is required to penetrate.

Under the general designation M–X, the Air Force does have conceptual studies of a long range air launched missile underway, although it has not as yet been described as an alternative to a penetrating bomber. Several approaches are possible, using either the commercial Boeing 747 or Lockheed's C–5 as the launch platform and arming it with existing Minuteman missiles, a smaller missile weighing about 47,000 pounds and with a range of around 6,000 miles, or a still smaller missile designed to penetrate from just beyond the range of Soviet radars. The latter approach would mean, of course, that each aircraft could carry more effective payload because it would reduce the amount of fuel required to propel each warhead toward its target. Depending on missile development costs, such a system could probably be acquired for around $10 million, for targeting flexibility and payload similar to that of the strategic bomber fleet the Air Force now plans for the 1980's.

The need for such a system in the 1980's would depend almost entirely on whether the adversary greatly upgrades bomber defenses. If they do not, then the B–52/FB–111 combination should serve through the 1980's; if they do upgrade defenses, then the cost-effectiveness of the standoff system should compare very favorably with the B–1 or any other aircraft built to penetrate defenses. In either case, the standoff approach seems most promising for the longer range future, when the B–52's and FB–111's ultimately do have to be retired.

(B) Weighing alternatives

The most recent General Accounting Office review of strategic manned bomber programs concludes that there is time to undertake a thorough new cost-effectiveness study of the B–1 bomber before the currently scheduled production decision in late 1976. The Air Force has agreed. However, the Air Force rejected the agency's recommendation that the assumptions and methodology of the study be reviewed by the Armed Services and Appropriations Committees of the House and the Senate.

In fact, the assumptions and methodology will likley dictate the outcome of the study. It is possible to assume precise ranges of Soviet defenses, or to establish specific mission profiles, which would exactly fit the B–1 and no other option.

A good example is the most recent internal comparison between the B–1 and the FB–111G. It was based primarily on the target coverage required for a counterforce scenario in which the bomber would be used against Soviet ICBM's. Under those ground rules the FB–111G came off a poor second. But the operating assumption itself was not and has not been evaluated on a realistic basis. As this study suggests, it has little to recommend it. Yet it is a decisive factor in weighing both the nature and the size of an American strategic bomber force.

Since the B–52, we have had the B–70 in an air museum, the B–58 in mothballs, and the B–1 experiencing both unprecedented cost overruns and performance underruns. That history does not inspire great confidence in the ability of the Air Force to provide an objective analysis. At the very least it reflects an entrenched desire to have a certain aircraft—the B–1—and a disturbing tendency to shape all the studies accordingly.

The Bipslinghoff study was not an exception to this tendency, first of all because its scope was sharply limited and also because the task force was dominated by experts who should not be expected to take a contentious point of view on the program itself.

Considering both the economic and the strategic stakes involved, therefore, the approach to date does not provide a sound basis for congressional decisions. Based on costly experience, there is ample reason for Congress to insist on a role in defining the assumptions used in any further cost-effectiveness studies, and on assurances that all options are fully, and fairly, and independently considered. Otherwise the country could well spend billions of dollars for the wrong system, with resulting losses not only in funds but in the added security the right system could buy.

U.S. MILITARY WEATHER MODIFICATION ACTIVITIES IN SOUTHEAST ASIA

Mr. PELL. Mr. President, yesterday, the Subcommittee on Oceans and International Environment of the Committee on Foreign Relations released with the permission of the Department of Defense, the complete uncensored text of its top secret hearing on the U.S. military weather modification activities in Southeast Asia.

The transcript of this hearing confirms that rainmaking techniques were extensively used against enemy supply lines and forces in Southeast Asia.

The declassification of the hearing, which I requested as chairman of the subcommittee, marks the first time that a hearing classified as top secret has been made public in its entirety. I commend Secretary Schlesinger and the Defense Department for agreeing to this unprecedented action and ask unanimous consent that there be inserted in the RECORD a copy of my letter to Secretary Schlesinger. I believe the disclosure is very much in the interest of our country and the American people.

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

MAY 16, 1974.

Hon. JAMES R. SCHLESINGER,
Department of Defense,
Washington, D.C.

DEAR MR. SECRETARY: Please accept my congratulations on the Defense Department's decision to declassify in its entirety the transcripts of the hearings on military weather modification conducted on March 20, 1974 by the Subcommittee on Oceans and International Environment of the Foreign Relations Committee.

This full and open disclosure, I believe, is in the very best interests of our country, and should serve also to eliminate baseless suspicions and allegations that were nurtured by the secrecy surrounding this issue.

I really am very glad that you have moved ahead this way, and hope you will continue to declassify information when it is so clearly in our national interest.

Ever sincerely,

CLAIBORNE PELL.

Mr. PELL. Mr. President, there are several important conclusions to be drawn from the information released by the Foreign Relations Committee.

Firstly, it is clear that the decision to proceed with the rainmaking operations in Southeast Asia was made without adequate consideration of the broad, long-range implications of moving into a whole new area of weaponry. Never before had an armed force attempted to harness the natural forces of the weather as a weapon against an enemy. Both the unprecedented nature of the undertaking, and what it might mean in future warfare, were not given the consideration they deserved.

Second, the hearing transcripts reveal that, even after the weather modification activities had been ended, and a National Security Council Interagency panel was directed in 1972 to formulate U.S. policy on military weather modification activities, the panel was denied information which it sought on the classified projects in Southeast Asia. Obviously that denial of information hampered NSC efforts to fulfill its policy review mission.

The United States still does not have a national policy governing offensive military uses of weather modification or other geophysical modification techniques.

The Senate on July 11, 1973, 10 months ago, adopted by a vote of 82 to 10 my resolution (S. Res. 71) urging that the U.S. Government seek to negotiate a treaty prohibiting the use of environmental or geophysical activity as a weapon of war.

I believe the information made public today clearly demonstrates the need for a well-considered national policy in this area. There should be broad public participation in the formulation of this policy, and with the information released today, the public and the Congress is in a better position to participate in this policy formulation. My own view is that we should not open the Pandora's box of harnessing nature, of changing weather or developing techniques to create typhoons or earthquakes with devastating effects upon foes and neutrals alike. I believe this new kind of weaponry should be eschewed by developed, so-called civilized nations.

It is time for the United States to take the lead in developing some form of international controls over such activities. As I have stated on numerous occasions, the failure of the administration to formulate a well-reasoned national policy on the military uses of weather modification can only lead to the development of vastly more dangerous techniques whose consequences may be

unknown or may cause irreparable damage to our global environment.

Mr. President, I ask unanimous consent that there be printed in the RECORD at this point a fact sheet prepared by the Foreign Relations Committee staff.

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

HIGHLIGHTS OF DEPARTMENT OF DEFENSE CLASSIFIED BRIEFING ON SOUTHEAST ASIA RAINMAKING MARCH 20, 1974

PROGRAM

A classified (TOP SECRET) rainmaking program was conducted by the 7th Air Force in Southeast Asia (North Vietnam, South Vietnam, Laos, and Cambodia) from 1967 to 1972 which employed air dropped silver and lead iodide seeding units to increase normal monsoon rainfall.

OBJECTIVES

The objective of the program was to increase rainfall sufficiently in carefully selected areas to deny the enemy the use of roads by (1) softening road surfaces; (2) causing landslides along roadways; (3) washing out river crossings; and (4) maintaining saturated soil conditions beyond the normal time span.

COST AND NUMBER OF SORTIES

The cost of this program was $3.6 million per year for 6 years. (page 93) The following chart is a list per year of the total number of sorties and units of lead or silver iodide expended.

SORTIES—SEEDING UNITS

Year	Sorties flown	Units expended
1967	591	[1] 6,570
1968	734	7,420
1969	528	9,457
1970	277	8,312
1971	333	11,288
1972	139	[2] 4,362
Total	2,602	47,409

[1] Including 1,017 over North Vietnam.
[2] Laos, Cambodia, and South Vietnam.

SEEDING UNITS AND TECHNIQUE

"The seeding units used to seed were developed at the Naval Weapons Center, China Lake, California, and are not classified. The seeding units and technique are identical to those used in publicized rainmaking projects—for example, Philippines, Okinawa, Texas—and the STORMFURY research project.

The seeding units consist of a 40mm aluminum photo flash type cartridge case with primer and a candle assembly. The candle assembly includes a plastic container 3 inches long with the seeding material and necessary delayed firing mechanism to ignite the free falling container. The silver iodide or lead iodide is produced as the chemical mixture burns.

The burning time is about 36 seconds for the most commonly used type. The unit drops about 3,000 feet during its functional burn. The units are dropped inside the cloud in the active updrafts at intervals of approximately ½ mile.

The release is normally controlled by the pilot flying the aircraft who can best determine the location of the updrafts. Two types of aircraft were used—the WC–130 weather reconnaissance aircraft and the RF–4C reconnaissance aircraft. The WC–130 carried pods containing 104 units each on both sides of the aircraft fuselage just forward of the paratroop jump door. The RF–4C carried a total of 104 units in the photo cartridge compartments. Typically these aircraft could influence an average of 4–5 clouds or groups of clouds per day during the southwest monsoon.

The technique requires that specific individual clouds be seeded. Their growth is related to atmospheric conditions and the amount of seeding so that when the seeding ends, the thunderstorm created acts like any other storm and is short-lived because the seeding materials either rain out, disperse, or decompose."

RESULTS OF PROJECT

"The results of the project cannot be precisely quantified. This is due to the lack of sufficient ground stations to report. However, the Defense Intelligence Agency, using empirical and theoretical techniques based on units expended and the physical properties of the air mass seeded, estimated that rainfall was increased in limited areas up to 30 percent above that predicted for the existing conditions. Sensor recordings and other information following seeding indicated enemy difficulties from heavy rainwall."

REPORTING PROCEDURE

"Periodic reports were prepared by the Joint Staff and submitted through the chairman, Joint Chiefs of Staff to the Secretary of Defense. In order to conduct the operation approximately 1400 personnel had to be given access to project information over a 6-year period.

These people were briefed into the project and then debriefed when they no longer required a clearance."

DECLASSIFICATION OF SECRETARY LAIRD'S LETTER

On January 28, 1974, former Secretary Laird sent a classified (SECRET) letter to Senator Fulbright correcting a statement that he made on this subject in open hearings on April 18, 1972. This letter and related communications have been declassified as part of the hearings.

NSC PANEL DENIED ACCESS TO INFORMATION

In 1972, a National Security Council interagency panel under the Chairmanship of Herman Pollack of the State Department was convened to study the problems of weather modification and to formulate American policy. This panel actively sought and was denied information concerning the classified weather modification projects in Southeast Asia.

BASICS OF NATIONAL HEALTH INSURANCE—PART I

Mr. HANSEN. Mr. President, tomorrow the Senate Finance Committee will begin hearings on national health insurance. This is a landmark occasion, as national health insurance is one of the most important issues before the Congress in this generation. I say this because the legislation that finally is passed by the Congress will have profound and far-reaching effects upon not only the nature of medical care in our country, but also upon the very nature of American life. At issue here, more than simple health insurance, is the role of government in American life, issues of moral and social responsibility, and cultural values.

This is a time for wise and judicious consideration of the issues. It is a time for mature, sincere, and dedicated study. It is not a time for political expediency and exploitation of the people with bright promises that in reality will have no substance.

We must think seriously about health care in America, or we may end up duplicating the blunders of past years, thus creating far more problems than we solve.

During the hearings, may I suggest that we listen carefully to what the experts say. Who are the experts on health care in our Nation today? Are they politicians? Are they labor leaders? Are the experts on health care delivery government administrators? To get a clear picture of the far-reaching, varied, and intricate facets of the health delivery system and how a Government program ought to spur it along or change it, we must, in my opinion, listen to the real experts—the members of the health care delivery professions. It seems logical that they are the most qualified, and we must place trust in their professional judgment. We must be able to count on their support for the success of any national health insurance program, for they will administer it. Now is the time to listen to them and consider seriously their advice.

It would be well to remember that the professional representation of health care in this country has succeeded in delivering to the American people the finest and most advanced medical care in the world in the history of time.

Many speak of a health care crisis of unprecedented proportions. I see elements of inequity and of need for improvement, but I fail to see the "crisis" spoken of by some politicians. The life expectancy of Americans has steadily increased and the infant mortality has steadily decreased. America boasts a record number of hospitals, nursing homes, physicians, and auxiliary medical personnel. Nine out of 10 Americans are covered by some kind of private medical insurance; 90 percent have hospital expense coverage. Never in history has there been such a wealth of knowledge and understanding as now. Artificial kidneys, heart surgery, brain surgery, artificial lungs, emergency treatment: all demonstrate the unparalleled quality of modern American medicine.

It is not realistic to compare our health care system with utopia. In such a complex and intricate society, inequities and problems do exist. As Winston Churchill put it:

> Democracy is the worst system ever invented, except for all the rest.

This must not be interpreted to say that we must not work for change. That is why we are holding hearings. Our purpose, then, would seem to be to find the way to improve and remove some of the imbalances and abuses of the present system.

With 90 percent of Americans in possession of hospital expense coverage, and 85 percent with confidence in obtaining good medical care, I see no reason to duplicate existing coverage or do away with what we have developed to substitute for it a massive governmental bureaucracy system that is untried in a country such as ours and with which we have no experience in administering.

I say, in sharp contrast to what many ambitious men are saying these days, that Americans do not want to replace the present system with a new one; they do not want to hand over the reins to the Government. But they do want help in bringing about positive change to improve the system. Let me quote from a Gallup poll of 1971 and 1972:

Table 1: Personal Confidence in Ability to Obtain Good Health Care.

Question: All things considered, how much confidence do you have in being able to get good medical care for you and your family when you need it—a great deal of confidence, a fair amount, not so much, or none at all?

NATIONAL

[In percent]

Great deal, 45; Fair amount, 39; Not so much, 11; None, 3; Don't know, 2.

Table 2: Public Ranking of Top Five Problems in American Health Care.

Question: There is a lot of talk nowadays about a national crisis in the health and medical area. People have suggested a number of reasons for this crisis. Please look this card over carefully and tell me which two or three of the items you, yourself, think are likely to be most responsible for the crisis.

NATIONAL

1. Shortage of doctors;
2. Costly and complicated insurance;
3. Unnecessary treatment raises costs;
4. Insurance too limited;
5. Doctors refuse house calls;
6. Poor living conditions;
7. High cost of Medical treatment; and
8. Inadequate hospital staff.

Table 3: Public Confidence.

Question: I'm going to name a number of groups which will have a lot of influence over the kinds of health policies and programs that will be enacted into law by Congress. As I name each group, please tell me how much trust and confidence you, yourself, have in it when it comes to proposing policies which are fair and workable—a great deal, a fair amount, not so much, or none at all?

NATIONAL

[In Percent]

Doctor's Organizations, plus 74; minus 18; Health Insurance Companies, plus 69; minus 24; Hospital Administrators, plus 65; minus 26; Federal Health Officials, plus 58; minus 30; Labor Unions, plus 44; minus 41.

Official evaluation of these surveys concluded the following:

1. Most Americans have considerable confidence at present that they can obtain good medical care when they or their families need it, but they recognize serious problems in the health care system that require basic changes.

2. The two specific problems identified most frequently by the public are the shortage of physicians, and complicated and costly health insurance. The most pervasive, overarching concern is that these and other component problems are driving costs up so high that the basic availability of medical care to certain groups of people—especially the poor and the elderly—is threatened.

3. In these circumstances, the people look to the federal government to provide adequate remedies. But they feel that the government should rely on the expertise of experienced professionals—doctors, health insurance officials, and hospital administrators foremost among them—in formulating fair and workable policies.

4. Some form of national health insurance is essential, in the public's view, and the federal government must assume principal responsibility for creating the program.

5. The public does not identify the reorganization of existing health care facilities, or the alteration of traditional medical practice, as among the most important steps to improve American health care. Moreover, a solid majority of citizens asserts a preference for personal care—for knowing their own doctor, and having him know and be willing to come to them—as the cornerstone of a good health care system. Even the potential advantages of better preventive care, probable lower cost, and more comprehensive treatment—heralded by the proponents of health maintenance organizations—are viewed skeptically by most of the people, who fear that they may be forced to sacrifice the still more central value of personal attention by one doctor whom they know and trust.

6. Despite frequent, and presumably expert, assertions to the contrary, and despite a recent abundance of crisis rhetoric, the American people continue to place a high degree of confidence in their institutions—government and private—involved in health care. (Stephen P. Strickland, U.S. Health Care: What's Wrong and What's Right, Potomac Associates, 1972.)

The concerns of the American people, if I read them right, fall into three areas: First, cost of medical care, second, availability of medical care and insurance, and third, quality of medical care and patient satisfaction.

COST

The cost of medical care is the first consideration. Too many pocketbooks are feeling the burden of heavy medical bills. Catastrophic illness has the potential to bankrupt thousands of families and individuals every year. The high cost of medical care is becoming increasingly frustrating to the American citizen.

How can medical costs be checked? What is the best method to hold costs down?

Here we must be very careful, for as we, in our enthusiasm to give every American medical care at a cost he can easily afford, we may increase the demand for such care two or three times—without at the same time increasing the supply. This can have no other effect than to cause medical prices to skyrocket beyond present trends.

Some will say, "Hold costs down by governmental ceilings or freezes." I ask if this approach is consistent with the American system of free enterprise and the free market? I submit that it is not. Is it a step toward socialistic government?

And furthermore, they will not work. This is adequately shown by our recent experience with wage and price controls. While having a certain short-term and temporary beneficial effect upon health prices, the wage and price controls, besides discouraging capital investments, reducing buying power of workers, causing shortages and distortions in the economy, have alienated the majority of the American people—especially those of the health care professions, who found themselves under the threat of holding down prices as their costs rose with the rest of the economy, which was being decontrolled.

We must realize that medical care as we enjoy it today is a highly technical and sophisticated commodity. It has not come easily. No other society in history has enjoyed medical care on a par with ours. It is an evidence of the progress of American science and technology. We would be naive to expect it to be cheap. It is a luxury that we must pay the price for. I would be less than candid if I said that I could foresee a lessening of the prices that we pay for medical care.

Physicians earn an average of $42,700 per year. This is comparable to the salaries of many business executives, lawyers, and bankers. Instead of the average 40-hour week a physician works on the average 54 hours a week. And stack on top of that the intense mental and emotional pressures of medical practice, the years spent in preparation and none of the work benefits such as life insurance or medical insurance enjoyed by the average union worker.

If we expect to continue enjoying the extraordinary advantages of highest quality medical care, we must compensate well our health care professionals. Anything less will promote mediocrity.

AVAILABILITY

The greatest deficiency of the present system is one of inequity of availability of medical care. Many of those who need and deserve it the most are unable to procure it either because of financial disadvantage or geographical separation from health care facilities. Many of the insurance policies are complex, imbalanced, and, in short, inadequate.

This, in my view, must be a primary goal of a national health policy: to equalize the availability and benefits of health insurance so that everyone can procure a reasonable policy at an expense they can afford.

If we can remove the financial and geographical barriers to health care for most Americans, a primary problem will be solved. Such a system must be based on sound moral and social philosophy, however. It must be done in a manner to help Americans procure the desired benefits, but never in a way that would abrogate their personal responsibility of taking care of themselves to the maximum extent possible. The way to help the underprivileged is not to do it for them, but to help them do it themselves.

The idea of giving every American free medical benefits, or buying for him his medical insurance policy, is fundamentally at cross-purposes to the larger goal of improving his life condition. To propose an approach that does not encourage traits of self-reliance is to defeat the intended purpose. Dependence upon the Government, the suppression of individuality, incentive, and dignity—in short, the ethic of getting something for nothing is encouraged by such sweeping promises.

I suggest that our guide be: Help each citizen to procure adequate medical care at a cost that he can afford, but never purchase it for him or restrict his choice to a single governmental policy.

In our anxiety to provide equal benefits for all, we must not open the doors for a few who would take advantage of and abuse their privileges at the expense of the many. This danger is aptly illustrated by the fact that now only a small percentage—10 to 15 percent—of consumers receiving health care make over 50 percent of the visits recorded. Furthermore, these patients frequently have no treatable medical problems.

QUALITY

Quality of medical care is what we all expect and what we will insist on preserving. Along this line, it would seem to me well to look at the results of national health insurance as represented by foreign experiments.

In Britain, for example, a country which has had socialized medicine since 1949, the effect has been to create a "brain drain" of thousands of the most competent physicians to Canada and the United States, where working conditions are better. British doctors resent poor pay, low-grade health facilities, and intense work schedules. Physicians there have increasingly taken on the mantle of Government employees.

A growing number of people have bucked the government system and have changed to private, nongovernment physicians and insurers. The membership of the British United Provident Association, a voluntary organization for building facilities and financing health care, grew from 80,000 members in 1947 to 1,500,000 members in 1963.

The out-of-pocket expenditures have remained small, but the actual expenditure on health care, reflected by taxes, has been higher, so much that government expenditures for health now compete with other expenditures in the political arena. British physicians are increasingly underpaid, almost no new hospitals have been built, and out-of-pocket deductible payments are getting larger and larger.

Health care in Britain is available to all whenever they want it. But overutilization abuse is widespread, health clinic lines are long, and the care is of obviously mediocre quality.

Clearly, the British National Health Service has not solved all the problems it set out to. Nor has the system produced the successful results that some would claim flow automatically from a national health care system.

A group of five medical leaders, government officials, and educators were invited in 1970 to tour the Russian medical system by the U.S.S.R. Ministry of Health.

This is how Dr. Russell B. Roth, M.D., a member of the group, describes medical care in Russia:

If one focuses purely on the plans, the organizational diagrams, and the itemizations of available facilities and personnel, it is impressive. When one inspects the facilities in person, the impression changes.

How does the Russian medical care compare with America?

My answer is that Russian medical care delivery is so organized as to make it reasonably available to anyone feeling need of it. It has been planned with a commendable emphasis on prevention of disease. The quality of care delivered, however, is, for the most part, mediocre, and the facilities in which it is delivered are grossly substandard by American criteria.

It is interesting to contemplate the effect of the things which American medical care critics would like to accomplish:

Eliminate fee for service—which Russia has done;

Centralize control over institutions, regulating construction—which Russia has done;

Centralize planning—which Russia has obviously done, although it would be unfair to imply that consumer representation prevails under the Russian method;

It seems fair to say that Russia has greater deficiencies in quality medical care for all of its people than we do, although there is some possibility that "quality" care is being confused with "luxury" care. These deficiencies have not been corrected by elimination of fee-for-service of the profit motive in medical practice. They have not been corrected by centralized controls or group practice patterns.

We must ask ourselves if the benefits of a nationalized, comprehensive health insurance system outweigh the disadvantages. If we want health care for all, mandated and financed by the Government, we must pay the price for it, and that price could be mediocre and lower-quality medical care.

We must not be misled by promises of a utopian medical care delivery system. Such promises are often made only in the interest of political expediency and popularity. We must not lead the American people into false expectations, which when not met, will only promote disillusionment and discontent.

In the interest of providing a basis for formulation and implementation of a national health insurance policy, I ask unanimous consent to print a set of basic principles from which we could work.

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

BASIC PRINCIPLES OF HEALTH CARE INSURANCE—CRITERIA FOR EVALUATING PROPOSED LEGISLATION

1. The Federal Government must not remove the freedom of every physician and every patient to choose where and how they will give or receive health care.

2. The Federal Government must not take over ownership of the various elements of the health care system in letter or intent.

3. Neither the Federal Government, nor any of its agents, should make any medical judgments in a patient's care; this function is reserved solely to the responsible physician and his peers.

4. The Federal Government should not make community policy, but should offer financial, technical support, and information and guidelines based on local planning to support local policy formulation.

5. The system must reaffirm the traditional American values of hard work, self-reliance, and responsibility to provide for one's own self what one can. It must encourage people to be responsible for their own health care. The way to help the poor is not to do it for them, but to help them do it themselves.

6. The system must not destroy the incentive to improve one's condition by work, diligence, and positive application.

7. The system must affirm the intrinsic dignity of the individual, and be such that individuals are encouraged to develop to their fullest capacity as human beings. Abrogation of personal responsibility to the government does not promote character development.

8. The health care system should be voluntary to all.

9. Sufficient and adequate medical care should be available to all those who need it and are willing to work for it. For those unable to procure it, society should help out.

10. Assistance from the government should be based upon financial need, and should never be given except when the individual or family, through no fault of their own, is unable to purchase health care on their own.

11. The system should build upon the strengths of the present system; it should encourage healthy competition between providers; it should promote private enterprise, individuality, and inventiveness in providing health care.

12. The system must recognize the immutable law of supply and demand as controlling costs of services. It is inevitable that costs will rise when the demand exceeds the supply. As long as demand increases faster than supply, costs will increase.

13. The system should embody positive incentives to private associations, groups, or individuals to formulate and implement positive and effective cost, quality, and utilization controls.

14. The system should concentrate on primary and chronic health care that will serve the largest portion of society that is disabled.

15. The system should place high priority and emphasis on preventive health care measures that will encourage individual personal and community health care habits.

16. It must be recognized that the "roots" of the health care problems in America lie in the realm of moral and spiritual values. Whatever system is implemented must preserve these values and build upon them. The system should foster cultural and social values that encourage individual mental, emotional, and spiritual good health.

17. The health care system should embody built-in incentives and motivations encouraging private responsibility for the poor, old, and disabled. After all, private individuals are responsible to help those of their own family and their neighbor.

CONGRESSMEN WILLIAM COHEN AND WAYNE OWENS ON "FACE THE NATION"

Mr. PERCY. Mr. President, yesterday on the CBS program, Face the Nation, Congressman WILLIAM COHEN, Republican of Maine, and Congressman WAYNE OWENS, Democrat of Utah, were interviewed. Both of these gentlemen are members of the House Judiciary Committee which is now conducting an inquiry into the possible grounds for the impeachment of the President.

The task they face is a very grave one, requiring the most thoughtful and conscientious approach to the questions which they must resolve. Once again, the Nation has witnessed that the members of this committee are equal to the task. We can be confident that whatever the conclusion reached by that committee, it will be the result of an inquiry conducted in the best tradition of the Nation and the Congress, as demonstrated by these two men.

I have not traveled in Mr. OWENS' congressional district but I have in BILL COHEN'S. His constituents have every reason to be proud of the sound judgment, integrity, decency, and judicial temperament, he has exercised throughout this very trying period in our Nation's history. They can be proud of the studied approach he takes with respect to each issue and the leadership he has demonstrated in fulfilling his constitutional duty.

Mr. President, I ask unanimous consent that the transcript of the interview be printed in the RECORD.

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

TRANSCRIPT OF FACE THE NATION

(As broadcast over the CBS Television Network and the CBS Radio Network Sunday, May 19, 1974, Washington, D.C. Guests: Representative WILLIAM S. COHEN, Republican of Maine; Representatives WAYNE OWENS, Democrat of Utah. Reporters George Herman, CBS News; James Naughton, the New York Times; Jed Duval, CBS News.)

HERMAN. Congressman Owens, Congressman Cohen, the President's lawyer, James St. Clair, has complained about what he's called unfair leaks from the House Judiciary Committee, and he's asked that all future meetings be fully open to the press and to the public. Is he right? Should continuing leaks cause your sessions to be open for full and broadcast coverage, Mr. Owens?

Representative OWENS. Well, I think the leaks indicate quite clearly the impossibility where you've got 38 politicians in one committee to keep all the evidence secret, and I think they underline the importance of making those hearings opening—opening those hearings, so I think that we ought to open those hearings. I think we're going to have to go into executive session when we have confidential materials which might tend to defame someone or which might ruin the possibility of getting a fair trial for the Watergate defendants, but other than that, I think that we're going to have to move to open them, and should.

HERMAN. Mr. Cohen.

Representative COHEN. I would share that view. I think that if there is a lesson of Watergate, the image of the legal profession has not been exactly enhanced as a result of the Watergate revelations. And I think the same is true with respect to our committee. It's a deplorable act on the part of any committee member to disclose and reveal information which we have pledged to keep confidential, and we certainly are not enhancing our image in doing this. But I should also point out that while it appears to have come from the committee, that's not altogether conclusive. If one will take a look at the March 21, 1973, transcript page 71–A, you'll find a discussion that takes place in the White House about how leaks can be sprung from the grand jury to the public. And also I'd point out that while I deplore the act of releasing this information, it should be noted that it's somewhat inconsistent if not hypocritical on the part of the White House to complain with moral outrage about selective leaking when there has appeared to be some selective editing.

ANNOUNCER. From CBS News, Washington, a spontaneous and unrehearsed news interview on Face the Nation with two members of the House Judiciary Committee, Representative Wayne Owens, Democrat of Utah, and Representative William S. Cohen, Republican of Maine. They will be questioned by CBS News Correspondent Jed Duval, James Naughton, Congressional Correspondent of the New York Times, and CBS News Correspondent George Herman.

HERMAN. Mr. Cohen, if I read you rightly, you are saying it is unfair to blame all the leaks on the committee and you are hinting that some of the things may have been leaked at the instigation of the White House?

Representative COHEN. I'm not suggesting that, Mr. Herman. I'm simply saying my own suspicions, my own inclination, would lead me to believe it did come from the committee, but we happen to be living in a time in which there is a great deal of cynicism, and on my part as well, and I do think that reading through the transcripts one could come to other conclusions. I'm not suggesting that that happened, but it could have happened that way, so I don't think we should be quick to cast blame on any particular member, or committee staff member or anyone else.

NAUGHTON. Mr. Cohen, you spoke of hypocrisy on the part of the White House in this situation. Why do you think they have demanded that the hearings be made public?

Representative COHEN. I think I stated, Mr. Naughton, that it's at least inconsistent, and perhaps contradictory, and even an element of hypocrisy involved, in that there has been a selective editing of material which I think is quite relevant to the scope of the Judiciary Committee's inquiry. It's been very clear for some time that the committee was investigating alleged abuses of federal agencies to harass, intimidate, or even terrorize private citizens for political reasons or for personal animosity—out of personal animosity. I think it was in error for the White House to have deleted that from the transcript.

DUVAL. Do you gentlemen—do you want to answer that?

Representative OWENS. Well, I was just going to say that it very clearly is a tactic on the part of the White House to try to, I think, degrade the committee, when in fact it is the first leaks that have ever come of any substance whatever in the entire seven or eight months. The committee staff has been completely responsible in that, and while we deplore those leaks, obviously they shouldn't be allowed under the tactics of White House lawyers and press men to indicate that the committee has not been responsible in its handling of confidential materials, because it has.

DUVAL. Do you two agree with what Mr. St. Clair said last week, that the sessions that have already been held could have been public?

Representative OWENS. Almost completely could have been held public, indicating I think a much better course of action, which would be for the committee to hear only in private those matters which could have been—which came to us in confidentiality, but letting the other materials be held. I hate to be in the position of agreeing with Mr. St. Clair, because of what I think his motivation is in raising that point, but I think that's accurate. Most of it is public.

HERMAN. What happens next? If there are others who agree with you that the hearings should be made public, when is the next nexus, when is the next point when this can happen?

Representative COHEN. I think there are two points to be made. One is that the reason it went into a confidential session or executive session was to protect the premature dissemination of information that might prejudice the President's case before the public, and before the committee and the Congress. Secondly, to prevent the dissemination of information to the detriment and prejudice of those people who are standing trial or will stand trial in September—Mr. Ehrlichman, Haldeman, and others. Now that the President's counsel, speaking for the President, has called for public hearings that eliminates the first consideration, but we still have the problem of how to cope with and deal with the difficulty of preventing the distribution of information that would prove detrimental, in my opinion, to the defendants to stand trial in September. If we can resolve that issue, either by excluding a public consideration of the grand jury information, and we did represent to Judge Sirica that that material will be kept confidential—if we can resolve that problem, we can go public immediately.

HERMAN. But in the meanwhile you have to stay in secret session?

Representative COHEN. Yes.

Representative OWENS. But most of those materials, even those that we have received in confidentiality that we have been exposed to, could basically have been made public. I don't think that those grand jury materials would tend to prejudice the case against those defendants; they are not sensational matters; they are basically—they are uncontested testimony in that sense—but they are not prejudicial, most of it. But there is also a House rule which says that any materials which tend to defame or degrade must not be made public. That's the third factor in why we must first review some of those materials which came to us in confidentiality in private, but you could do that, say, by having executive sessions which may take up ten percent of the time, where the other 90 percent could be open to the press. Now when it will happen, that will depend on how soon the committee is allowed to meet in a meeting to consider that, but I think that the chances of it happening are really quite good.

NAUGHTON. Well, when is that going to happen? Has either of you gentlemen spoken to the chairman and urged him to open hearings soon? We have no indication at this point that the hearings will be open this coming week.

Representative COHEN. There was an indication in our last meeting—considerable debate and discussion over the issue of the leaking to the press and the harm that that was causing to the committee's image, as well as to the rights of the President. My feeling is that there is enough sentiment on the committee that as soon as we can resolve the issue about the grand jury material—I would differ somewhat from Mr. Owens on that—I think that it is rather essential that we do whatever we can to preserve and protect the rights of those defendants. I think they have been jeopardized somewhat already by the dissemination of the transcripts—

Representative OWENS. Quite clearly, Bill, we have to protect their constitutional rights to a fair trial, but my point has been that the materials that we've heard from the grand jury, I don't think are anything of a sensational nature so that they might prejudice a jury, but they do have to be heard first in private, I agree on that.

Representative COHEN. It's not necessarily sensational that might be prejudicial—I think there is a difference there.

DUVAL. Let's get to what we would be hearing, if this was open, that is to say, after these three or four closed sessions, do you two feel as if you know less than a careful reader of newspapers? Do you know more?

Representative COHEN. Mr. Duval, as far as the committee—what it has heard to date, is simply a chronological review of much of the material that has been gathered by the Senate Select Committee. That has been buttressed and corroborated by other materials from grand jury hearings, also from hearings before the Senate Armed Services Committee, but almost all of the material has already been a matter of public record so there is no harm in my opinion of disclosing that, from that point of view.

Representative OWENS. The committee has done an excellent job in compiling it, and it's been very educational. It has brought together a lot of the tangential and pieces of information, and evidence that all of us get out of the newspaper, but in terms of substantive additions to our knowledge, there hasn't been a great deal.

DUVAL. Do you think then that if someone had read the transcripts carefully and has been keeping up with the papers—the more thorough accounts over the last year or so, would know as much as you do now?

Representative OWENS. They probably know 90 percent.

HERMAN. But doesn't Mr. St. Clair have a valid point to a certain extent? Has anything favorable to the President been leaked? Hasn't only unfavorable material been leaked to the press during these hearings?

Representative OWENS. Well, there are only two conversations, Mr. Herman, which have been leaked, and they both are conversations which are harmful to the President—there's no question about it—the September 15 transcript, whereby materials were deleted from the White House transcript, materials very relevant, very relevant to the Watergate investigation, not just to the question of agency abuse, but to the Watergate, because Mr. Williams, who was representing the defendants in the Watergate trial, and because the materials dealt with the Watergate directly—

HERMAN. The June 30th transcript.

Represenative OWENS. I'm sorry—of course—

HERMAN. And there is also a third story which is not a transcript that has been published but an account which the staff has developed about the use of milk money, and this was also leaked in the period at some length in the Washington Post, so there have been a number of leaks, all of them unfavorable to the President. Now, is there not some malicious force at work here? Or inimical to the President?

Represenative OWENS. I wouldn't accuse it of being a devilish force, but it is impossible virtually to keep them secret. Hence, the importance I think—

HERMAN. Once it goes from the staff to the membership?

Representative OWENS. That appears to be the problem, George, because the staff has done an incredibly good job, but I pointed out earlier we are 38 politicians—it's very difficut—you step outside the room—you have 40 reporters—you step outside the room to blow your nose—you have 40 reporters there who want to see the handkerchief. And it's almost impossible, it's almost impossible to—you are very clever at interviewing—and it's almost impossible to keep secrets.

Representative COHEN. Let me add there is also some very positive information that has been considered by the committee, exonerating information in my opinion, that the committee has listented to, so I think for that reason—

HERMAN. That hasn't been leaked?

Representative COHEN. That has not been leaked. It's a matter of public record already, as a matter of fact. It is already out in the transcripts, so I think that for purposes of at least of presenting the correct image to the public, that we are trying to be fair, and impartial, nonpartisan, and above all engaging in search for the truth, I think it's important that we do go public as soon as possible, as soon as we can resolve the issue about grand jury material and other executive session material that has been presented to the committee.

Representative OWENS. But the committee cannot afford, if I may comment further on that—the committee cannot afford to allow that which is basically the charge by the White House that there are selective leaks detrimental to the President, to obscure the real issue which is that the White House, on the one hand, is saying that we have to get this over with, we've given you all the evidence—on the other hand, is withholding evidence from us. That is our real problem now. There are areas where we don't have the evidence, where the White House is withholding it, where absolutely we need it. One week ago today, I think, the President said in Oklahoma, I have given the Judiciary Committee all the evidence and it's now up to them to make a decision. And that simply isn't true. That is White House hypocrisy.

NAUGHTON. Mr. Owens, let me ask this—without asking you to leak anything from what you've heard in your closed sessions, you've now had four days of closed hearings, you've heard several tapes, you've seen a number of documents or parts of documents, and grand jury testimony—has there been anything in that period, in those hearings, that would tend either to implicate or to exonerate the President in an impeachable offense?

Representative OWENS. Well, each member makes his own decision on how he will comment on the evidence as it has come to him piecemeal, but I refuse, as a matter of seeing how I judge my responsibilities, as a member of the Judiciary Committee, to comment on the evidence piecemeal. At the appropriate time when we have all the evidence, I will comment on that. There are very significant matters that have been presented to the committee, but beyond that I simply don't think it is wise, I don't think it's pertinent, I don't think it's consistent with the objectivity required of this committee to comment at this time as to what the evidence at this point shows.

Representative COHEN. And I would echo that view very strenuously. I think it would be improper, highly improper, for 38 lawyers to cast a judgment based upon a fragmentary presentation of the evidence. I think also I should point out that the information that has been turned over to the committee through the edited transcripts is entirely inadequate for this committee to measure up to its high responsibility in making a judgment of this magnitude. It is replete with deletions, omissions for expletives, irrelevancies, inaudibles—all of which create a great deal of ambiguity which has to be resolved if we are going to seriously meet this issue.

NAUGHTON. Can you ever make that judgment, then, if you don't get that additional material?

Representative COHEN. As far as this committee is concerned, I believe we're going to go forward; we're going to establish the need for the information. By making it public, we can then demonstrate to the public the absolute essentialness of bringing that material to bear before the committee, so I think that as far as we're concerned, we have to go with what we have. We will go on record as when the information furnished us by the White House is inadequate; we will further go on record by issuing subpoenas, and to the extent that those subpoenas are not complied with, I think that that consequence lies with the White House.

HERMAN. Do you have any sniff or any faint hint that there are some further thunderbolts, some more earth-shakers to come out of this anywhere that have not been made public so far?

Representative COHEN. I have no such information.

Representative OWENS. I think it is very clear that we haven't gotten to the bottom of it, underlining again the importance of getting the original tapes, because there are many deletions. In the few tapes that we have, we see the White House transcripts are inaccurate. But I think—I feel quite clearly that we do not have the whole story, and the whole story lies within the grasp of the President. He has the power to either prove his innocence or to prove his guilt of impeachable offenses, and hence the absolute necessity for us to get those tapes.

Representative COHEN. Could I just elaborate on the transcripts, as to why they are inadequate. We have had briefings by counsel and counsel has represented to us that much of the information that has been omitted as being inaudible would in fact be audible on our equipment, and I think that our experience to date by listening to the various tapes that we have, and amplified with our very sophisticated equipment, have demonstrated that fact. In addition, the so-called expletives that have been deleted, some of those expletives that have been deleted, some of those expletives give great character and colorization to the statement that has been made, the intent and the intensity of the statement. Others are simply obscenities of no relevance to anyone else. Thirdly, there are materials that have been omitted as being irrelevant to our considerations. Well, that's a purely subjective reasoning on the part of the White House, and I think that the September 15 tape demonstrates why we cannot accept that, and finally, there are portions missing from the transcripts with no indication that words are missing, not from any malevolent motive, but simply because they do have inadequate equipment at the White House. That's why we cannot accept it.

DUVAL. If members of any ethnic or racial minorities in this country could hear those tapes, would they be insulted?

Representative COHEN. Not to my—to what I have listened to to date, there have been no racial or ethnic slurs.

Representative OWENS. Nor have I heard any, and bear in mind, we've only heard three tape conversations.

NAUGHTON. Mr. Cohen, you spoke of the absolute necessity of getting the tapes. The last time you were refused tapes by the White House in response to a subpoena, the committee sent a very mild letter to the White House, citing the President's non-compliance with that subpoena. You were the only Republican on the committee who joined in sending that letter. Do you have any reason to believe that there has been a change of attitude among your colleagues in the minority on the committee, that more of them will support that sort of action in the future?

Representative COHEN. Mr. Naghton, I think it's quite clear from what has happened since that evening when the 20 to 18 vote did occur, many of the members—Republican members—were not satisfied with the edited transcripts. They had different reasons. Some felt that a letter was not the appropriate response; some felt that the letter was premature, we should at least read the transcripts, but I think many were also dissatisfied. I think the evidence of that has been clearly demonstrated with the recent subpoena vote, and that's a 37 to one vote on one of those subpoenas, which would indicate also—and the wording of that subpoena is that we want tapes—not transcripts, but tapes, and the reason for that is, after the committee members have had an opportunity to listen to the tapes, it can be proved, I think, both beneficial to the White House as well as detrimental, that we're in a better position to analyze again what was said, the context, how it was said, the inflection and so forth, mean a great deal to this committee, and I as a member of that committee feel that if I am going to make a proper decision, I want to make that decision based upon the best possible evidence and not upon second or third best, and I think other members share that view.

HERMAN. How long is it going to take you? I gather there is hours and hours of listening ahead of you, both to Mr. Doar and the tapes—and Mr. Jenner and the tapes.

Representative COHEN. As long as necessary.

HERMAN. Any idea how long? Is it slipping—is the schedule slipping back a bit?

Representative COHEN. I think it is slipping somewhat. We've taken great pains in going through this material, very laboriously, as a matter of fact, and as the press correctly reports, almost in a dull fashion. I think you would find it fairly dull, even if you were allowed inside, because it's simply again a recitation of facts, chronologically, in order to put this in the total perspective.

HERMAN. Let me ask you a question about that, that has come up. Why is it better to have Mr. Doar read it to you out loud than to have him submit it to you in a document, and you can study it at your own leisure?

Representative COHEN. Well, I think that I would be satisfied with that myself, Mr. Herman, but apparently there is a fear that the committee would not disciplined as such to go ahead in an organized fashion to complete its investigation. That's one of the reasons that I've heard. I frankly would be most satisfied to read it all on my own, and then make recommendations for the calling of witnesses or the taking of testimony.

Representative OWENS. But it's also very helpful to have Mr. Doar and Mr. Jenner outline the supporting documentation—those parts of that supporting documentation which they believe is the most relevant and the most meaningful to us, which is—it is good discipline for us to do it together. I approve of that approach.

NAUGHTON. Aren't you gentlemen to some extent putty in the hands of your own staff?

Don't you spend so much time following their guidance, examining evidence that they present to you without having a chance to see additional materials, that you are in effect running a risk of being led to a conclusion by them?

Representative OWENS. I think you have to understand that we have many obligations and that we need expert help; we need lawyers to help us filter through the evidence. We received over a hundred thousand pieces of—documents and pieces of information from the Ervin Committee, for example. That's been compiled now, and put together, and the committee is being very sensitive to not drawing conclusions for us, but to having compiled the evidence in a meaningful way—

HERMAN. The committee staff.

Representative OWENS. The committee staff—I'm sorry—have compiled the evidence in a meaningful way, and are trying to present it as best we can, but they understand, and we understand very clearly, that the ultimate responsibility is upon our shoulders, but we're like the man—the lawyer who does his own case; we'd have a fool for a client if we were not to use good expert lawyers to assist us, we would be in a very sorry situation. We have an excellent staff, and they understand quite fully that we have to make the decisions, and we have to make the decisions on what is relevant, for that matter.

DUVAL. I think both of you have said—tell me if I'm wrong, but I think you have both said that in the end you're going to vote your conscience.

Representative COHEN. That's correct.

Representative OWENS. I believe every member of the House will do that——

Representative COHEN. Based upon the facts and the evidence that's disclosed to the committee.

DUVAL. You'll have to at one time put aside pressure from constituents, pressure from editorials, pressure from everywhere.

Representative COHEN. And that's the theory. Now, we're naive to believe that politics isn't going to have some part of it, but I think basically most of the members will vote their conscience.

DUVAL. But you're both taking polls at home, to see how your constituents feel, are you not?

Representative COHEN. My polling to date is several months old at this point, has been in terms of voter approval of my performance in Congress. A very good friend of mine who happens to be running for governor, Mr. Richardson, is taking a poll on his gubernatorial aspirations, and asked if I would like to have some questions included, and I said certainly, and dealing with my approval—record, now the public perceives my job in Congress. It is not based on how I'm going to vote this matter.

Represenative OWENS. I have not asked my constituents to tell me what they think I ought to do. I have asked my constituents questions which are aimed at trying to see if they understand the impeachment proceeding.

DUVAL. Well, which do vote in the very end, should it come to it, whether you might lose your job if you voted your conscience?

Representative OWENS. I think the Edmund Burke statement that a representative must—owes his constituents not just his industry but his judgment has to hold true there, and I think that our constituents will expect us to vote our judgment on what the evidence requires and our consciences on what we ought to do.

HERMAN. But you do have one question in your poll, Mr. Owens, saying, I've stated that if the hard evidence clearly indicates the President has obstructed justice by covering up serious wrongdoing by subordinates or that he committed other offenses of a very grave nature, that I will vote for a bill of impeachment; do you agree with that decision? And your answer was 85 percent yes, 12 percent no.

Representative OWENS. That's the standard that I have set in trying to explain impeachment to my people and that indicates, I think, that an overwhelming majority of people understand that standard. That's the point of that question.

Representative COHEN. I'd also just add that the high court of history is going to sit in judgment on each of us and measure whether we met up to our responsibilities, and I think that we have to put aside our own political future in reaching this kind of decision which will affect this country—it will affect the world at large in my opinion and it's going to affect also our children's time as well as our own, and I think that we have to put aside our own parochial interests in terms of whether we'll win an election or lose an election, and simply act for the benefit of the country.

NAUGHTON. May I ask both gentlemen briefly, because I think you both acknowledged in the past there's a risk that you're focusing too narrowly in this inquiry—the common verdict of many people who've read the transcripts put out by the White House is that they have an amoral tone. Is amorality an impeachable offense?

Representative OWENS. It is not an impeachable offense. I think nobody can avoid being repulsed initially by those transcripts—the public transcripts—but we have to prove a very serious offense against the public interest, or you can't impeach the President. You can't impeach him for bad language.

Representative COHEN. I would share that view, that we're talking about as far as impeachable offenses is not confined in my opinion to indictable offenses, but rather a very serious abuse of power—granted power—or a usurpation of power not granted, and the emphasis has to be on substantiality and not triviality. It has to be a very gross abuse of power, and that's what we're about to determine.

HERMAN. Thank you very much, Mr. Cohen and Mr. Owens, for being with us today on Face the Nation.

Representative COHEN. Thank you.

Representative OWENS. Thank you.

ANNOUNCER. Today on FACE THE NATION, Rep. Wayne Owens, Democrat of Utah, and Rep. William S. Cohen, Republican of Maine, were interviewed by CBS News Correspondent Jed Duval, James Naughton, Congressional Correspondent of the New York Times, and CBS News Correspondent George Herman. Next week, another prominent figure in the news will Face the Nation.

PRINCIPLES OF CONSTITUTIONAL JUSTICE

Mr. PERCY. Mr. President, a very thoughtful and thought-provoking letter from Sol Linowitz appeared in the May 11 issue of the New York Times. Because of the pertinence of the matters he raises, I ask unanimous consent that the letter be printed in the RECORD.

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

TO UNDERSTAND OUR CONSTITUTION

To the Editor:

Of all the people I know concerned about Watergate, those who are most sanguine about the chances for an orderly and decisive end to the crisis are those who seem to know the Constitution best. They are optimistic, I think, because they understand that the Constitution was framed in large measure to deal with precisely the sort of crisis we are now enduring.

Yet the fact is that all too many in this country have failed to recognize this. And this, in turn, suggests that we have to think much more seriously about how we can convey a better understanding of what our Constitutional processes and freedoms are all about and how they are supposed to operate.

One way to begin, I think, would be to have every high school, college and university add to its curriculum a course in "Principles of Constitutional Justice." The object of the course would be to make available to every student attending high school and college the fundamental principles of our Constitutional and judicial system, and to suggest the tone and climate of our legal structure. Such a course could give our students a feel for the meaning of basic rights, for the right way and wrong way of judging evidence, of sifting truth from untruth, of measuring liability of guilt, of making up one's mind.

Such a course could, with broad strokes, trace the need for law in society and especially the forces and circumstances which shaped the particular provisions of our Constitution. It could try to impart a true understanding of those things which are the flesh and bones of our pattern of justice—freedom of speech, of religion, of press; the right to be secure in our homes against unreasonable searches and seizures: the right to a jury to trial in all criminal prosecutions; the right to counsel; the right of *habeas corpus;* the guarantees against double jeopardy, self-incrimination, *ex post facto* laws and bills of attainder, and the right to due process of law.

I recognize, of course, that most high schools and colleges today do offer courses in government, political science, American history and ethics where the interested student may learn of some of these things. My suggestion is, however, for something quite different—for an organized, systematic, coordinated presentation in one course made available to all students. For I believe there is a place—a vital place—in our structure of education for exposure of all students to time-tested principles of justice so that as many as possible may understand how rights are granted or acquired, how justice is administered and what makes law and order and justice secure in a republic.

Such an approach in the wake of Watergate might bring to the American people—and especially to our young people—a far better understanding of our Constitution and a sense of confidence that we live under one of the most extraordinary and effective charters of government ever devised by man in the name of liberty and justice.

SOL M. LINOWITZ.

WASHINGTON, *April 24, 1974.*

SALT AND STRATEGIES

Mr. MATHIAS. Mr. President, the most important negotiations now underway are the SALT talks between the United States and the Soviet Union. We are engaged in these crucial negotiations to obtain equitable treaties and agreements for limitations of and reductions of our respective strategic nuclear weapons systems in order to reduce the possibility of nuclear war. If a nuclear war between the United States and the Soviet Union did break out, it could result in a nuclear holocaust which would end civilized life on the Earth.

The chief negotiator at SALT I, Ambassador Gerard Smith, deserves much of the credit for the ABM Treaty which is regarded by all those concerned with our national security affairs as a model of an equitable agreement. It is my belief that the good work done by Ambassador Smith will be a foundation for

future agreements, hopefully this year, but certainly, within the next few years.

Ambassador Smith recently wrote a thoughtful paper on SALT and new proposals for changes in our nuclear strategy. From his paper, entitled "SALT and Strategies," I quote a portion of his conclusions, because they go to the heart of key issues we here in the Senate will have to vote upon in the coming weeks.

The new strategy seems an improper mixing of quite separate matters. It suggests that if the Soviets agree to "essential equivalence" of strategic forces, the United States would forego giving the President additional options and a substantial counterforce capability. But where is the logic in saying that we need such a capability now but would settle for "assured destruction" in the event of a SALT II agreement. Either we will maintain "essential equivalence" by agreement or by unilateral action. A counterforce capability is needed by the United States or not needed whether or not there is an offensive weapons limitation treaty. The threat to go for it if the U.S.S.R. does not accept our idea of a reasonable SALT II agreement seems out of place. We might well get wedded to this apparently dangerous doctrine and pursue it even under conditions of a SALT II agreement. It would be ironic if the United States adopted a counterforce doctrine, because it was engaged in negotiations looking to strategic arms limitations. Unless the case for the new strategy can be made much more persuasive the earlier Nixon position against developing this capability appears to be wiser.

In conclusion, SALT I was a good start on strategic arms control. The ABM Treaty is a solid bar to what could have been a massive and tremendously expensive and potentially destabilizing competition for defense against strategic missiles and not deploying more offensive missiles. It should be continued even if SALT II does not result in a treaty limiting offensive weapons.

The U.S. force of offensive weapons is sufficiently strong and present modernization programs sufficiently effective so that there need be no rush to negotiate an offensive weapons treaty nor to become precommitted to new strategic programs if SALT II does not succeed by a given date. Arbitrary timetables could lead to improvident arrangements. Indeed I would urge that if the 5-year freeze arrangement lapses, this should not lead to alarms or a sense of crisis. The search for strategic balance acceptable to the two sides according to each one's perceptions should persist. The United States should have appropriate nuclear strategic concepts and targeting doctrine contributing to stability, restraint, and reduction of risk of war independent of the state of negotiations for strategic arms limitations.

Because of the importance of Ambassador Gerard Smith's article to our understanding of SALT and new proposals for changes in our nuclear strategies, I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

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

SALT AND STRATEGIES

I

This paper considers three aspects of strategic arms control. First the arrangements negotiated with the U.S.S.R. in 1972, then the prospects for a SALT II agreement and finally the impact of the new U.S. targeting policy on strategic arms control.

The ABM Treaty was a very substantial achievement, the interim freeze on offensive weapons was not quite as good as initial publicity suggested, but not nearly as bad as its critics maintain. There is a reasonable prospect for a SALT II agreement or agreements, but this prospect is somewhat clouded by the change now being developed in U.S. strategic targeting policy.

My general thesis is that the central purpose of strategic arms control should be to lessen the risk of nuclear war—and not, as many believe, to reduce the financial burdens of the strategic arms competition or to advance "détente." This central purpose was advanced in SALT I by the ABM Treaty and the associated 1971 agreements to reduce the risks of accidental war, and to modernize the Moscow-Washington communications link (Hot Line).

It can be further advanced by a SALT II agreement which converts the temporary 1972 interim freeze on offensive weapons into an equitable long-term treaty. But current developments in U.S. nuclear targeting policy appear to go in a somewhat different direction.

II

From the vantage point of some twenty months later, the strategic arms limitations agreed upon with the Soviet Union in 1972 appear to have been useful in reducing the risk of war.

The two nations agreed by treaty that each of them could have no more than two ABM sites of 100 missiles each, one for capital defense and one for ICBM defense. Both sides appear satisfied with this arrangement. Neither has started to build to the limit permitted by the treaty. This restraint in itself is a factor for stability.

Each nation agreed—not by treaty, but by a five-year interim freeze agreement—not to start construction of new ICBM silos and not to deploy submarine launched ballistic missiles above agreed numbers unless it decommissioned an equal number of "older type" ICBMs commissioned before 1964. If full conversion from these older land-based missiles to sea-based missiles takes place (over 200 ICBMs decommissioned) the Soviet Union can have 950 SLBMs on 62 modern submarines by 1977. The U.S.S.R. is proceeding with a missile submarine construction program consistent with the agreement.

What criticism there has been of SALT I relates to this interim freeze agreement, which critics claim is unfavorable to the U.S. Some believe that the agreement does no more than reflect what likely would have happened in the absence of the agreement. To that extent it is neither good nor bad, but neutral. And usually critics tend to overlook the provision requiring Soviet ICBMs to be decommissioned as new SLBMs become operational beyond 740.

Both sides continue to improve the quality of their offensive strategic forces and the U.S. is adding large numbers of warheads by MIRVing ICBMs and SLBMs. The U.S. has also accelerated its program for Trident, the new missile submarine construction program. Even so the first submarine of this class will be commissioned after the freeze period of five years has elapsed. The U.S.S.R. is conducting major tests of MIRV systems (almost five years after first predictions that they would soon do so) and presumably will deploy some very large yield MIRVed missiles before the freeze ends. The existence, if not the scope of these Soviet programs should not cause surprise to the Administration since Chairman Brezhnev told President Nixon in Moscow in May 1972 that the U.S.S.R. intended to go right ahead with its strategic force modernization plans.

Why were ABMs limited by treaty and offensive missiles only covered by an "interim agreement" permitting additional construction of existing weapons systems, new systems to be started and existing systems to be improved? I think it was owing to a number of considerations, among them the then U.S. monopoly of MIRV systems, U.S. progress in deploying ABMs, and Soviet unwillingness to agree on defining an equal aggregate limit on central strategic systems (ICBMs, SLBMs and heavy bombers) in a way acceptable to the U.S.

Neither side considered it timely or feasible to bring MIRVs under control in an initial agreement. The U.S. considered its MIRV lead as a compensating factor for the Soviet ICBM lead—the U.S.S.R. probably did not want to freeze a U.S. advantage in a type of weapon technology in which it was well behind.

The Soviet Union claimed that American advantages in other respects warranted its having more of the central systems than the U.S. The U.S. could deliver nuclear weapons against the U.S.S.R. from non-central systems located on bases in Europe and the Western Pacific; the U.S.S.R. had no such forward bases from which to strike the U.S. The U.S. also has bases for strategic ballistic missile submarines close to the U.S.S.R.; the U.S.S.R. did not deploy such submarines, for example, in Cuba. The U.S. allies, Britain and France, target submarine launched missiles against the U.S.S.R.; the U.S.S.R. has no allies with such capability.

The U.S. said that these conditions were not relevant to a balance of the strategic forces of the two countries and that other asymmetries (in medium bombers, IR/MRBMs and seaborne cruise missiles) which favored the U.S.S.R. weighed heavily in the strategic equation. The U.S.S.R. then pressed for a separate ABM treaty first proposing to leave for later a treaty covering strategic offensive forces. The U.S. would not agree. (Incidentally, these differing positions represented a reversal of earlier positions where the U.S. had favored ABM controls as a matter of urgency and the U.S.S.R. had insisted on offensive weapons controls at the same time.) The SALT negotiations were deadlocked on this issue for about a year until the Nixon-Brezhnev agreement of May 1971 to seek first an AMB treaty and later on a treaty covering strategic offensive forces. In the meantime there would simply be an interim agreement on "certain measures" to freeze offensive forces approximately at their then levels.

U.S. leaders had forcefully criticized Soviet ICBM deployments for several years. When this May 1971 agreement was reached, the U.S.S.R. evidently believed that these "certain measures" would only cover ICBMs. The U.S.S.R. may also have calculated that by that time they had enough ICBMs.

But after May 1971, the U.S. continued to press strongly for constraints on SLBMs. About a month before the Moscow summit meeting of May 1972, the U.S.S.R. finally agreed in general to "certain measures" covering SLBMs on condition that they could continue an SLBM modernization program.

Both sides recognized that the interim agreement was a device to permit an ABM treaty to precede an offensive systems treaty. This partial separation of treaty arrangements for defensive and offensive weapons

systems probably was necessary to start the process of controlling strategic arms while maintaining the U.S. view as to the strategic inseparability of offensive and defensive considerations. The U.S. position against a completely separate ABM treaty was that until it knew what the likely Soviet offensive threat would be, it would not agree to limits on its ABMs.

The U.S. has not incurred the billions of dollars required by the full Safeguard program or even the four site program for defense of ICBM fields. The difficult penetration problem posed for U.S. deterrent forces by the prospective Soviet nationwide ABM force has disappeared. The so-called SAM upgrade danger is no longer a major concern. The future deterrent value of each U.S. warhead has increased substantially. Reflecting the rationale leading to ABM limitation, the Administration is moving to reduce strategic antiaircraft defenses. If a country has foresworn any significant defense against missiles it is difficult to make a case for defense against aircraft.

Very little attention has been given to the significant qualitative limitations contained in the ABM Treaty. In effect any deployment of modernized ABM systems is ruled out if they involve techniques other than launchers, missiles and radar. Allowed radars also are qualitatively limited. In another important, though little noted, development the legitimacy of national means of verification has been codified by the treaty which expressly bases its verification on such means and rules out interference therewith.

It may be well to recall that the freeze only affects two kinds of strategic systems—ICBMs and SLBMs. The U.S. intercontinental bomber force (which is much larger and more effective than the U.S.S.R.'s) is unaffected, and a new U.S. heavy bomber, the B–1, is under development. The U.S. is free to deploy airborne ICBMs and an R&D program is underway. ICBMs on surface ships—considered seriously in the past—are also beyond the control of the freeze, as are strategic cruise missiles for which a development program has been started. Such programs may or may not be needed. But their availability does not suggest that the U.S. has been unduly shackled by the interim freeze.

In fact the interim agreement placed no constraints on actual U.S. programs. The U.S. had no plans to increase numbers of ICBMs, or within the next five years SLBM submarines; the U.S. was free to continue its MIRV and SRAM programs and to move with its Trident and B–1 programs. If the U.S. had thought it lacked in missile throw-weight to carry out force missions or to present sufficient psychological thrust, the present ICBM force throw-weight could be increased two or three times and still be consistant with the interim agreement. One might conclude that the U.S. made this agreement precisely because its ongoing improvement programs were unaffected by it and it had no new strategic missile launcher construction programs which the agreement would constrain.

It may not be surprising that the U.S. pressed for (and obtained) a longer term for this interim agreement than the U.S.S.R. initially wanted. The main advantage to the U.S. in the interim agreement, beside easing the way for the ABM Treaty, was to put some limit, albeit a high one, on the Soviet missile launcher construction program, the end of which was uncertain before the agreement. The United States obtained a degree of certainty that it did not previously have as to the upper limits of both the Soviet ICBM and SLBM programs, both by establishing ceilings and by requiring destruction of over 200 older ICBMs if the U.S.S.R. wanted to reach the SLBM ceiling. Especially important at the time was the added assurance that launchers for Soviet very large missiles would be limited to a number substantially lower than earlier U.S. estimates.

There has been criticism that the U.S.S.R. gained psychological advantage from the interim agreement's freezing the then existing Soviet ICBM numerical advantage and from the provision that during the period up to 1977 it could build up to 62 modern missile submarines (if it reduced its ICBMs by a substantial number) while the U.S. SLBM fleet during the five years was limited to 44 submarines. But even if the U.S. had not agreed to the freeze, it could not have deployed additional modern SLBM submarines before 1977.

And for the post-1977 period, the U.S. is mounting a major new sea-based force of 10 Trident submarines which could be additional to the existing 41 submarines and development of a second new SLBM submarine program is projected in the DOD FY '75 budget request.

Psychological nuclear advantage or disadvantage is not easy to pin down. The U.S. labored under a psychological nuclear disadvantage in the period just after the Sputnik in 1957 and in the days of the alleged missile gap in 1960. In retrospect it seems fair to say that the facts did not warrant the belief. In calculating psychological nuclear advantage and disadvantage it is important to be somewhat agnostic. A hypochondriac may be well physically but be a sick man. It should be possible to make the case for substantial appropriations to keep U.S. strategic forces up to date without artificially creating a psychological disadvantage by "poor-mouthing" the immense and still rapidly increasing U.S. strategic capabilities.

But there is natural concern in the U.S. as to what the U.S.S.R. is up to in continuing to enlarge its ICBM force's capability beyond what we conceive to be needed for deterrence. The Soviets are well aware that U.S. officials have been concerned on this score for some years. Perhaps a purpose of these deployments is to keep the U.S. guessing and thus, in the Soviet mind, to keep the U.S. in a less aggressive posture than the U.S.S.R. calculates it might otherwise be. The U.S.S.R. may also be practicing the art of bargaining chipmanship estimating that the U.S. may pay a substantial price to get some relief from the prospect of the U.S.S.R.'s mounting a major threat to American ICBMs. Or the Soviet political leadership may have made some temporary concessions to their military chiefs in return for their acceptance of the SALT I agreements. But the alternative remains that they have in mind a definite strategic mission or a drive for "superiority" unless conditions are changed by what they consider a suitable treaty. While there may be differences of opinion as to whether, and if so what, the appropriate American reaction to the Soviet ICBM moves should be, there are no grounds for American complacency in the face of these Soviet ICBM developments. But it should be kept in mind that no matter what the throw-weight or accuracy of the Soviet ICBM force, it does not offer a threat to the overall U.S. strategic forces whose deterrent effect should persist.

The main benefit of SALT I was to foreclose a costly, dangerous, and probably meaningless competition in ABMs. The "measures" affecting offensive weapons are less significant; for the U.S. there are no real constraints on its freedom of action. But the ABM benefit has real effect in foreclosing a potential instability that might have increased the risk of nuclear war. The aggregate missile launcher freeze approximately reflected the deployment situation at the time of the agreement.

III

What are the prospects for a SALT II agreement? The prospects are shaped, in part, by the legacy of SALT I. That legacy is:

First, it proved that important strategic arms limitations, both quantitative and qualitative, can be negotiated by the U.S.S.R. and the U.S., to wit, the ABM Treaty.

Second, it left the offensive weapons competition in good measure qualitatively uncontrolled.

The June 1973 Nixon-Brezhnev agreement recorded a commitment of the two countries to use their best efforts to reach a SALT II agreement this year, either another intermediate type of arrangement or hopefully a comprehensive treaty covering offensive strategic weapons. There is no justification for undue speed in negotiation nor for excessive U.S. strategic budgets to pressure the Soviets. We should try to work out an agreement, regardless of how long it takes, which has a good prospect of continuing in force indefinitely. If this is not feasible another interim agreement to "hold the situation" may be useful.

First the U.S. should try to get a limit or limits on the aggregate number of central offensive strategic systems, ICBMs, SLBMs and intercontinental bombers. It would be good, if, in addition, equitable and verifiable qualitative controls notably on MIRVs, throw-weight and accuracy were negotiable, but a SALT II agreement equitably limiting launcher numbers would be meaningful. Even though such limits would be at high levels, the fact that the sides had agreed to force numbers should have some stabilizing effect.

The central obstacle to agreeing on numbers is the difficulty of agreeing on what constitutes "essential equivalence." As mentioned earlier, the U.S.S.R. argues that the United States has certain advantages from forward basing certain weapon systems and from its allies' strategic nuclear capabilities. It says these advantages would make an agreement unfair which restricted them to the same aggregate number of ICBMs, SLBMs and intercontinental bombers. Assume the situation were reversed and the U.S.S.R. had fighter bombers say at Goose Bay, Canada, on airfields in Southern Mexico, attack aircraft carriers in the Caribbean and near Alaska, the U.S.S.R.'s two oldest allies had programmed nine SLBM submarine and were under no inhibition against increasing their strategic forces, and if the U.S. did not have forward-based fighter bombers and did not have allies with submarine launched ballistic missiles targeted on the U.S.S.R., would the United States then consider itself in a position of equality if it were limited to the same aggregate number of SLBMs, ICBMs and intercontinental bombers as the Soviet Union?

But the picture is more complicated. The U.S.S.R. also has advantages, e.g., IR/MRBMs targeted on Western Europe, a large medium bomber force targeted on U.S. allies and capable of one-way missions against the U.S., and a fleet of cruise missile submarines.

An important asymmetry is that the U.S. strategic programs and policies are public knowledge while the Soviets never publicize their strategic programs and policies except in very general terms. But even here the advantage may not lie entirely in one direction. The U.S.S.R. must calculate that U.S. declaratory policy and U.S. actual policy probably differ. They must be strengthened in this belief by statements such as the following which appears in the Annual Defense Department report for FY '75:

"Although several targeting options including military only and military plus urban industrial variations have been a part of U.S. strategic doctrine for quite some time, the concept that has dominated our rhetoric for most of the era since World War II has been massive retaliation against cities or what is called assured destruction."

Reaching agreement on what constitutes equivalence under these conditions of asymmetry will be an extremely difficult mat-

ter even assuming that both sides see serious advantage in reaching agreement. In view of the fact that U.S. submarine bases at Holy Loch, Scotland and Rota, Spain, are a wasting asset—both because they will not be as necessary when Tridents are commissioned and because rights to them may be terminated even sooner by host countries—a concession about them if matched by a Soviet counter concession might help to reach agreement. Under present circumstances perhaps the best that could be worked out may be some arrangement reviewable, say at five-year intervals. If the circumstances obtaining at the start of the agreement change, appropriate changes would have to be negotiated.

Assuming that agreement could be reached on essentially equivalent numbers of central strategic systems, a strong case can be made for significant mutual reductions. But I should not be surprised if the U.S.S.R. continues to take the position it took in SALT I that reductions in strategic forces should be left for the future—that a first treaty limiting offensive arms should aim for the presumably less difficult goal of limitation at approximately present levels. On this score the Nixon-Brezhnev agreement of June 1973 spoke of "more complete limitations of strategic offensive arms, as well as their *subsequent reduction*. . . ." (Emphasis added.) In a press conference last June Secretary Kissinger said that the U.S. would make proposals for initial limitations to be followed by ultimate reductions. A reduction program appeals to the U.S. for several reasons. Equality could be reached less painfully if the Soviets reduced the aggregate number of launchers to the U.S. level than if the U.S. built up to an equal level permitted by a treaty. Some programs involving U.S. reduction of its large bomber fleet in return for Soviet missile reduction may be negotiable and substantially reduced strategic forces on both sides would continue to be militarily and psychologically sufficient while probably constituting a somewhat more stable relationship between the countries.

It is said by many that MIRV control is the key to success in SALT and the U.S. should stretch its ingenuity to try to develop a verifiable control arrangement to this end. The only national means (not on-site inspection) to verify MIRV controls of which I am aware is to check on missile testing. A MIRV test ban would have been much less difficult in 1969 than now since both sides had not tested sufficiently to deploy a reliable MIRV system. A U.S. Arms Control Agency proposal to this effect was not adopted by the U.S. Government. But there is no evidence that the U.S.S.R. would have accepted such a proposal. The U.S. MIRV ban at SALT I included on-site inspection and would have permitted the U.S. to continue MIRV production, conditions that, whether so intended or not, may have made the proposal unacceptable. In any event the U.S.S.R. showed no interest. Both the U.S. and the U.S.S.R. have stated their intention to try to reach agreed qualitative limitations in SALT II. MIRV control of some sort should be a leading candidate, perhaps tied into some limitation on missile throw-weight.

It bears repeating that no amount of Soviet MIRVing can threaten the integrity of the overall U.S. strategic forces of SLBMs, bombers and fixed-based ICBMs. Even if the U.S.S.R. could after a number of years mount a serious threat to the U.S. ICBMs in the face of certain retaliation by SLBMs and bombers, this element of the threat alone should not negate the U.S. deterrent posture. The Defense Department report FY 75 seems to reflect this fact in its explicit acceptance for the first time of the position that the three U.S. strategic forces need not each provide an independent assured destruction capability. Testifying before the Senate Foreign Relations Committee recently, Secretary Schlesinger in the curious language of the modern weapon bureaucrat said "in my posture statement there is a switch away from what I will call the canonical logic of the Triad," and that "to some extent, I think the rationale of the Triad was a rationalization." The Triad of forces will be continued but the concept of three independent retaliatory capabilities apparently is being shelved. It may be worth noting that this Triad concept had never been official doctrine, but had been used to good effect as an argument at appropriation time. Is it too much to hope that downgrading of the three independent forces aspect of this concept may perhaps foreshadow a reduction in reliance of fixed ICBMs and their ultimate replacement with some type of sea-based missiles?

Another, and somewhat limited possibility, for SALT II might be for the sides to agree not to construct the second ABM site permitted by the ABM Treaty of 1972. Present U.S. congressional non-support for such a deployment would make such an agreement seem relatively costless. To my mind, an even better provision would be for both sides to agree upon a complete ABM ban. In 1971 in SALT when the U.S. delegation was instructed to take soundings, the U.S.S.R. showed some apparent interest in such a ban. On this score there have been no reports that the Soviets have moved to increase their existing Moscow ABM deployment beyond the 64 launchers and two modern radars there when SALT I was signed despite the higher deployment levels allowed.

I do not believe that proposals for antisubmarine warfare controls to strengthen SLBM survivability are urgent or sufficiently well thought through, realistic, or in the U.S. interest at this time. Antisubmarine forces have another role as part of the general purpose forces of the sides and are not readily separable for strategic arms control purposes.

In summary, SALT II is a more difficult negotiation than SALT I. It may well take longer than the 2½ years of SALT I. 1974 should not be considered a deadline because of the "best efforts" general agreement of President Nixon and Chairman Brezhnev in June 1973. Qualitative limitations are essential fully to control strategic arms competition, but they may not be negotiable in this round. The apparent U.S. foreshadowing of a move to place less reliance on ICBMs may make agreement somewhat less difficult to reach. To the extent that these weapons have inherent vulnerability, this lessened dependence should make for greater stability in a crisis.

IV

Limiting offensive strategic arms is a difficult enough task. It may be more difficult if a strategy contemplating the possibility of limited strategic nuclear war is at the same time being adopted and weapons therefore are being deployed by the two sides.

A new element has been brought into SALT II. The United States is said to be changing its nuclear strategic concept and targeting procedures from a second-strike assured destruction policy to put more emphasis on a counterforce potential, for use in either a first (but not disarming) or in a retaliatory second-strike.

Before discussing this proposed change, and expressing doubts as to its wisdom, let me say that there is no more difficult dilemma, both moral and technical, for officials responsible for national and allied security than this matter of planning nuclear strategy. It does violence to reason to program nuclear forces for a use that would end both the enemy's and one's own societies. All American Presidents and Secretaries of Defense since the war have wrestled with this horrible dilemma. They are well aware of the claims that if a strategy would make nuclear weapons' use somewhat less catastrophic, it would at the same time make that use somewhat less unlikely. They all have searched their minds for some rational use of nuclear weapons if deterrence were to fail. I believe they all have felt the prick of conscience at using the threat of holocaust as the main deterrent to aggression. They all have worried that its apparent effectiveness would diminsh as U.S. superiority lessened. John Foster Dulles, shortly before his death 15 years ago, advised U.S. military chiefs that the day of the "massive retaliation" strategy was passing and that they must work on new strategic concepts and new weapons systems. The question now is whether the new U.S. targeting concept and new weapons research and development to implement it go in the right direction and are timely.

Right at the start it should be clear that the U.S. at no time has had an exclusively "city busting" strategy. It is absurd to believe that U.S. missile and bomber forces with many thousands of warheads (nearly 8000 force loadings by July '74) have all been targeted on a few hundred built-up areas; it is also fair to surmise that most warheads already are targeted on important military centers, presumably including ICBM silo launchers. But that targeting presumably was in contemplation of a general nuclear war. Secretary Schlesinger now argues that we additionally need a limited strategic nuclear war capability to round out the spectrum of deterrence and to deter aggression and dispel any Soviet illusion that they can obtain nuclear superiority.

In assessing a different targeting doctrine, it is necessary to formulate a rational prediction of what a limited nuclear war involving strategic weapons would involve. One scenario considered is an enemy first strike which destroys a substantial number of U.S. ICBMs. Parenthetically this would cause millions of American casualties by radioactive fallout from the ground bursts required to destroy missile silos.

The idea is that the President then should have the option to destroy enemy ICBM silos. And for this purpose, the U.S. should have, not necessarily more, but more accurate and larger yield missiles than at present, as well as the command and control improvement already authorized.

If a less than all-out reaction to such an attack should be planned, would it not be sensible to target enemy military centers, airfields, storage sites, communication centers, etc., all of which can now be selectively destroyed with present U.S. weapon systems rather than to to strike ICBMs? If a massive conventional force attack was launched against our European allies, would a counter attack on Soviet ICBMs be logical?

Would there be added security for the United States to have more and better silo-killer missiles? Will the situation be better if both sides develop such capabilities? Are they not likely in that event to replace fixed-based ICBMs with less vulnerable sea-based systems? Would the U.S. be better advised—as recently hinted at by Arms Control Agency Director Fred Iklé and proposed by the Federation of American Scientists—to start taking this ultimate now, rather than going through the intermediate and costly phase of building up a silo-killer capability with an ICBM system which is gradually becoming more vulnerable?

As we move away from the concept that the ICBM force alone must have the potential to withstand a first strike and to retaliate by inflicting intolerable damage on the U.S.S.R., we gain confidence that neither side can achieve a disarming first-strike capability. Both Secretary Schlesinger and Air Force Chief of Staff Brown have recently so stated. Secretary Schlesinger's assurance was categorical: "There is just no possibility that a high confidence disarming first strike is attainable for either side, *even against the ICBM components of the strategic forces on both sides* and certainly not against both

sets of forces, SLBMs and ICBMs," (Emphasis added.) Our concern now is that the U.S.S.R. could be modernizing its ICBM force and achieving a counterforce first-strike capability which at least for psychological reasons we should match—presumably not just the capability but the first-strike strategy as well. A second strike against empty ICBM silos does not seem sensible. It is not clear that such a state of affairs would be in the U.S. security interest.

The time is past when any sane leader could consider nuclear war of any sort as anything but a potentially terminal event for his nation. Wars have a dynamism of their own, and nuclear war, no matter how started, is most likely to end in the mutual destruction of both sides. Is it possible to develop forces and a strategy for their use against the possibility of an insane enemy leader? If both sides plan for that contingency, a tense and uncertain strategic balance may well develop.

Entering a "counterforce" race with the Soviets would also be a waste of resources that are in short supply. Certainly U.S. strategic forces should be kept up to date for their deterrent mission, but I question whether the security of the United States would be increased by entering into or even by "winning" a "counterforce" race. If we have available additional resources for defense purposes, a more urgent claim seems to be for modernization of general purpose forces—especially air and naval forces.

And before setting out on a counterforce race, it would be well to keep in mind that the logic arguing for a greater counterforce potential may very well drive the nation toward a launch-on-warning doctrine, hard-site ABM defense of ICBMs and eventually to a nationwide fallout shelter program. For the U.S. to be prepared for a limited nuclear war of counterforce without protecting its population from radiation, will not appear to the Soviets as a "real" American policy, but merely another "rhetorical" position. It will hardly demonstrate determination of U.S. leaders to keep a tougher will than potential enemy leaders.

In programming new offensive systems and in planning how to target them, we should keep in mind that the prize benefit of SALT I was the ABM Treaty. It would be a severe loss if as a result of moving to counterforce concepts, we concluded that ABMs were again needed and the treaty were denounced.

The question of a changed U.S. nuclear targeting policy and developing new weapons to implement it, understandably generates emotion and confusion—especially as the purpose for the change is as yet unclear. The motives cited seem a mixture of presidential wishes to have a rational strategic role for nuclear weapons, an attempt to deter the U.S.S.R. from deploying a large counterforce capability and an attempt to influence the U.S.S.R. to adopt U.S. ideas as to what a fair SALT II agreement would be. Secretary Schlesinger, speaking of the change in strategy, said at a press conference on January 10, 1974, "This intersects with the issue . . . (of) our position at SALT, but it is quite distinct from that position." The overall impression from this and other statements about the relation of the change of targeting policy to SALT, and to our strategic force structure is that clarification is still needed.

The Administration may be interested not so much in giving the President options other than to strike cities—some of which he already admittedly possesses—but in trying to deter the U.S.S.R. from deploying large numbers of high-yield MIRVed ICBMs, which could threaten the U.S. ICBM force, by starting to develop a U.S. capability to destroy the U.S.S.R. ICBM force. This weapons development move would be a signal to the U.S.S.R. in the guise of a "bargaining chip," a "hedge" or an "insurance policy." As I understand it, the U.S. may be saying to the Soviet Union, if you are to have a large counterforce capability which can threaten to destroy our entire ICBM force, we are going to have a similar capability, not because we see a military need for such, but because it is necessary for our concept of equivalence. Not only must one have equivalence in number of launchers, but equivalence of strategies—or at least weapons capabilities to implement equivalent strategies. It seems clear that this could place a very heavy burden on the strategic arms control negotiations as well as risking undermining any negotiated "equivalence." It also seems to place much too high a value on fixed ICBMs and would argue for maintenance rather than their reduction or elimination.

Another possible interpretation of the new strategy is that it is an effort to get the U.S.S.R. interested in solving in SALT the question of ICBM vulnerability—by foreshadowing a day when the entire Soviet ICBM system will be destructible by a part of the U.S. strategic force.

Whatever its purpose the open-ended nature of the new strategy is reflected in the following extract from the Defense Department Report FY '75:

"Not only must our strategic force structure contain a reserve for threatening urban-industrial targets, the ability to execute a number of options, and the command-control necessary to evaluate attacks and order the appropriate responses; it must also exhibit sufficient and dynamic countervailing power so that no potential opponent or combination of opponents can labor under any illusion about the feasibility of gaining diplomatic or military advantage over the United States."

The new strategy seems an improper mixing of quite separate matters. It suggests that if the Soviets agree to "essential equivalence" of strategic forces, the U.S. would forego giving the President additional options and a substantial counterforce capability. But where is the logic in saying that we need such a capability now but would settle for "assured destruction" in the event of a SALT II agreement. Either we will maintain "essential equivalence" by agreement or by unilateral action. A counterforce capability is needed by the U.S. or not needed whether or not there is an offensive weapons limitation treaty. The threat to go for it if the U.S.S.R. does not accept our idea of a reasonable SALT II agreement seems out of place. We might well get wedded to this apparently dangerous doctrine and pursue it even under conditions of a SALT II agreement. It would be ironic if the U.S. adopted a counterforce doctrine because it was engaged in negotiations looking to strategic arms limitations. Unless the case for the new strategy can be made much more persuasive, the earlier Nixon position against developing his capability appears to be wiser.

In conclusion, SALT I was a good start on strategic arms control. The ABM Treaty is a solid bar to what could have been a massive and tremendously expensive and potentially destabilizing competition for defense against strategic missiles and not deploying more offensive missiles. It should be continued even if SALT II does not result in a treaty limiting offensive weapons.

The U.S. force of offensive weapons is sufficiently strong and present modernization programs sufficiently effective so that there need be no rush to negotiate an offensive weapons treaty nor to become precommitted to new strategic programs if SALT II does not succeed by a given date. Arbitrary timetables could lead to improvident arrangements. Indeed I would urge that if the five-year freeze arrangement lapses, this should not lead to alarms or a sense of crisis. The search for strategic balance acceptable to the two sides according to each's perceptions should persist. The U.S. should have appropriate nuclear strategic concepts snd targeting doctrine contributing to stability, restraint and reduction of risk of war independent of the state of negotiations for strategic arms limitations.

THE PRESIDENT SIGNS A BILL TO COMBAT ALCOHOLISM

Mr. PERCY. Mr. President, last week President Nixon signed into law S. 1125, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1973. This measure authorizes the expenditure of more than $400 million during the next 3 years to combat alcoholism in this country. These funds will be money well spent.

The seriousness of the alcohol problem in the United States is claiming increasing governmental and public attention. In a cover story on April 22, 1974, Time magazine offered these alarming facts:

From 1960 to 1970, per capita consumption of alcohol in this country increased 26 percent. We now consume an average of 2.6 gallons of straight alcohol per adult per year.

About 1 in 10 of the 95 million Americans who drink is now either an alcoholic or a problem drinker.

Alcoholism ranks behind only heart disease and cancer as one of the Nation's most serious health problems.

At least half of the annual 55,500 traffic fatalities in the United States are alcohol related.

In 1968, the Supreme Court findings in Powell against Texas provided much-needed impetus to efforts to view alcoholism as a problem for medical and rehabilitative treatment rather than for criminal justice. The majority of the Justices agreed that an alcoholic is powerless to change his condition through a simple act of will. Five of the nine Justices agreed that alcoholism is a disease, that an alcoholic drinks involuntarily, and that an alcoholic who is homeless cannot be convicted for his public intoxication. This opinion in effect denied the responsibility of the courts for dealing with the symptoms of alcoholism and challenged our society to deal with alcoholism through extra-legal means. The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1973 provide another significant step toward that goal.

I wrote to President Nixon urging him to sign S. 1125, and I commend him for doing so. I would now urge the administration to develop a budget request reflecting the new authority. Further, I encourage the Senate and House Appropriations Committees to respond with appropriations figures for fiscal year 1975 that will allow the Federal Government to deal effectively with the increasingly critical problem of alcoholism.

COMPARISON OF CONFERENCE REPORT ON LEGAL SERVICES (H.R. 7824) WITH HOUSE AND SENATE BILLS

Mr. HELMS. Mr. President, on May 13 I made an initial statement about the conference report on the bill to establish

an independent Legal Services Corporation, giving some quick impressions of major issues which are raised by the so-called "compromise bill."

An exhaustive comparison of the House bill, as passed, and as modified by the conference, has now been completed. I believe it further fortifies what I said before. This is a bill which would authorize public funding to a private organization, at the rate of $100 million per year. The private Legal Services Corporation, so established, could—in turn—assign resources to other organizations even further removed from public accountability. The safeguards of the House bill have been seriously eroded; and the permissiveness of the Senate bill has been retained.

I believe that excessive and unaccountable grants of power are wrong, whether made by Presidents or to politicized legal services attorneys.

This detailed comparison cites some 25 important differences in H.R. 7324, as passed by the House of Representatives on June 21, 1973, and as modified by the Senate-House conference committee report of May 8, 1974. On each point, the text of the House bill is cited first, and followed by the text of the conference bill, while a short comparison points up the significance.

Mr. President, I ask unanimous consent that this comparison of 25 important differences be printed in the RECORD at the conclusion of my remarks.

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

COMPARISON OF 25 IMPORTANT DIFFERENCES IN H.R. 7824, AS PASSED BY THE HOUSE OF REPRESENTATIVES ON JUNE 21, 1973, AND AS MODIFIED BY THE SENATE-HOUSE CONFERENCE COMMITTEE REPORT OF MAY 8, 1974

1. PREAMBLE

House Bill: To establish a Legal Services Corporation 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 "Legal Services Corporation Act".

Conference Bill: That this Act may be cited as the "Legal Services Corporation Act of 1974".

SEC. 2. The Economic Opportunity Act of 1964 is amended by adding at the end thereof the following new title: "Title X—Legal Services Corporation Act."

Comparison

The Conference Bill places the Corporation under the Economic Opportunity Act. The House Bill would have made the legal services program free of the EOA, and free of the implication that the Committee on Labor and Public Welfare, rather than the Committee on the Judiciary, should have oversight.

2. STATEMENT OF PURPOSE

House Bill: (No Provision)

Conference Bill: "Statement of Findings and Declaration of Purpose

"Sec. 1001. The Congress finds and declares that—

"(1) there is a need to provide equal access to the system of justice in our Nation for individuals who seek redress of grievances;

"(2) there is a need to provide high quality legal assistance to those who would be otherwise unable to afford adequate legal counsel and continue the present vital legal services program;

"(3) providing legal assistance to those who face an economic barrier to adequate legal counsel will serve best the ends of justice;

"(4) for many of our citizens, the availability of legal services has reaffirmed faith in our government of laws;

"(5) to preserve its strength, the legal services program must be kept free from the influence of or use by it of political pressures; and

"(6) lawyers providing such services must have full freedom to protect the best interests of their clients in keeping with the Code of Professional Responsibility, the Canons of Ethics, and the high standards of the legal profession.

Comparison

There is no such section in the House Bill. The language of the Conference Bill is included to convey a presumption of legislative intent "to continue the present vital legal services program," implying sanction of existing regulations, procedures, policy goals, and organizational beneficiaries. It is also intended to imply a "full freedom" from accountability to elected representatives of the people, seemingly establishing a preference for accountability to the utterances of the American Bar Association, with respect to behavior and policy issues not specifically defined in the Act.

3. 1978 LIQUIDATION OF CORPORATION

House Bill: (d) The corporation created under this Act shall be deemed to have fulfilled the purposes and objectives set forth in this Act, and shall be liquidated on June 30, 1978; unless sooner terminated by Act of Congress.

Conference Bill: (No Provision)

Comparison

The Conference Bill eliminates this provision of the House Bill and would make the Corporation a permanent bureaucratic institution, like the Department of Commerce, rather than an experimental entity, like OEO, more readily subject to reform.

4. TERM OF OFFICE

House Bill: For purposes of this subsection, the term of office of the initial members of the board shall be computed from the date of enactment of this Act.

Conference Bill: The term of initial members shall be computed from the date of the first meeting of the Board.

Comparison

Under the House Bill, five of eleven board members would likely come up for reappointment in 1976. Under the conference bill, it is likely that terms would expire near the beginning of the next Presidential term, in 1977.

5. APPOINTMENT OF BOARD CHAIRMAN

House Bill: (d) The President shall select from among the voting members of the board a chairman, who shall serve for a term of one year.

Conference Bill: "(d) The President shall select from among the voting members of the Board a chairman, who shall serve for a term of three years. Thereafter, the Board shall annually elect a chairman from among its voting members.

Comparison

Under the House Bill, accountability would be increased by permanently reposing in the President of the United States power to designate the Chairman of the Corporation's Board of Directors. The Conference Bill would, after the first appointment, let the Corporation board choose its own Chairman.

6. CHOICE OF STATE ADVISORY COUNCIL

House Bill: (f) Within six months following the appointment of all members of the board, the board shall request the Governor of each State to appoint a nine-member advisory council for his State. A majority of the members of the advisory council shall be chosen from among the lawyers admitted to practice in the State and the members of the council shall be subject to annual reappointment.

Conference Bill: "(1) Within six months after the first meeting of the Board, the Board shall request the Governor of each State to appoint a nine-member advisory council for such State. A majority of the members of the advisory council shall be appointed, after recommendations have been received from the State Bar Association, from among the lawyers admitted to practice in the State, and the membership of the council shall be subject to annual reappointment.

Comparison

The House Bill gives the Governor a free hand. The Conference Bill requires that the Governor await recommendations from the State Bar Association before acting, insofar as the lawyer members of the advisory council are concerned.

7. PROTECTION OF INCUMBENT VALUES

House Bill: (No Provision)

Conference Bill: "(2) No political test or political qualification shall be used in selecting, appointing, promoting, or taking any other personnel action with respect to any officer, agent, or employee of the Corporation or of any recipient, or in selecting or monitoring any grantee, contractor, or person or entity receiving financial assistance under this title.

Comparison

There is no comparable language in the House Bill. The effect of this provision is to prevent the Corporation boards of directors from dealing with organizational recipients or employees on the basis of the political beliefs which they favor. This works two ways: in blocking the imposition from above of policy goals; and in preventing interference by elected officials with the political objectives being advanced by recipient programs and their self-constituted governing boards.

8. STATEMENT OF NON-FEDERAL ACCOUNTABILITY

House Bill: (No Provision).

Conference Bill: "(e)(1) Except as otherwise specifically provided in this title, officers and employees of the Corporation shall not be considered officers or employees, and the Corporation shall not be considered a department, agency, or instrumentality, of the Federal Government.

Comparison

No comparable House language. The Conference Bill language is intended to assure that the accountability of the corporation to Congress and the President is limited to the areas specifically set forth in the Bill.

9. STATEMENT OF GRANT AND CONTRACT POWERS

House Bill: (1) To make grants to, and to contract with, individuals, partnerships, firms, organizations, corporations, State and local governments, and other appropriate entities (referred to in this Act as "recipients") for the purpose of providing legal assistance to eligible clients;

(2) To accept in the name of the corporation, 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; and

(3) To undertake directly and not by grant or contract the following activities relating to the delivery of legal assistance—

(A) research, (B) training and technical assistance, and (C) to serve as a clearinghouse for information.

Conference Bill: "(1)(A) to provide financial assistance to qualified programs furnishing legal assistance to eligible clients, and to make grants to and contracts with—

"(i) individuals, partnerships, firms, corporations, and nonprofit organizations, and

"(ii) State and local governments (only upon application by an appropriate State or local agency or institution and upon a special determination by the Board that the arrangements to be made by such agency or institution will provide services which will not be provided adequately through non-governmental arrangements),

(A) for the purpose of providing legal assistance to eligible clients under this title, and (B) to make such other grants and contracts as are necessary to carry out the purposes and provisions of this title; . . .

. . ."(3) to provide, either directly or by grant or contract for—"(A) research (in accordance with the provisions of section 3* of the Legal Services Corporation Act of 1974).

"(B) training, and "(C) information clearinghouse activities relating to the provision of legal assistance under this title, and for the technical assistance in connection with the provision of legal assistance to eligible clients.

Comparison

The House bill would limit grants and contracts to those made "for the purpose of providing legal assistance to eligible clients" and would prevent the funding of "training and technical assistance" backup centers, requiring also that research and clearinghouse functions be performed under the authority and restrictions of the Corporation itself, which are more substantial than those of recipients. The Conference Bill would more broadly authorize grants and contracts for "individuals, partnerships, firms, corporations, and nonprofit organizations" and allow such others "as are necessary to carry out the purposes and provisions of this title." The Conference bill is significantly different also in that, except for research functions, it would perpetuate the backup centers indefinitely and bar aid to State and local governments for legal assistance activities, except where there is a special determination that such State and local roles would be necessary to supplement (rather than replace) privately controlled staff attorney projects.

* Sec. 3. (a) (1) Subject to the provisions of paragraph (2), the authority of the Legal Services Corporation under section 1006(a) (3) (A) of the Legal Services Corporation Act (title X of the Economic Opportunity Act of 1964) to make grants or enter into contracts for research in connection with the provision of legal assistance to eligible clients shall terminate on January 1, 1976.

(2) During the period June 30, 1975, through January 1, 1976, the Congress may by concurrent resolution act with respect to the duration of authority contained in such section 1006(a) (3) (A). If the Congress has failed to take any such action that authority shall automatically be extended until January 1, 1977.

(b) In order to assist the Congress to carry out the provisions of subsection (a) of this section, the Corporation shall conduct a thorough study of the efficiency and economy of the use of grants or contracts for research in connection with the support of the provision of legal assistance to eligible clients as distinguished from the direct provision of such research by the Corporation. The Corporation shall report to the Congress and the President not later than June 30, 1975, on the findings of the study required by this subsection, together with such recommendations, including recommendations for additional legislation, as the Corporation deems appropriate.

10. TERMINATION PROCEDURES

House Bill: (b) (1) The corporation shall have authority to insure the compliance of recipients and their employees with the provisions of this Act and the rules, regulations and guidelines promulgated pursuant to this Act, and to terminate, after a hearing, financial support to a recipient which fails to comply.

Conference Bill: "(b) (1) The Corporation shall have authority to insure the compliance of recipients and their employees with the provisions of this title and the rules, regulations, and guidelines promulgated pursuant to this title, and to terminate, after a hearing in accordance with section 1011* of this title, financial support to a recipient which fails to comply.

Comparison

The privilege of Corporation-funded programs to continue is more substantial under the Conference Bill than under the House Bill, with a greater burden on the part of the Corporation to set forth evidence of violations by recipients before the Corporation is permitted to discontinue funding. This is a very important distinction, affecting the relevance and enforceability of all the law's sanctions and prohibitions.

11. PICKET, BOYCOTT, STRIKE

House Bill: (5) The corporation shall insure that its employees and employees of recipients, which employees receive a majority of their annual professional income from legal assistance under this Act, shall, while engaged in activities carried on by the corporation or by a recipient, refrain from participation in, and refrain from encouragement of others to participate in any picketing, boycott, or strike, and shall at all times during the period of their employment refrain from participation in, and refrain from encouragement of others to participate in: (A) rioting or civil disturbance; (B) any form of activity which is in violation of an outstanding injunction of any Federal, State, or local court; or (C) any illegal activity. The board, within ninety days of the date of enactment of this Act, shall issue guidelines to provide for the enforcement of this subsection; such guidelines shall include criteria (i) for suspension of legal assistance support under this Act, (ii) for suspension or termination of compensation to an employee of the corporation, and (iii) which shall be used by recipients in any action by them for the suspension or termination of their employees, for violations of this subsection.

Conference Bill: "(5) The Corporation shall insure that (A) no employee of the Corporation or of any recipient (except as permitted by law in connection with such employee's own employment situation), while carrying out legal assistance activities under this title, engage in, or encourage others to engage in, any public demonstration or picketing, boycott, or strike; and (B) no such employee shall, at any time, engage in, or encourage others to engage in, any of the following activities: (i) any rioting or civil disturbance, (ii) any activity which is in violation of any outstanding injunction of any court of competent jurisdiction, (iii) any other illegal activity, or (iv) any intentional identification of the Corporation or any recipient with any political activity prohibited by section 1007(a) (6) of this Act. The Board, within ninety days after its first meeting, shall issue rules and regulations to provide for the enforcement of this paragraph and section 1007(a) (5) of this Act, which rules shall include among available remedies, provisions in accordance with the types of procedures prescribed in the provisions of section 1011 of this Act, for suspension of legal assistance supported under this title, suspension of an employee of the Corporation or of any employee of any recipient by such recipient, and, after other remedial measures have been exhausted and after a hearing in accordance with section 1011 of this Act, the termination of such assistance or employment, as deemed appropriate for the violation in question.

Comparison

The Conference Bill introduces a significant loophole to the House safeguard by sanctioning aid to such activity by project employees whenever "permitted by law in connection with such employee's own employment situation." Resort to picketing, boycotts, or strikes may be legal, while remaining inappropriate for public subsidy.

12. INVOLVEMENT IN STATE BALLOT ISSUES

House Bill: (4) Neither the corporation nor any recipient shall contribute or make available corporate funds or program personnel or equipment for use in advocating or opposing any ballot measures, initiatives, referendums, or similar measures.

Conference Bill: "(4) Neither the Corporation nor any recipient shall contribute or make available corporate funds or program personnel or equipment for use in advocating or opposing any ballot measures, initiatives, or referendums. However, an attorney may provide legal advice and representation as an attorney to any eligible client with respect to such client's legal rights.

Comparison

The Conference Bill language introduces a significant loophole to substantially negate the House safeguard. Since activist groups with a vital interest in the outcome of state ballot initiatives, recalls, and referenda, are eligible clients under the bill, much would be permitted with respect to "representation."

13. REIMBURSEMENT OF INNOCENT PARTIES SUED

House Bill: (c) If an action is commenced by the corporation or by a recipient and a final judgment is rendered in favor of the defendant and against the corporation's or recipient's plaintiff, the court may upon proper motion by the defendant award reasonable costs and legal fees incurred by the defendant in defense of the action, and such costs shall be directly paid by the corporation.

Conference Bill: "(f) If an action is commenced by the Corporation or by a recipient and a final order is entered in favor of the defendant and against the Corporation or a recipient's plaintiff, the court may, upon motion by the defendant and upon a finding by the court that the action was commenced or pursued for the sole purpose of harassment of the defendant or that the Corporation or a recipient plaintiff maliciously abused legal process, enter an order (which shall be appealable before being made final) awarding reasonable costs and legal fees incurred by the defendant in defense of the action, except when in contravention of a State law, a rule of court, or a statute of general applicability. Any such costs and fees shall be directly paid by the Corporation.

Comparison

Under the Conference Bill, innocent parties sued would have to prove harassment or malice before they could have their legal costs reimbursed.

14. OUTSIDE PRACTICE OF LAW

House Bill: (4) Insure that attorneys, employed full time in legal assistance activities

*Sec. 1011. The Corporation shall prescribe procedures to insure that—(1) financial assistance under this title shall not be suspended unless the grantee, contractor, or person or entity receiving financial assistance under this title has been given reasonable notice and opportunity to show cause why such action should not be taken; and (2) financial assistance under this title shall not be terminated, an application for refunding shall not be denied, and a suspension of financial assistance shall not be continued for longer than thirty days, unless the grantee, contractor, or person or entity receiving financial assistance under this title has been afforded reasonable notice and opportunity for a timely, full, and fair hearing.

supported in whole or in part by the corporation, represent only eligible clients and refrain from any outside practice of law;

Conference Bill: "(4) insure that attorneys employed full time in legal assistance activities supported in major part by the Corporation refrain from (A) any compensated outside practice of law, and (B) any uncompensated outside practice of law except as authorized in guidelines promulgated by the Corporation;

Comparison

The Conference Bill's language making possible "uncompensated" outside practice of law undermines the intention of the House to block evasion of restrictions applicable to staff attorneys on the cover story that the prohibited conduct occurred on the attorney's own time, as part of his "outside practice."

15. LOBBYING

House Bill: (5) Insure that no funds made available to recipients by the corporation shall be used at any time, directly or indirectly, to undertake to influence any executive order or similar promulgation of any Federal, State, or local agency, or to undertake to influence the passage or defeat of legislation by the Congress of the United States, or by any State or local legislative bodies, except that the personnel of any recipient may (A) testify or make a statement when formally requested to do so by a governmental agency or by a legislative body or a committee or member thereof, or (B) in the course of providing legal assistance to an eligible client (pursuant to guidelines promulgated by the corporation) make representations necessary to such assistance with respect to any executive order or similar promulgation and testify or make other necessary representations to a local governmental entity;

Conference Bill: "(5) insure that no funds made available to recipients by the Corporation shall be used at any time, directly or indirectly, to influence the issuance, amendment, or revocation of any executive order of any Federal, State, or local agency, or to undertake to influence the passage or defeat of any legislation by the Congress of the United States, or by any State or local legislative bodies, except where—

"(A) representation by an attorney as an attorney for any eligible client is necessary to the provision of legal advice and representation with respect to such client's legal rights and responsibilities (which shall not be construed to permit a recipient or an attorney to solicit a client for the purpose of making such representation possible, or to solicit a group with respect to matters of general concern to a broad class of persons as distinguished from acting on behalf of any particular client); or

"(B) a governmental agency, a legislative body, a committee, or a member thereof requests personnel of any recipient to make representations thereto;

Comparison

The Conference Bill permits attorneys "to undertake to influence the passage or defeat of legislation" where such pertains to representation of an eligible client. Again, the fact that issue advocacy organizations are "eligible clients" negates the very important House safeguard.

16. REVIEW OF APPEALS

House Bill: (7) Establish guidelines for consideration of possible appeals, to be implemented by each recipient to insure the efficient utilization of resources; except that such guidelines shall in no way interfere with the attorney's responsibilities;

Conference Bill: "(7) require recipients to establish guidelines, consistent with regulations promulgated by the corporation, for a system for review of appeals to insure the efficient utilization of resources and to avoid frivolous appeals (except that such guidelines or regulations shall in no way interfere with attorneys' professional responsibilities);

Comparison

Development of guidelines for appeals is a prerogative of the Corporation board of directors under the House bill; it is left to the recipients themselves under the Conference Bill.

17. BAN ON SUSPENSION OF FUNDING

House Bill: (No Provision).

Conference Bill: "(9) insure that every grantee, contractor, or person or entity receiving financial assistance under this title or predecessor authority under this Act which files with the Corporation a timely application for refunding is provided interim funding necessary to maintain its current level of activities until (A) the application for refunding has been approved and funds pursuant thereto received, or (B) the application for refunding has been finally denied in accordance with section 1011 of this Act; and

Comparison

No comparable House provision. This language in the Conference Bill would bar summary suspensions of funding by the Corporation, even for flagrant violations of law or regulation. It makes suspensions under the Corporation almost as difficult as terminations are under the Economic Opportunity Act legal Services provisions for OEO.

18. PRISONERS RIGHTS

House Bill: (b) No funds made available by the corporation under this Act, either by grant or contract, may be used—

(1) To provide legal assistance with respect to any fee-generating case (except in accordance with guidelines promulgated by the corporation), to provide legal assistance with respect to any criminal proceeding or to provide legal assistance in civil actions to persons who have been convicted of criminal charge where the civil action arises out of alleged acts or failures to act connected with the criminal conviction and is brought against an officer of the court or against a law enforcement official;

Conference Bill: "(b) No funds made available by the Corporation under this title, either by grant or contract, may be used— (1) To provide legal assistance with respect to any fee-generating case (except in accordance with guidelines promulgated by the corporation), to provide legal assistance with respect to any criminal proceeding, or to provide legal assistance in civil actions to persons who have been convicted of a criminal charge where the civil action arises out of alleged acts or failures to act for the purpose of challenging the validity of the criminal conviction and is brought against an officer of the court or against a law enforcement official;

Comparison

The House ban on "prisoners rights" activity relating to conditions of incarceration is negated by the Conference Bill.

19. PUBLIC INTEREST LAW FIRMS

House Bill: (3) To award grants to or enter into contracts with any private law firm which expends fifty per centum or more of its resources and time litigating issues either in the broad interests of a majority of the public or in the collective interests of the poor, or both;

Conference Bill: "(3) to award grants to or enter into contracts with any private law firm which expends fifty percent or more of its resources and time litigating issues in the broad interests of a majority of the public;

Comparison

The intended House Bill ban on aid to issue-advocacy, "legislation by litigation" public interest law firms is undermined by Conference Bill language which strikes the prohibition on firms which devote fifty percent or more of their resources "in the collective interests of the poor."

20. JUVENILE REPRESENTATION

House Bill: (6) To provide legal assistance under this Act to any person under eighteen years of age without the written request of one of such person's parents or guardians or any court of competent jurisdiction except in child abuse cases, custody proceedings, and PINS proceedings;

Conference Bill: "(4) to provide legal assistance under this title to any unemancipated person of less than eighteen years of age, except (A) with the written request of one of such person's parents or guardians, (B) upon the request of a court of competent jurisdiction, (C) in child abuse cases, custody proceedings, persons in need of supervision (PINS) proceedings, or cases involving the initiation, continuation, or conditions of institutionalization or (D) where necessary for the protection of such person for the purpose of securing, or preventing the loss of, benefits or securing, or preventing the loss or imposition of, services under law or in cases not involving the child's parent or guardian as a defendant or respondent.

Comparison

The exceptions set forth in the Conference Bill negate the House Bill with respect to criminal cases involving persons under eighteen (a very important negation), cases where the parents are not parties to the suit (an almost totally sweeping exception), and cases involving "services" to which the child is entitled (like abortions). As a result of the Conference Bill negations, the attorney is superimposed over the parent in deciding whether the child shall have legal representation.

21. CONTROL OF PROJECT BOARDS

House Bill: (c) In making grants or entering into contracts for legal assistance, the corporation shall insure that any recipient organized solely for the purpose of providing legal assistance to eligible clients is governed by a body at least two-thirds of which consists of lawyers who are members of the bar of a State in which the legal assistance is to be provided (except pursuant to regulations issued by the corporation which allow a waiver of this requirement for recipients which because of the nature of the population they serve are unable to comply with such requirement); such lawyers shall not, while serving on such body, receive compensation from a recipient or from the corporation for any other service.

Conference Bill: "(c) In making grants or entering into contracts for legal assistance, the Corporation shall insure that any recipient organized solely for the purpose of providing legal assistance to eligible clients is governed by a body of at least sixty percent of which consists of attorneys who are members of the bar of a State in which the legal assistance is to be provided (except that the Corporation (1) shall, upon application, grant waivers to permit a legal services program, supported under section 222(a)(3) of the Economic Opportunity Act of 1964, which on the date of enactment of this title as a majority of persons who are not attorneys on its policy-making board to continue such a non-attorney majority under the provisions of this title, and (2) may grant, pursuant to regulations issued by the Corporation such a waiver for recipients which, because of the nature of the population they serve, are unable to comply with such requirement) and which include at least one individual eligible to receive legal assistance under this title. Any such attorney, while serving on such board shall not receive compensation from a recipient.

Comparison

The Conference Bill provides a waiver from the requirement of attorney majorities on governing boards for all presently-funded legal services projects, thus totally negating the House reform.

22. APPROPRIATIONS

House Bill: Sec. 10. (a) There are authorized to be appropriated such sums as may be necessary to carry out the activities of the corporation. The first such appropriation may be made available to the board at any time after six or more members have been appointed and qualified. Funds appropriated pursuant to this section shall remain available until expended.

Conference Bill: "Sec. 1010. (a) There are authorized to be appropriated for the purpose of carrying out the activities of the Corporation, $90,000,000, for the fiscal year ending June 30, 1975, and $100,000,000 for the fiscal year ending June 30, 1976, and such sums as may be necessary for the fiscal year ending June 30, 1977. The first appropriation may be made available to the Corporation at any time after six or more members of the Board have been appointed and qualified. Appropriations shall be for not more than two fiscal years, and if for more than one year, shall be paid to the Corporation in annual installments at the beginning of each fiscal year in such amounts as may be specified in appropriation Acts.

Comparison

The House Bill would establish annual appropriations, with no pre-set level of authorization. Under the Conference Bill, the authorization level would rise to $100 million per year. Furthermore, the Conference Bill would allow two-year, rather than annual appropriations.

23. COMMINGLING

House Bill: (b) Non-Federal funds received by the corporation, and funds received by any recipient from a source other than the corporation, shall be accounted for and reported as receipts and disbursements separate and distinct from Federal funds, but shall not be expended by recipients for any purpose prohibited by this Act (except that this provision shall not be construed in such a manner as to make it impossible to contract or make other arrangements with private attorneys or private law firms, or with legal aid societies which have separate public defender programs, for rendering legal assistance to eligible clients under this Act).

Conference Bill: "(c) Non-Federal funds received by the Corporation, and funds received by any recipient from a source other than the Corporation, shall be accounted for and reported as receipts and disbursements separate and distinct from Federal funds, but such funds received for the provision of legal assistance shall not be expended by recipients for any purpose prohibited by this title; except that this provision shall not be construed in such a manner as to prevent recipients from receiving other public funds or tribal funds (including foundation funds benefiting Indians or Indian tribes) and expending them in accordance with the purposes for which they are provided, or to prevent contracting or making other arrangements with private attorneys, private law firms, or other state or local entities of attorneys, or with legal aid societies having separate public defender programs, for the provision of legal assistance to eligible clients under this title.

Comparison

The Conference bill language says public funds provided to recipients from sources other than the Corporation shall not be subject to the requirements established by law for Corporation funds and activities.

24. INDIRECT FEDERAL ASSISTANCE

House Bill: (No Provision)

Conference Bill: "Sec. 1012. The President may direct that appropriate support functions of the Federal Government may be made available to the Corporation in carrying out its activities under this title to the extent not inconsistent with other applicable law.

Comparison

The Conference Bill would enable a President of the United States to make available to the Corporation, without Congressional check, unlimited assistance of an "in-kind" nature: GSA vehicles, xerox machines, printing and publication, vehicles, Federal telecommunications services, etc.

25. PERSONNEL TRANSFER AND UNION AMENDMENTS

House Bill: (No Provision)

Conference Bill: . . . Personnel transferred to the Corporation from the Office of Economic Opportunity or any successor authority shall be transferred in accordance with applicable laws and regulations, and shall not be reduced in compensation for one year after such transfer, except for cause. The Director of the Office of Economic Opportunity or the head of any successor authority shall take whatever action is necessary and reasonable to seek suitable employment for personnel who do not transfer to the Corporation.

(c) Collective-bargaining agreements in effect on the date of enactment of this Act covering employees transferred to the Corporation shall continue to be recognized by the Corporation until the termination date of such agreements, or until mutually modified by the parties.

Comparison

The Conference Bill locks in the rather unusual OEO union agreement and other regulations related to the operations of the new Corporation.

INFORMING THE PUBLIC ABOUT NURSING HOMES

Mr. PERCY. Mr. President, I want to bring to the attention of my colleagues a significant press release from the National Consumers League.

Esther Peterson, president of the league, has announced the opening of a Health Services Information Center for Greater Washington. The center will make available to consumers "a centralized file of government inspection records evaluating medical, nursing, and dietary services at medicare nursing homes" in this area.

The league will provide a two-page digest on ownership deficiencies in medical and nursing services, patient mix, nutrition, fire and safety status, patient activities, social services, prices, and patient/staff ratio.

I welcome this pilot project of the National Consumers League and I commend the league for its initiative in expanding on the disclosure provisions of H.R. 1.

I thoroughly support this effort. Last week I introduced S. 3507 which directs the Secretary of Health, Education, and Welfare to take precisely those same steps. He is to prepare a convenient and readable digest of State surveys and inspection reports and distribute this digest widely. He is also to develop a rating system based on these same data.

Mr. President, I believe efforts such as the National Consumer League has undertaken are absolutely essential both to better inform the public and to make long term care facilities more accountable to the people they serve.

I ask unanimous consent that the league's press release be printed in the RECORD.

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

PRESS RELEASE—NATIONAL CONSUMERS LEAGUE

The National Consumers League today opened a pilot consumer-operated Health Services Information Center for Greater Washington. For the first time anywhere in the nation, the Center will make available to the public a centralized file of government inspection records evaluating medical, nursing, and dietary services at Medicare nursing homes in a selected metropolitan area.

"The consumer will now be able to make convenient use of official records gathered by the government and paid for by our tax dollars," declared League President Esther Peterson in opening the Center. "People today don't know where to start in looking for a nursing home. This is the place to start."

Each 60-page Medicare report has been digested by the League into two pages containing data on ownership, deficiencies in medical and nursing services, patient mix, nutrition, fire and safety status, patient activities and social services. The League has added information on prices and patient/staff ratio. Copies of Center digests, as well as actual Medicare reports, will be available to consumers at 10 cents per page.

Mrs. Peterson, first White House Consumer Adviser under President Johnson, noted today that the Medicare file of over 1500 pages would have cost some $400 to copy—at 25¢ per page—had not the Social Security Administration waived charges. "We welcome this sign of SSA cooperation with the consumer, and hope that it will blossom," she commented.

The Health Services Information Center has it roots in attempts by consumers and newsmen to obtain nursing home inspection records from Medicare under the Freedom of Information Act, and in laws passed by Congress affirming the need for disclosure. The first Freedom-of-Information suit to free these records was brought by Mr. Schechter, Washington editor of Hospital Practice magazine. Schechter, a board member of the League, has been instrumental in establishing the Center's files.

Besides inspection records on over 24 nursing homes in the District of Columbia, northern Virginia and suburban Maryland, the Center offers a list of Medicare fee ceilings for reimbursement of specified physician services in the metropolitan area. This list, also made accessible to the public for the first time, can be used as a yardstick to evaluate charges for medical, surgical, radiological, clinical laboratory, and medical appliance services.

Groups elsewhere in the country, including the Philadelphia-based Gray Panthers, have expressed interest in expanding the League's efforts to make health service data accessible to the public. The League is now preparing a manual on how to set up a consumer health information center.

The National Council of Senior Citizens has endorsed this pioneering project. The Greater Washington Area Council of Senior Citizens, led by Mrs. Genevieve Johnson, plans to funnel results of site visits to the League files.

"This Center is only in its beginning phase," Mrs. Peterson explained today. "To these Medicare records and digests, updated annually, we will add observations from consumers, nursing home officials, and other professionals.

"Obviously, officials inspection records are

not enough to assess a facility. The humaneness of care and respect accorded patients must be observed on the spot, and we welcome feedback from all concerned on the accuracy and usefulness of this data."

The Center hopes shortly to obtain additional health services information, including currently confidential inspection records and licensure reports on Washington-area hospitals. "Secrecy in the health field serves neither the public nor the providers," Mrs. Peterson remarked.

The National Consumers League, which began in 1899 to press for improved working conditions through consumer boycotts of sweatshop-produced goods, is not active in the fields of food marketing, product safety, and health care. The Health Services Information Center is part of a far-ranging program to represent the health-services consumer by developing grievance systems, by training consumer representatives on area-wide health planning and hospital boards, by participating in policymaking with providers services, by training consumer health specialists, and by researching and analyzing legislative and regulatory proposals.

CARDINAL MINDSZENTY ON DÉTENTE

Mr. HELMS. Mr. President, our Nation's Capital has the unusual honor today of a visit by Josef Cardinal Mindszenty, one of the world's most distinguished churchmen and a revered spokesman for freedom.

Cardinal Mindszenty, through his courageous opposition to the Communist rulers of Hungary, and his enforced exile for 15 years in the American Embassy in Budapest, has become a spiritual leader for men of all faiths, particularly for Americans.

For Cardinal Mindszenty has made it clear that his imprisonment and torture by the Communists, and his virtual imprisonment in the American Embassy was a symbol of the inhumanity toward man and the total rejection of God which is inherent in the Communist system. It is not fashionable these days to speak of irreconcilable philosophical differences in an age which is supposedly an age of détente. But a system which does violence to man's body and soul is essentially at odds with the traditions of Western civilization. There can be no détente, no satisfactory system of peaceful coexistence, unless these basic irreoncilable differences are removed.

Cardinal Mindszenty is not afraid to speak the unfashionable truth, despite the jeers and sneers of the sophisticates. Just as he was not afraid to oppose the evils of Nazism in World War II, and just as he was not afraid to oppose the evils of communism in 1949 and again in 1956, so he is not afraid to contradict the reigning intellectual fashions of the West. When interviewed by the New York Times upon his arrival in this country a few days ago on a pastoral mission to the exiled Hungarians of his faith, he was straightforward in his views about détente negotiations. He told the Times:

I have no hope that any concessions can be had in return from the athiest, Godless and inhumane governments.

No doubt there will be some who smile at such statements as relics of the past, as the rhetoric of the cold war that an elderly man who has suffered greatly cannot forget.

But such attitudes are a wilful evasion of the truth. To one such patronizing reporter who intimated that the Cardinal might have a political purpose in his visit, the Cardinal replied:

To Communists, everything is politics, even religions, the Ten Commandments and prayers, and since they are athiests, they consider it against their system.

The correctness of the cardinal's remarks was attested to the very next day, also in the New York Times, when it was reported that a Russian Orthodox priest, the Rev. Dmitri Dudko, had been silenced for speaking out from his pulpit against Soviet prison camps, the moral and spiritual decline of the Soviet Union, and informers within the Russian Orthodox hierarchy. Father Dudko had been attracting crowds with his sermons until he was ordered to stop and to explain himself to his religious superiors. In more recent dispatches, we learn that Father Dudko has been forced to resign his office.

Such incidents are typical of what happens whenever religious men oppose Communist totalitarianism. The incident involving Father Dudko is typical of the persecution which is meted to all religious groups in the Soviet Union, including widespread restrictions on the Baptists, obstacles to the distribution of the Bible, and the widely publicized pressures brought against the Jews.

Let us honor Cardinal Mindszenty as a prophet who tells us of the ways of God and speaks to men of all faiths. And since religious faith is the backbone of any great nation, let us heed the notion that coexistence is ultimately impossible with athiestic totalitarianism. True détente, as the artist Solzhenitsyn has so eloquently pointed out, is possible only when the aggressive content of communism as a political doctrine has been eliminated.

Mr. President, I ask unanimous consent that three articles from the New York Times, referring to the interviews with Cardinal Mindszenty and Father Dudko, be printed in the RECORD at the conclusion of my remarks.

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

[From the New York Times, May 8, 1974]

MINDSZENTY SEES "NO HOPE" IN EAST-WEST DÉTENTE

(By Eleanor Blau)

Jozsef Cardinal Mindszenty, who was removed as Roman Catholic primate of Hungary last February amid Vatican efforts to improve relations with Communist governments, yesterday decried East-West efforts at détente.

"I have no hope that any concessions can be had in return from the atheist, Godless and inhumane governments," he told a news conference here. As for the Vatican efforts, he said: "Instead of terming it the policy of the church, I would term it rather that of the Vatican."

The 82-year-old Cardinal, who arrived here yesterday for what was described as a pastoral tour of the United States, spoke at the offices of the Macmillan Publishing Company, 866 Third Avenue, which will publish his memoirs next November.

Although he walked slowly to the conference dais, the white-haired Cardinal, dressed in red cap and black and red robe, talked with animation. He said he had written the memoirs to set the record straight about himself, his church and his country.

"So much untruth and villification was spread about my person in the last quarter of a century, and I wanted to answer them while I was still alive," he said.

The cardinal was arrested on charges of treason and other offenses by the Hungarian Government in December, 1948, and spent the next 22 years in jail and then in refuge in the American mission in Budapest. Since 1971 he has lived in Vienna.

He said he had begun writing the memoirs in 1949—constantly rewriting as manuscripts were confiscated in jail—and had continued writing to the present. He said that Pope Paul had read the memoirs and that the only question the Pontiff had raised was whether the timing of publication would bring attacks on the Cardinal and the church.

Much of yesterday's news conference consisted of questions that a translator said had been submitted by various people recently and replies that were read in Hungarian by the Cardinal and then translated.

One of these questions suggested that his trip would be viewed by some as having a political purpose. The Cardinal replied: "To Communists everything is politica, even religions, the Ten Commandments and prayers, and since they are atheists, they consider it against their system."

[From the New York Times, May 9, 1974]

MOSCOW PRIEST WHO DREW FAITHFUL WITH OPEN DISCUSSIONS IS ORDERED TO STOP

(By Hedrick Smith)

Moscow, May 8.—A simple low Russian church, tucked away on a side street in northeast Moscow, has in recent weeks become the focus of an unusual pilgrimage of young and old, attracted by the outspoken opinions of one of its priests, the Rev. Dmitri Dudko.

In a series of sessions with parishoners, the white-haired priest has dared to speak out about Soviet prison camps, the timidity of the Orthodox Church establishment and informers in the church hierarchy.

In the flickering candlelight before a church packed with curious and astonished listeners, Father Dmitri has applauded the scientific achievements of the Soviet Union but has deplored what he considers its moral and spiritual decline over the half a century of Soviet rule and has vigorously proselytized for return to faith.

LATEST SESSION CANCELED

Last Saturday night, at the 10th of his sessions, he announced at the end of his regular sermon that the question-and-answer period had been postponed by order of Patriarch Pimen "until I speak with him."

More than half of the 500 to 600 people crowded into the little Church of St. Nicholas on Preobazhenskaya Street milled about in the twilight of the courtyard for 45 minutes waiting for word from the priest.

Many were in their twenties and thirties. Some had secreted cassette records into briefcases to tape the session. Finally, Father Dmitri emerged in his cassock and told them:

IN LABOR CAMPS UNDER STALIN

"You have asked me questions and I have given you answers. There is nothing wrong in this."

At the previous session, in mid-April, he anticipated the risk of silencing by the authorities by noting that some people were saying that his statements were causing a sensation.

"If this is considered a sensation," he remarked, "I can only say with sadness: Have priests stopped doing God's work "

The priest, a short, broadfaced man who wears rimless glasses, is in his early fifties. Churchgoers said he was born in a peasant family and fought in World War II. He was arrested in 1945, during his first year at the Moscow Theological Seminary, and was sen-

tenced without trial to eight and a half years, which he spent in prison camps in the sub-Arctic Komi Autonomous Republic, in northern Russia.

His sentence was extended, and after his release in 1956 he resumed his religious studies at the seminary in Zagorsk, finishing in 1960.

A STARTLING INNOVATION

The unusual directness of Father Dmitri's sermons over the last two or three years has attracted a number of intellectuals, among them Aleksandr L. Solzhenitsyn and his wife, and Vladimir Maksimov, another dissident writer who is now abroad.

But the priest's question-and-answer sessions, begun after Christmas, were a startling innovation and have gradually doubled and tripled church attendance. One of his persistent themes has been the spiritual decline of the past half a century.

"With the growth of technology, the spiritual side of life can be degraded," he told his listeners on March 23. "I see this as a great danger. The best minds have come to the conclusion that we can destroy ourselves if this continues."

At an earlier session he was asked about the present situation in Russia and replied that from the religious point of view "Russia is at Calvary and Christ is crucified in Russia."

But later, asked when was the best time for the church, he replied: "Now, when it is on the cross."

Father Dmitri often punctuates his material with stories about believers rebutting the arguments of atheists.

Once he recounted the story of a school teacher who was trying to prove to her class that God did not exist by telling them that Soviet astronauts in orbit had not seen him.

"They fly too low," replied a 7-year-old boy.

POSITION OF PATRIARCH

When a questioner said that he was ashamed of attending church because the hierarchy only expressed views that coincided with the views of the state, the priest answered:

"You see faults in the modern clergy and point to the Patriarch himself, but do you know that you are looking too superficially? Who else is in such an arbitrary position as the Patriarch? They say he is surrounded by thousands of informers. He sighs and it is heard by all the organs."

"Organs" is a term that usually refers to the secret police.

In late March one person exhorted him to "admit that you don't like your country and your people."

He brought gasps of surprise from the congregation by replying: "You probably want me to say simply that I am anti-Soviet. That would be easier to concoct a case and imprison me."

A few of the faithful crossed themselves fervently.

"You are wrong," Father Dmitri said. "I love my country and my people and I pity those who have strayed. I particularly pity atheists."

In mid-April another parishoner sent in a written question saying: "What you say is frightening. No one has spoken like that in the past, and we are afraid that you will be misunderstood."

"I am also afraid of that," Father Dmitri replied. "But if I am misunderstood, that does not mean I should be silent. I am doing God's work."

[From the New York Times, May 17, 1974]

RUSSIAN CHURCH LEADERS CALL OUTSPOKEN PRIEST TO ACCOUNT

(By Christopher S. Wren)

Moscow, May 16—A popular Russian Orthodox priest has been called in by the church hierarchy and ordered to explain in writing the outspoken opinions he expressed in an exchange of questions and answers with his congregation.

The Rev. Dmitri Dudko has been attracting throngs of listeners, many of them young people, to his small church of St. Nicholas in northeast Moscow with articulate and often blunt observations on the church's responsibility in this officially atheist state.

In nine such sessions, he touched upon such sensitive topics as Soviet prison camp, in which the priest himself spent more than eight years under Stalin, and the presence of informers within the church hierarchy.

But at the 10th session, on May 4, the balding, 53-year-old priest told a disappointed crowd of over 500 that he had been forbidden by Patriarch Pimen, the Primate of the Russian Orthodox Church, to hold further discussions "until I speak with him."

Two days ago a Russian Orthodox churchman confirmed in response to a question that the priest had been silenced because "he had used his pulpit not for religious purposes."

On Monday, Father Dmitri was called in for a meeting with the Patriarch's secretary, Matvei Stadnyuk, knowledgeable sources have reported.

According to the sources, the priest was directed to write out what he had discussed with his parishioners. He was asked particularly about a remark he had made about Patriarch Pimen.

In one session, Father Dmitri had reproved one questioner for implying criticism of the Patriarch.

"They say he is surrounded by thousands of informers," the priest said. "He sighs and it is heard by all the organs," a reference to the secret police.

In writing his explanation, the sources reported, Father Dmitri "denied all political accusations against him." The priest was informed that his case would be investigated. In the meantime, he was forbidden to discourse beyond his formal church sermons.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

EDUCATION AMENDMENTS OF 1974

The Senate continued with the consideration of the bill (S. 1539) to amend and extend certain acts, relating to elementary and secondary education programs and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to suggest the absence of a quorum without the time being charged to either side.

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 second assistant legislative clerk proceeded to call the roll.

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

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

The question occurs on the amendment of the Senator from Virginia (Mr. WILLIAM L. SCOTT). The yeas and nays have been ordered.

Mr. JAVITS. Mr. President, is there any time for further debate, or must voting begin now?

The PRESIDING OFFICER. If the motion to table were made by the distinguished Senator from New York, there would be no debate.

Mr. JAVITS. If a motion to table is not made by the Senator from New York, can he take any time to discuss the matter?

The PRESIDING OFFICER. There would be time on the bill.

Mr. JAVITS. I yield myself 2 minutes on the bill.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, the amendment which has been offered by Senator SCOTT, which he debated at great length, simply takes the whole judicial system of the United States and turns it upside down so far as cases in this field are concerned. I understand his feeling and disposition.

I have had a very complete report as to everything the Senator from Virginia has said. I apologize to him for being out of the Chamber in connection with a meeting with the parliamentarians of the Soviet Union, a matter of high importance to the United States, which was conducted by the Committee on Foreign Relations. One of the main things they wanted to know about fell in my particular field.

I will not engage in an extended debate on this subject, which Senator SCOTT has debated so thoroughly, except to point out what the amendment would do. It would sweep away the jurisdiction of the Federal courts, other than the Supreme Court, and would mean that cases would go from the State courts to the Supreme Court and back again to the State courts for implementation. The Supreme Court is overwhelmed now and is faced with State courts which may be unhappy with its decisions in this field. It will be even more overwhelmed should we sweep aside the jurisdiction of the lower Federal courts.

For those reasons, Mr. President, I will move to table the amendment; but before I do so, I would like to yield the same amount of time to Senator SCOTT—2 minutes on the bill—so that he may make whatever statement he wishes.

Mr. WILLIAM L. SCOTT. I appreciate the courtesy of the distinguished Senator from New York.

Mr. President, I did speak at length, as the Senator has said, in support of my amendment. Unfortunately, I was speaking primarily to an empty Chamber at the time.

I heard someone speak on the floor with regard to the constitutionality of my proposal, and I thought the distinguished Senator from New York was going to raise that question. I do have citations of authority dating back to 1799.

I have had the matter researched by the Library of Congress, and I quote from the words of Mr. Justice Chase:

The notion has frequently been entertained, that the Federal courts derive their judicial power immediately from the Constitution, but the political truth is, that the disposal of the judicial power, except in a few specified instances, belongs to Congress.

Further, in 1845, the Court said, in Cary against Curtis:

The judicial power of the United States, although it has its origins in the Constitution is—except in enumerated instances, applicable exclusively to this court—dependent for its distribution and organization, and for the modes of its exercise, entirely upon the action of Congress, who possess the sole power of creating the tribunals—inferior to the Supreme Court—for the exercise of the judicial power, and of investing them with jurisdiction either limited, concurrent, or exclusive, and of withholding jurisdiction from them in the exact degrees and character which to Congress may seem proper for the public good.

Mr. President, I ask for the support of the Senate on this amendment.

Mr. JAVITS. Mr. President, I yield myself 1 minute in order to give myself equal time.

Mr. President, I wish to state that I am aware of the Judiciary Act of 1789. I did not raise that question but I do raise the question of the inundation of the Supreme Court with appeals from State courts, especially as it is true that many such appeals will present complications, whereas the Federal courts are one system. This situation has been forwarded by way of resolution in the Federal courts, and that is where it should stay. We should not be deprived of that enormous ability which resides in the Federal courts on this matter.

Mr. President, for that reason I move to table the amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Virginia (Mr. WILLIAM L. SCOTT). 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 Louisiana (Mr. JOHNSTON), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from California (Mr. CRANSTON), the Senator from New Mexico (Mr. MONTOYA), and the Senator from Michigan (Mr. HART) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY) is necessarily absent.

I also announce that the Senator from New Hampshire (Mr. COTTON) and the Senator from Hawaii (Mr. FONG) are absent on official business.

I further announce that the Senator from North Dakota (Mr. YOUNG) is absent to attend the funeral of a relative.

The result was announced—yeas 61, nays 25, as follows:

[No. 210 Leg.]

YEAS—61

Abourezk	Bible	Case
Aiken	Biden	Chiles
Bayh	Brock	Clark
Baker	Brooke	Cook
Beall	Burdick	Dole
Bellmon	Byrd, Robert C.	Domenici
Bennett	Cannon	Dominick
Eagleton	McGovern	Ribicoff
Hartke	McIntyre	Roth
Haskell	Metzenbaum	Schweiker
Hatfield	Mondale	Scott, Hugh
Hathaway	Moss	Stafford
Hollings	Muskie	Stevens
Huddleston	Nelson	Stevenson
Hughes	Packwood	Symington
Jackson	Pastore	Taft
Javits	Pearson	Tunney
Kennedy	Pell	Weicker
Magnuson	Percy	Williams
Mansfield	Proxmire	
Mathias	Randolph	

NAYS—25

Allen	Goldwater	Metcalf
Bartlett	Griffin	Nunn
Bentsen	Gurney	Scott, William L.
Byrd, Harry F., Jr.	Hansen	Sparkman
Curtis	Helms	Stennis
Eastland	Hruska	Talmadge
Ervin	Long	Thurmond
Fannin	McClellan	Tower
	McClure	

NOT VOTING—14

Buckley	Fulbright	Johnston
Church	Gravel	McGee
Cotton	Hart	Montoya
Cranston	Humphrey	Young
Fong	Inouye	

So the motion to lay on the table the amendment of the Senator from Virginia (Mr. WILLIAM L. SCOTT) was agreed to.

The PRESIDING OFFICER (Mr. HELMS). The question occurs on the amendment of the Senator from Connecticut (Mr. WEICKER), as modified. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative cerk 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 Sentor from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Wyoming (Mr. MCGEE), the Senator from California (Mr. CRANSTON), the Senator from Michigan (Mr. HART), and the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY) is necessarily absent.

I also announce that the Senator from New Hampshire (Mr. COTTON) and the Senator from Hawaii (Mr. FONG) are absent on official business.

I further announce that the Senator from North Dakota (Mr. YOUNG) is absent to attend the funeral of a relative.

The result was announced—yeas 4, nays 83, as follows:

[No. 211 Leg.]

YEAS—4

Brooke	Stevens	Weicker
Hartke		

NAYS—83

Abourezk	Clark	Huddleston
Aiken	Cook	Hughes
Allen	Curtis	Humphrey
Baker	Dole	Jackson
Bartlett	Domenici	Javits
Bayh	Dominick	Kennedy
Beall	Eagleton	Long
Bellmon	Eastland	Magnuson
Bennett	Ervin	Mansfield
Bentsen	Fannin	Mathias
Bible	Goldwater	McClellan
Biden	Griffin	McClure
Brock	Gurney	McGovern
Burdick	Hansen	McIntyre
Byrd, Harry F., Jr.	Haskell	Metcalf
Byrd, Robert C.	Hatfield	Metzenbaum
Cannon	Hathaway	Mondale
Case	Helms	Moss
Chiles	Hollings	Muskie
	Hruska	Nelson
Nunn	Roth	Symington
Packwood	Schweiker	Taft
Pastore	Scott, Hugh	Talmadge
Pearson	Scott, William L.	Thurmond
Pell	Sparkman	Tower
Percy	Stafford	Tunney
Proxmire	Stennis	Williams
Randolph	Stevenson	
Ribicoff		

NOT VOTING—13

Buckley	Fulbright	McGee
Church	Gravel	Montoya
Cotton	Hart	Young
Cranston	Inouye	
Fong	Johnston	

So Mr. WEICKER's amendment, as modified, was rejected.

The PRESIDING OFFICER. The bill is open to amendment.

Mr. BAYH. Mr. President, I call up my amendment No. 1327, with modifications.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BAYH. Mr. President, I ask unanimous consent that the further reading of the amendment be dispensed with.

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

The amendment, as modified, is as follows:

At the appropriate place in the bill insert the following:

SEC. . There is authorized to be appropriated for each fiscal year a sum not to exceed $35,000,000 to be allocated at the discretion of the Commissioner to assist those local education agencies whose total allocation under Part A, Title I is 90 per centum or less than such allocation under Part A, Title I during the preceding fiscal year: *Provided, however,* That in allocating such funds the Commission shall take into account the fiscal ability of each such local education agency to compensate from local revenue for the loss of such allocation under Part A, Title I.

Mr. BAYH. Last week I noted my support for the McClellan amendment which revamped the formula for determining allocations of assistance to local school districts under title I, part A. This is the basic program, as the Senate realizes, for assistance to school districts on the basis of the enrollment of students from low income families.

The McClellan amendment has now been passed. This is to be welcomed; the adoption of the revised formula—offered in the House by my respected Indiana colleague, Representative JOHN BRADEMAS—means more equitable distribution of title I, part A funds. For Indiana, the adoption of the McClellan amendment means a net increase of approximately $2 million in title I assistance from fiscal year 1974. In fact, 88 of the 92 counties in Indiana will receive additional Federal aid to education by virtue of adoption of this amendment of which I was a cosponsor.

But the change in the manner of allocating title I, part A funds has posed a problem in some areas. Specifically, we realized that adoption of the McClellan amendment would reduce funds for some school districts across the country. For those school districts that have the means—through local sources of revenue—to make up the loss of Federal funds this should not be a problem. Also, where the loss is not too great, districts

should be able to resolve the problem internally.

But in some cases the loss of Federal funds is significant and the local districts are not wealthy enough to make up the lost revenue on their own.

This is why I introduced amendment No. 1327 which authorizes the establishment of a $35 million discretionary fund with which the Commissioner of Education can assist those school districts who lose 10 percent or more of title I, part A funds by enactment of the McClellan amendment.

I should note, Mr. President, that because of a technical error the amendment as printed refers only to title I funds. When I call it up later today I shall modify the amendment to specify title I, part A funds.

There are 353 counties across the country that stand to lose between 10 and 15 percent—15 percent being the maximum loss allowed—of their title I, part A funds from fiscal year 1974 to fiscal year 1975. Many of those districts have the means to make up the loss themselves. But some do not.

The adoption of this amendment will enable the Commissioner to aid those districts who cannot compensate adequately for the loss of Federal funds from local revenue. For example, in my own State of Indiana, Lake County could suffer a loss of approximately $400,000 in part A funds. This amendment gives us the means to make certain that Lake County, and other local jurisdictions in similar situations, are not the innocent and unintended victims of passage of the McClellan amendment.

Mr. President, I shall not take the time of the Senate to debate this amendment at greater length because we are finishing the bill today. I trust that Senators share my desire not to let the adoption of the McClellan amendment create unintended hardship for even a single school district. Let me emphasize, in this regard, that the amendment does specify, that in spending the $35 million discretionary fund for districts losing more than 10 percent of part A funding, "the Commissioner shall take into account the fiscal ability of each such local education agency to compensate from local revenue for the loss."

Finally, Mr. President, the Library of Congress has prepared—at my request—a table indicating the number of counties in each State that will be eligible for this special assistance if my amendment is adopted. I ask unanimous consent that the table be printed in the RECORD.

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

State:	*Number of counties*
Alabama	5
Alaska	6
Arizona	0
Arkansas	6
California	1
Colorado	3
Connecticut	0
Delaware	0
District of Columbia	1
Florida	1
Georgia	29
Hawaii	0
Idaho	5
Illinois	4
Indiana	3
Iowa	32
Kansas	14
Kentucky	20
Louisiana	0
Maine	0
Maryland	0
Massachusetts	1
Michigan	0
Minnesota	3
Mississippi	8
Missouri	13
Montana	5
Nebraska	16
Nevada	1
New Hampshire	0
New Jersey	5
New Mexico	1
New York	13
North Carolina	33
North Dakota	10
Ohio	1
Oklahoma	6
Oregon	0
Pennsylvania	1
Rhode Island	0
South Carolina	10
South Dakota	21
Tennessee	25
Texas	20
Utah	4
Vermont	3
Virginia	7
Washington	0
West Virginia	16
Wisconsin	0
Wyoming	0

Mr. BAYH. Mr. President, I have discussed this amendment with the floor manager of the bill, the distinguished Senator from Rhode Island ((Mr. PELL); with the distinguished senior Senator from Arkansas (Mr. MCCLELLAN); and with the distinguished Senator from New York (Mr. JAVITS).

The amendment merely provides relief for those school districts which have been confronted with significant hardships as a result of the McClellan formula, which I supported. But where the hardship is great, and the local financial structure is insufficient to compensate for the lost revenues, this amendment would provide a $35 million formula to permit the Commissioner to provide relief in two events: If a school district lost 10 percent or more under part A of title I alone; or if the security found a hardship situation as far as the ability of local revenues to sustain that loss was concerned.

Mr. MCCLELLAN. Mr. President, do I understand that a money authorization is added to the bill?

Mr. BAYH. That is correct.

Mr. MCCLELLAN. It would become a line item in the appropriation?

Mr. BAYH. That is accurate.

Mr. PELL. Mr. President, this amendment offers some protection from the fairly radical cuts under title I. I believe it is a laudable amendment, one which we should support.

Mr. JAVITS. Mr. President, this amendment is at the lower end of the scale and elleviates tremendous cuts which have been made by the formula adopted by the Senate. It at least deals with hardship cases which suffer unusually serious conditions. I hope very much that the Senate will adopt the amendment.

Mr. DOMINICK. Mr. President, as far as I can see—and I ask the Senator from Indiana whether this is true—this is an effort to put in a hold-harmless clause.

Mr. BAYH. No; it is not. It does not deal with the matter of hold harmless, because the Secretary could not provide relief in instances that existed under the old formula for the size of the cuts established in the very wealthy school districts.

Mr. DOMINICK. Who is to determine the fiscal ability of the agency, if it says it is not going to put any mill levy on?

Mr. BAYH. I am sorry; I did not hear the Senator.

The PRESIDING OFFICER. The Senate will be in order. Senators cannot hear each other. Will the Senators who are talking retire to the cloakroom?

Mr. DOMINICK. Who is going to have the right to determine the fiscal ability, if a local education agency says it is not going to put on another mill levy?

Mr. BAYH. I did not hear the last part of the Senator's question.

Mr. DOMINICK. If they are not going to put on another mill levy. Let us suppose the local education agency has plenty of money to do it, but it decides it does not want to do it, the local agency is going to get money from the Federal Government instead. Politically, it is a lot easier to get money from the Federal Government than to get it from their local constituencies.

Mr. BAYH. The Commissioner would take into consideration, first of all, the cut that resulted because of the adoption of the McClellan formula. It would have to be above 10 percent. Second, he would compare the tax rate, the tax burden with the resources of the given school district, and compare how a given district which lost 10 percent is asking its citizens to bare the additional burden in comparison with other districts within the State.

Mr DOMINICK. But suppose the citizens say they do not want to bear it; can they get it out of the Commissioner, and out of the Federal Government?

Mr. BAYH. If the Commissioner makes a finding that the local government is unwilling to bear the burden itself, and has the financial resources to do so, I do not know why they should be permitted to take something out of this emergency fund.

Mr. DOMINICK. But the Senator's amendment would put the determination as to whether each educational agency around the country has the fiscal ability on one man, the Commissioner?

Mr. BAYH. For this one particular fund, designed for this one purpose, that is correct.

Mr. DOMINICK. Let me cite an example. Let us take Montgomery County, which is neither in Indiana nor in Colorado. Presumably, over a period of time, they will be cut back fairly substantially on impacted area aid, which in my opinion they ought to be—that is a very wealthy county—but they are going to be cut back only on an impacted-area, aid-changing formula. Is the Commissioner going to say to them, "I am sorry about this; we will put in the Federal funds," which is the very thing the committee has been trying to keep out?

Mr. BAYH. Mr. President, I must say I share the concern with the Senator from Colorado over the example he mentioned.

Talking about part A, title I, Deprived Children, and what that means, I think it has no relationship to the problem the Senator from Colorado raises, but I think that is a great problem.

Mr. DOMINICK. As I read the amendment, it does not say anything about title I. It does not say where it is in the bill. It just says "added to the bill."

Mr. BAYH. The Senator perhaps did not hear me when I called it up with the modification which specifically enumerates title I, part A.

Mr. DOMINICK. Title I, part A?

Mr. BAYH. Yes.

Mr. DOMINICK. That helps a good deal, I must say. But the Senator's purpose in this is that although most States now get a better deal under the new formula, there are some educational agencies that will not get as much.

Mr. BAYH. There are some that not only will not get as much, but will get significantly less. There are three districts in the Senator's home State. I asked the Congressional Reference Service.

Mr. DOMINICK. That is correct.

Mr. BAYH. What we are trying to do is recognize the fact that, with just a relatively small cut, most school districts should bear that burden and try to compensate for it; but if it gets to 10 percent or more, and they have the kind of tax burden some school districts have, they ought to have some relief from this emergency provision.

Mr. DOMINICK. I can see that the Senator has lined this up very well, and I am not going to get anywhere by objecting to it. All I can say is, there is no point in going through a formula if, every time we have a formula which results in a loss by any educational district, we then put out more money to enable it to overcome the loss. Why not just say to the educational district, "You are going to get whatever you had before, or maybe more, and to anyone that takes a loss, we will make sure they are OK."

Mr. BAYH. Let me say to my friend from Colorado, I again am in a great deal of agreement with him. I never thought I would find myself saying $35 million is not very much money; it is a lot of money. But compared to the total commitment under this bill, it is rather insignificant, and what we are trying to do is say to some school districts—I cannot point to the specific examples in the State represented by my colleague, though I am sure he can, but there are a handful of districts in my State that struggle to keep their doors open every year, because they are poor and have large numbers of students that fall in this category.

Only under such circumstances would we permit assistance under this particular provision.

The PRESIDING OFFICER (Mr. HARTKE). Do Senators yield back the remainder of their time?

Mr. PELL. I yield back the remainder of my time.

Mr. BAYH. I yield back the remainder of my time.

Mr. DOMINICK. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. HARTKE). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Indiana (Mr. BAYH).

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. JAVITS. Mr. President, I ask unanimous consent that I may request a quorum call without the time being charged. I may wish to yield myself half a minute to confer with the leadership. They thought we might have a final vote before 6, and this might be that opportunity. So I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, 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. ROBERT C. BYRD. Mr. President, will the distinguished Senator from Rhode Island yield me 3 minutes?

Mr. PELL. With pleasure.

Mr. ROBERT C. BYRD. Mr. President, at the time the unanimous-consent agreement was entered into on Thursday, it was anticipated that there would be several amendments on which rollcall votes would be ordered and that the rollcall votes would begin at no earlier than 4:15 p.m., with a final vote to occur on passage of the bill at 6 o'clock.

As it has developed, most of the amendments have been decided by voice votes during the day. Therefore, it being evident that there are no additional amendments to be called up on either side, I ask unanimous consent that the final vote occur immediately upon my yielding the floor, and that the vote not be limited to 10 minutes. This is the final rollcall vote of the day, and there will not be a close vote, I should not think.

In the event any Senator is counting on the 6 o'clock vote, and would otherwise miss this rollcall by virtue of its coming an hour early, I would ask unanimous consent that the rollcall vote be kept open and not announced until such time as all Senators are accounted for, but not to extend beyond 30 minutes.

Mr. WEICKER. I object.

Mr. MAGNUSON. Mr. President, reserving the right to object, and I shall not object, I have been sitting here for some days listening to many amendments, some of which I have voted for, which have increased the authorization considerably.

I hope, as I have said on other occasions, that all the people concerned about the education processes are not going to have their hopes raised that this is the amount of money they will have appropriated. I know what happens when the authorization comes in for education. There will be people around who will lobby and talk about full funding. Now we are talking about billions of dollars. The Appropriations Committee looks at these projects and some of the people get their hopes raised and they go home and say, "The Senate said we are going to have all that money."

I sometimes wonder what I am doing down there in handling the education end of appropriations because if I do not do what some of these people want, I immediately become some kind of foe of education—which I am not. We have done pretty well with education. Now I hope that everyone will understand that all these authorizations are ceilings. They are ceilings, indeed. I hope that we are not going to appropriate all of the money that is in the bill. I do not see how we can. I do not know how the Treasury can stand it if we appropriate it.

Two, I say to my friend from Rhode Island that we are down now in room 128 writing up an appropriation bill for education for fiscal 1975, are we not? That is, fiscal 1975. Yet here is the Senate upstairs, on the same day, changing the whole thing. Now there must be a better way to do this, but apparently we have not found it. We are changing all the rules and all the programs. We have got to finish this bill and I hope that we can, within the next 20 days. The House is already marking it up. What will happen to the bill? Does it go into the regular appropriation? It will not be filed by the time we are through. We will have a long conference, so I think I had better tell people right now that we are going ahead and appropriating money for education on the basis of fiscal 1975. If they want any more money, they will have to come in, probably, with a supplemental. I do not know how else we can do it. Otherwise, I would have to stop all appropriation hearings and stop all the work on appropriations for HEW, to wait until a new concept has been put in by the Senate. I do not feel like doing that.

I have been working—all of us on the Appropriations Committee and the subcommittee have been working for several weeks on the basis of what the law is now. There is something wrong with the procedure that we are, down here, writing up appropriations for education for the people of this country, and the Senate is upstairs changing all the rules with different programs and more money. I hope that they will understand that, because I do not know how we can move in the appropriations process if we have to wait all the time until the authorization bill is passed and when we have plenty of authorization for education.

I voted for some of these amendments. I am for them. But I do not want the word to get out that this is what the Congress has decided to do, moneywise, on appropriations. It is merely an authorization and a ceiling.

Mr. PELL. Mr. President, if I can comment on the thoughts of the Senator from Washington, in this bill we have put limitations on appropriations so that while the authorization for fiscal year 1974 was $9,139,000,000, the authorized ceiling for this coming year, 1975, will be less than half that, or $4,337,000,000. So actually the country should not be fooled. What we have done is to set forth these targets which we wish to

go for, and then limit the amount of the appropriations to less than half this year.

Mr. MAGNUSON. We cannot limit the appropriations, we merely suggest them.

Mr. PELL. I believe we can place ceilings on appropriations.

Mr. MAGNUSON. How can we limit the appropriations?

Mr. PELL. It is in the language.

Mr. MAGNUSON. It is in the language but we cannot limit authorized money such as this.

Mr. PELL. We, in effect, had to change the authorization.

Mr. MAGNUSON. I am glad you have done that because you have got the authorizations and I am for them. Just because we talk billions and hundreds of millions of dollars around here, this is only a ceiling to an authorization. I am hopeful that people will understand that some of these things are for 2 years. I hope that happens. The Senator from New York (Mr. JAVITS) had that amendment. What happened? Did they pass that amendment on the 2 years? The Senator from New York had an amendment on that.

Mr. JAVITS. Oh, yes.

Mr. MAGNUSON. So that we do not get mixed up and have a lot of people—I know what will happen—my office will look like Grand Central Station next week with so many education people who will say, "Oh, Congress said this and the Senate said that." I do not blame them. But I think we have been farsighted here. I do not think we can limit appropriations technically but this gives us a guideline at least, and that is good.

Mr. PELL. Why cannot an appropriation be limited?

Mr. MAGNUSON. We can limit it by authorization. In other words, the authorization can only take effect up to that point for fiscal 1975. We can do that. We have done that. But I wanted everyone to know that we talk here in big sums. I have great respect for the Committee on Labor and Public Welfare. I know it pretty well. I have not figured out how much they have authorized.

Mr. JAVITS. Do not.

Mr. MAGNUSON. If we ever do, it will startle us. There is no treasury big enough for the amounts authorized.

Mr. JAVITS. All we have to worry about is how much the Senate decides is to be appropriated.

Mr. MAGNUSON. I am only one member of that committee. It makes it a little difficult for us. I would like to do, some times, a little more. I would hope that we would give more attention to policy matters and less attention to fiscal matters. They do. They are starting to do that in many appropriations, depending on the policy. Now we have an amendment for quality education. What is quality education?

Mr. JAVITS. The education agencies could have a good many standards for that.

Mr. MAGNUSON. That is, if they have a formula or a definition of quality education. I would like to see it.

Mr. JAVITS. I suppose it could be produced.

Mr. MAGNUSON. I am for it. Sometimes I think—I know this is not so simple as it sounds—but I would like to introduce an amendment that anyone who had built a woodshed and could certify that he used it in the past eyar, we would reimburse him 100 percent. I know it is not so simple as that, but quality education, no matter how well administered, we have some problems with it, and we all want quality education. I am glad we have a limitation. I just want to let the Senate know that a lot of what we do here is not necessarily going to be appropriated.

The PRESIDING OFFICER (Mr. HARTKE). All time of the Senator from Rhode Island has now expired.

Mr. CRANSTON. Mr. President, the Senate will vote soon on final passage of the Education Amendments of 1974—a measure that I was pleased to be associated with in its creation, as a member of the Senate Subcommittee on Education. This is a large bill, an important bill. It contains numerous programs and incentives to State and local education agencies, and other agencies involved in education, to improve our system of public education and make it more responsive to the students it serves.

I thank the distinguished Senator from Rhode Island (Mr. PELL) who—as chairman of the Education Subcommittee—has once again demonstrated his firm commitment to meeting the educational challenges of our time. In his adept handling of this bill on the Senate floor, he has been assisted by a fine and capable staff in Stephen Wexler, Richard Smith, and Jean Froehlicher.

I also pay tribute to the distinguished Senator from New York (Mr. JAVITS). Senator JAVITS, for whom I have the highest respect, never fails his Senate colleagues in providing intelligent, quality leadership from the minority side of the aisle. Senator JAVITS has once again been assisted capably by Roy H. Millenson, whom I thank for advising me, at my request, on several of my measures that are included in the bill.

Mr. President, the conference committee which will work to resolve differences between the Senate and House education bills will have an agenda that is both urgent and sensitive. The two bills contain alternative approaches to some of the key educational issues of our time: Aid to disadvantaged students, aid to federally-impacted school districts, school desegregation, consolidation of Federal education programs, and bilingual education—to mention only a few. As a potential conferee, I have confidence in our ability to sort out the complex issues and resolve them in favor of quality education for every American child.

Very briefly, I wish to touch upon what I consider to be only a few of the pressing issues the conferees will face.

TITLE I

Mr. President, I am disappointed at the Senate decision to reject the formula for distributing aid to disadvantaged children that was contained in the committee bill. But I understand the uncertainties that several Senators felt in approaching this very complicated issue. I would hope, however, that the conferees will be guided toward a resolution that does not do harm to the vital, growing interests of urban children.

One of the major obstacles, of course, to agreeing upon a title I formula that is truly equitable is that we are in the very difficult position of having to judge formulas that will work in every State, over the life of this bill, while being unable to pinpoint the precise implications for each future year.

I am pleased, however, that the Senate accepted an amendment, which I cosponsored, that adds an authorization under part C of title I for areas serving large numbers of disadvantaged children. This percentage add-on means a great deal to California cities, and I am grateful to the distinguished Senator from Arkansas (Mr. MCCLELLAN) for his help in working with us to achieve an acceptable amendment.

IMPACT AID

The House-passed education bill continues the program of assistance to federally affected areas in its current form. The Senate bill, as modified by an amendment from the Senator from Maryland (Mr. BEALL) makes certain changes in the distribution formula.

While the Senate compromise may not be entirely satisfactory to all school districts in California, I believe it is a substantial improvement over what had been proposed originally as the Senate formula.

I am especially pleased that Senators, in committee, adopted my amendment to prevent the loss of neary $3 million in impact aid funds to three California school districts—Fallbrook Union Elementary, Fallbrook High, and Oceanside Unified. My amendment simply puts these districts on an equal footing with other districts receiving impact aid because of their proximity to military installations.

ADULT EDUCATION

With Senator JAVITS and others, I cosponsored legislation to extend the existing adult education program through fiscal year 1978. I believe these programs are essential to the vitality of America's educational system, and their continuance will help make sure that any American—regardless of age—can take advantage of educational experiences throughout their lifetime.

PROGRAM CONSOLIDATION

I recognize that the administration pressed for more consolidation of categorical education programs than is contained in the Senate bill. But I am pleased that the Senate has not yielded to the pressures to wipe out our Federal programs of categorical education assistance. I believe we will always have need to operate Federal education programs that serve special constituencies—like bilingual children—or special purposes, or attempt to meet needs that may be temporarily acute. I would hope that con-

ferees will reject any attempt to simply eliminate categorical assistance as we know it, as I suspect the administration would have us do.

BILINGUAL EDUCATION

Mr. President, I am especially proud of the provisions in S. 1539 for new and expanded programs of bilingual education in elementary and secondary schools, vocational and adult education, library programs, and guidance and counseling programs in postsecondary education. I believe these strong provisions, adopted by the Senate without dissent, are dramatic evidence of our commitment to bilingual peoples across America.

I know that Senator KENNEDY—who cosponsored my bilingual education bill, as I cosponsored his—is as grateful as I for the great cooperation given us in committee as we worked on this landmark legislation. We were honored to have Senator MONTOYA, a firm and fervent friend of bilingual education, join us as cosponsor of both measures.

The bilingual provisions emerging in the Senate bill also include a manpower and vocational training measure originally introduced by the distinguished Senator from Colorado (Mr. DOMINICK) and the Senator from Texas (Mr. TOWER). I was pleased to cosponsor this amendment, which was accepted in committee.

Among the new directions for bilingual education provided in the Senate bill are increased teacher training and retraining activities, an expanded list of eligible programs, and activities, statutory organization for a new Bureau of Bilingual Education, a special earmark for bilingual education research programs of the National Institute of Education, and new and important National Advisory Council on Bilingual Education, and—for the first time—an incentive program to enable the States to move forward more quickly in the provision of adequate programs to serve the bilingual/bicultural child.

Mr. President, I ask unanimous consent that there be printed, at the conclusion of my remarks, the language of the Senate report on the Education Amendments of 1974 that details the bilingual education provisions, as well as the program background and legislative history.

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

(See exhibit 1.)

GIFTED AND TALENTED CHILDREN

Mr. CRANSTON. I do not think it possible to overestimate the importance of the Senate provision creating programs for the gifted and talented child. I was a cosponsor of the measure introduced by Mr. JAVITS that has now emerged as a key provision of the Senate bill. I believe it can go a long way toward remedying those inequities in our educational system that have so discriminated in the past against the potential talents and capabilities of gifted children.

CONSUMERS' EDUCATION

The consumer education program contained in the Senate bill is the result of an amendment I offered to the Education Amendments of 1972. It became law that year, but has never been funded or implemented, much to my regret and that of educators who know the value and potential of this program.

It is perhaps more important now than ever, in the midst of skyrocketing prices, that children be taught how to make wise decisions in dealing in the marketplace—decisions based on facts, not fallacies.

As contained in the Education Amendments of 1974, the consumer education program is included as a priority program within the Special Projects Act. Such treatment will assure funding for the program for a period sufficient to define its specific strategies and get it moving.

I intend, Mr. President, to make every effort to see that this program is funded and implemented. Two years of foot-dragging by the U.S. Office of Education is enough.

VETERANS COST-OF-INSTRUCTION

Mr. President, I would like to take this opportunity to extend my special thanks to the distinguished chairman of the Subcommittee on Education (Mr. PELL), the ranking minority member of the committee (Mr. JAVITS), and my other colleagues on the committee, Mr. RANDOLPH and Mr. STAFFORD, for their continuing efforts and ongoing support of the veterans cost-of-instruction program.

Mr. President, the VCI program—a provision I authored in the Higher Education Amendments of 1972—Public Law 92–318—was designed to provide incentives and supporting funds for colleges and universities to recruit actively returning veterans and to establish the kinds of special programs and services necessary to assist many veterans in readjusting to an academic setting. Although some 1,000 VCI programs have been successfully implemented at many institutions of higher education across the country, the limited funds which the Office of Education has made available, and certain provisions of the law have made it particularly difficult for many colleges to establish programs which meet all the requirements of the law.

Consequently, during committee consideration of S. 1539, I joined with Senators RANDOLPH, JAVITS, and STAFFORD in offering various amendments to the VCI provision. Section 524 of S. 1539, as reported, amends the VCI program provision—section 420 of the Higher Education Act of 1965—in two basic respects: First, the amendment in the reported bill makes the first-year eligibility requirement slightly less restrictive by providing that in order to be eligible for VCI funds, a school must either have a 10-percent increase in its GI bill trainee enrollment—or have at least 10 percent of its criterion in terms of veteran enrollment—or have at least 10 percent of its undergraduate student body composed of GI bill trainees—a new alternative criterion.

Second, the amendment in the reported bill would provide for a more equitable funding procedure for eligible schools to increase the amount many smaller qualifying institutions have been receiving, by limiting to $135,000 the maximum amount of payments in any fiscal year to any single institution. Funds which become available as a result of this provision would then be reapportioned to schools which would otherwise receive a payment of less than $9,000—the estimated minimum amount needed to open a full-time veterans affairs office on a campus. The reported amendment further establishes a minimum enrollment eligibility of 25 veterans in order to avoid the funding of VCI entitlements which are too small to provide effective services to campus veterans. Finally, the amendment, as reported, provides that not less than 75 percent of the amount of payments received by any institution shall be applied to setting up the special veterans offices, programs, and services required by the law. Current law requires that only 50 percent of the VCI award be applied to setting up these veteran's programs.

Mr. President, at the time this amendment adding section 524 to the bill was presented to the committee, the Office of Education had still not printed and sent out new applications for academic year 1974–75 VCI programs. Consequently, a problem which we addressed in a floor amendment last Thursday, May 16, was not brought home to schools seeking to demonstrate their second-year entitlement.

A school which has already been funded for this school year under the VCI provision, is required by existing law—for eligibility in a succeeding year—to enroll at least the same number of GI bill trainees who were in attendance when the school originally qualified for VCI funds in the first year. As a result of this maintenance-of-effort requirement, however, schools which increased their enrollment of veterans by more than 10 percent in the first year are actually penalized in the following year for having recruited more veterans. These schools must maintain the higher level of veteran enrollment. A number of schools, where substantial efforts were made to recruit veterans in the first year, would lose their eligibility for continued funding—regardless of the success of their program and even though they continue to maintain the 10-percent increase minimum requirement—as a result of this quirk of current law.

Mr. President, our amendment—accepted unanimously by the Senate on Thursday, May 16—would correct this inequitable situation, and the unintentional hardship being imposed upon many schools that are seeking to qualify for a second-year entitlement payment, by requiring such schools to maintain only the minimum number of veterans which would have been necessary to establish their original first-year entitlement—either enrollment of 10 percent more veteran students than in the year before, or, under the new alternative criterion in the reported bill, enrollment of a sufficient number of student veterans to make up 10 percent of a school's student body.

Further, as with the rest of section 524, this amendment would be effective only with respect to VCI payments made on or after October 1, 1973, and thus

would not affect those VCI payments already made last June.

SCHOOL SAFETY AND SECURITY

I am very pleased that the Senate accepted unanimously the amendment I offered with Senator GURNEY authorizing the Commissioner of Education to carry out a Federal study of the frequency and incidence of school crime in the Nation. The study is to be completed over the next 2 years, with interim reports to the Congress, and a final report no later than December 31, 1976; $375,000 is authorized to carry out the purposes of the study, including such research and pilot projects as the Commissioner may determine.

Americans have long viewed education of their children as a national priority. The right to an education in an atmosphere free of violence and the threat of violence must be a part of that top priority. Yet, crime and violence in schools are rising as fast or faster than in society at large. And they must be stopped. Because while the dollar losses due to school vandalism can be estimated—about $500 million annually, nationwide—crime's cost to the national spirit and to the public confidence in schools cannot be calculated.

It is the purpose of the study not only to determine what kind of crime occurs, with what frequency, and where, but to help local communities find ways of resolving the issues in the best interests of their community and their children. Local control over these matters is essential.

I wish to emphasize one point in particular, Mr. President, regarding the information to be generated through this study: In assessing crime in schools and the causes of crime in schools, it is essential that: first, the climate of the community be assessed completely and accurately; second, that students and community have an opportunity to comment upon and have input in the processes of the study; and third, every effort be made to get the points of view of parents, students, and faculty with respect to the specific situations being studied and described. I might add that I am especially interested in having the viewpoints of students reported in this study.

CONCLUSION

There are many other items in the bill in which I am vitally interested: Library programs, a first step toward integrating the arts in general education, Indian education provisions, and others.

The objectives of this omnibus legislation are worthy of the support of each Senator, and I am pleased to cast my vote for its passage.

EXHIBIT 1

SECTION 105—BILINGUAL EDUCATIONAL PROGRAMS

LEGISLATIVE BACKGROUND

The Federal bilingual education effort—title VII of the Elementary and Secondary Education Act—was initiated in 1967 pursuant to Public Law 90-247. In the 1967 Act, the Congress sought to provide an approach to the education of the non-English speaking or limited English speaking child that was more successful than existing modes, such as English-As-A-Second Language (ESL) or Remedial Reading.

As envisioned in Public Law 90-247—and as reiterated in S. 1539—bilingual education involves the use of two languages, one of which is English, as mediums of instruction to assist children of limited English-Speaking ability. Both languages are used for the same student population—not as an isolated effort, but as a key component of a program embracing the total curriculum.

Rather than an objective in itself, bilingual education is part of a much larger goal: Encouraging a child of limited English-speaking ability to develop fully his individual skills and talents. It is the use of the child's native language and respect for his cultural background that best distinguished bilingual education from programs more narrowly focused, such as ESL and remedial reading.

The sole objective of ESL courses is to make non-English speakers more competent in English. Use of the child's native language is withheld and no effort is made to provide continued instruction in other subjects in a language the child can understand until the child is fully able to learn these subjects in English.

Remedial reading courses are even more limited in scope. The program addresses itself to just one aspect of the language problem, poor reading achievement, and in no way provides for alterations in the school curriculum or special training of teachers to meet the specific needs of the bilingual child.

The effectiveness of strict ESL or remedial reading approaches is questionable. Testimony before the Senate Education Subcommittee and the findings of the recent U.S. Civil Rights Commission report—*Toward Quality Education for Mexican-Americans*—challenge these approaches as inadequate. In spite of their prevalence in schools, fifty percent of Spanish-speaking students in California drop out by the eighth grade; 87 percent of Puerto Ricans over 25 years of age in New York City have not completed high school; the average number of school years completed by the Mexican-American in Southwest is 7.1 years; in Boston, over half of the 10,000 Spanish-speaking school-age children are not in school at all; and in Chicago, the dropout rate for the Spanish-speaking is approximately 60 percent.

Perhaps most disturbing, the testimony and the findings of various studies, including the U.S. Civil Rights Commission report, reveal that children have been placed in classes for mentally-retarded children because of their limited English-speaking ability.

Mindful of these data, and of original Congressional objectives, the Committee's consideration of the Education Amendments of 1974 included the first comprehensive review of the title VII program since its inception. The review began on February 26, 1973, when the Subcommittee on Education held a joint field hearing in Los Angeles with the Special Subcommittee on Human Resources, on the general topic of bilingual education, health, and manpower programs. On October 31, 1973, the Subcommittee on Education heard testimony from 19 witnesses, including the former director of the title VII program, State bilingual directors, bilingual education teachers, program directors, and teacher trainers as well as from the U.S. Commission on Civil Rights on S. 2552 and 2553, legislation to reform the bilingual education program. An amalgam of these measures was reported as part of S. 1539.

BILINGUAL EDUCATION PROGRAM BACKGROUND

In spite of the perennial lack of sufficient funding, the bilingual education program has been able to serve a growing number of bilingual constituencies: In fiscal 1974, title VII projects sought to help children from Spanish-speaking, Eskimo and American Indian, Portuguese, and Chinese backgrounds. In addition, programs were carried out assisting Guam, the Trust Territories, and Puerto Rico.

Nevertheless, much remains to be done. The short-fall of services and projects is alarming. Conservative estimates indicate that there are at least five million children in the United States who await bilingual services. Yet, in fiscal year 1973, an appropriation of $41,000,000, just 147,000 children were served in the 217 projects funded under the title.

In its review, the Committee was pleased to note that State efforts to provide bilingual instruction have increased since title VII was enacted in 1967, although over-all State progress remains limited. The Civil Rights Commission report found that only 6.5 percent of 500 school districts in the Southwest had bilingual programs. Testimony indicated that in 5 States surveyed, bilingual programs served barely 5 percent of the Puerto Rican children classified as of limited English-speaking ability.

The Committee also is deeply concerned over what appears to be a continuing inertia on the part of the Office of Education in developing a comprehensive set of goals, directions, and policies for the title VII effort. Very likely, some of the difficulties may be traced to inadequate appropriations, although each annual Congressional appropriation for the bilingual program has exceeded the Administration request, at times by over one-hundred percent.

Other undeveloped facets of the bilingual education program envisioned in 1967 are equally disappointing to the Committee. For example, despite specific authorities for teacher training and professional development, virtually no title VII funds have been spent for these purposes. Neither has the percentage earmarked for bilingual teacher training under the Education Professions Development Act been activated. In addition, the Administration has recommended no appropriations for EPDA in fiscal year 1975.

Further, while the development of model bilingual curricula would seem to be a valuable and appropriate Federal contribution to the field, there is little evidence that an adequate effort is being made in this area. Very slow progress has been made in stimulating curriculum and materials development for language groups other than Spanish-speaking.

Evaluation efforts are few and inconclusive, and the lack of research leadership in bilingual education on the part of the National Institute of Education is especially disappointing.

Other gaps in Federal attention to bilingual needs and services occur in vocational education, adult education, and library services—a situation the Committee has sought to remedy by providing new bilingual emphasis in the statutes underlying these programs.

Finally, the continuity and stability of the Title VII program itself has been jeopardized by frequent administrative reorganizations in the Office of Education. These restructurings have tended to lessen the program's visibility and have eroded its development. Within the organizational chart of the Department, the Division of Bilingual Education is on the lowest rung of the administrative hierarchy.

With these observations in mind, the Committee has rejected the Administration's request for a simple one-year extension of the current Title VII program, unchanged. Instead, the Committee finds it both necessary and desirable to provide more specific mandates and directions to enable the Office of Education to move more rapidly toward the demonstration of comprehensive models and examples of bilingual education, toward the development of the requisite quantity and quality of bilingual education personnel and curricula, and thus realize the Federal leadership in bilingual education first called for by the Congress in 1967.

For these reasons, the Committee has extended the revised program through June 30, 1978.

MAJOR BILINGUAL EDUCATION PROVISIONS IN REPORTED BILL

The Committee bill would replace the current title VII bilingual education program. Its major provisions—those the Committee feels are of greatest importance—are described below.

Policy Declarations.—The Committee has used the term "children of limited English-speaking ability" merely to facilitate discussion; in no way is the term intended to imply any sense that children who share a linguist and cultural background different from the majority of students are somehow inferior. Thus, the Congressional findings in the bill include: "that many of such children have a cultural heritage which differs from that of English-speaking persons; that a primary means by which a child learns is through the use of such child's language and cultural heritage; that, therefore, large numbers of children of limited English-speaking ability have educational needs which can be met by the use of bilingual educational methods and techniques; and that, in addition, all children benefit through the fullest utilization of multiple language and cultural resources."

The decision of the U.S. Supreme Court in *Lau et al.* v. *Nichols et al.*, of January 21, 1974, holds that title VI of the Civil Rights Act of 1964 demands that school districts respond to the needs of their limited English-speaking students. The Court relied heavily on the May 25, 1970, guidelines of HEW which state: "Where inability to speak and understand the English language excludes national origin-minority group children from effective participation in the educational program offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to these students."

Thus, it is to assist in the provision of equal educational opportunity that the Committee has resolved to provide more and—hopefully—better demonstration projects in bilingual education, with a wider range of support activities and coordination with other Federal educational activities, and an expanded program of training of teachers and other bilingual education personnel. These activities, together with in-depth research by the National Institute of Education and a thorough national survey of bilingual programs and needs, are mandated in the bill to give school districts across the country new material, new learning data, and the personnel necessary to build sound bilingual programs.

The goal of the program in the Committee bill is to permit a limited English-speaking child to develop the proficiency in English that permits the child to learn as effectively in English as in the child's native language—a vital requirement to compete effectively in society. This requires continuation of basic education instruction in both languages until that level of proficiency in English is achieved. The culmination of the process cannot be projected precisely in terms of a stated duration: therefore, the Committee does not believe it would be in keeping with the overall program goal to set a cut-off for a bilingual program.

Bilingual Education Goals and Methods.—In its policy statement, the Committee has made clear its intent that bilingual education programs funded under the Act are to be programs involving use of both English and the native language as mediums of instruction in the basic school curriculum and including the study of the history and culture associated with the native langage. The comprehensive program included in the bill is designed to develop and reinforce the child's self-esteem and to foster a legitimate pride in both cultures. This approach is based on sound educational principles which were well-summarized in testimony before the Subcommittee as:

(1) Using the native language to teach other subjects allows the education of the child to continue uninterrupted from home to school, thus preventing his retardation in subject matter while he learns English.

(2) Teaching a child to read first in the language he brings with him when he enters school facilitates his learning to read and write in a second language because the basic skills of reading are generally transferable from one language to another.

(3) Curriculum which incorporates the student's familiar experiences, community, history, and cultural heritage will help build pride and self-confidence in the student, and by being more relevant to the student's personal experiences, heighten his interest and motivation in school.

(4) By integrating the language and cultural background of all students, bilingual-bicultural education reinforces and increases the communication between home and school, thus improving the student's motivation and achievement.

In an effort to provide states and localities with every possible assistance in developing bilingual education programs to meet individual state and local needs, the Committee has directed the Commissioner of Education to develop recommendations, in the form of suggested model guidelines, setting forth desirable characteristics of potentially successful bilingual education programs, for appropriate voluntary use by local and state education agencies.

The Committee bill also makes provision for participation in bilingual education programs for eligible children attending non-public schools and certain assistance in connection with bilingual education programs for students at non-public schools. Examples of such assistance are the provisions of teacher training services for faculty members of the non-public school or to the sharing of materials and equipment necessary to establish and carry out a bilingual program for non-public school students.

Although the major thrust of the program is aimed at elementary school programs, where the greatest need exists at this time and where the greatest benefits can be achieved, the Committee bill does provide for pre-school programs, and programs at the secondary level where maintenance of successful elementary school programs and special programs can be provided to focus on a particular need; for example, the presence of large numbers of recently immigrated students might necessitate a special program at the secondary level.

National Assessment.—Mindful of the critical need for accurate data for use in bilingual education policy-making, the Committee bill mandates an annual report to the President and the Congress on the condition of bilingual education in the Nation, the administration of title Title VII program and other Federal bilingual programs, a statement of activities current and projected, and an estimate of educational personnel needed to carry out the objectives of the Act.

The Committee bill also requires a national survey of the number of children and adults with limited English-speaking ability—and the extent to which they are being served by Federal, State, and local programs—to be completed by July 1, 1976.

Further, the Committee has mandated the preparation of a five-year plan for extending bilingual education services—through cooperative and voluntary arrangements among States, localities, and the Federal government, and through other means—to those persons determined by the survey to be in need of such services.

The Committee expects this information to be published and made available as a public document.

Educational Personnel Development.—The Committee viewed the lack of adequately trained bilingual education professional personnel—including teachers, counselors, administrators, teacher aides and other paraprofessionals—and the virtual non-existence of programs to produce those personnel, as a major failure in our teacher training system and the major obstacle to the immediate development of fully bilingual programs where they are needed.

In a sampling of the title VII projects across the country, the total need for trained bilingual teachers in those projects was found to be 35,117. In contrast, there are presently 9,448 teachers in title VII projects. Similar deficiencies were found in the numbers of bilingual counselors, administrators and trained paraprofessionals.

Because of these dramatic shortfalls, the Committee emphasized the preparation of education personnel specially trained to carry out bilingual education programs. The reported bill earmarks 15 percent, the current ratio, of each bilingual education grant for in-service and pre-service training and preparation of education personnel, and earmarks 50 percent of appropriations above $35 million but not more than $60 million, principally for the provision of new bilingual teachers, administrators, counselors, and other educational personnel, and the development of appropriate graduate education programs for these purposes. One-third of appropriations in excess of $60 million also was earmarked for these purposes. To help increase the available supply of bilingual education professionals, the Committee bill also directs the Commissioner to provide a bilingual education fellowship program of from 200 to 500 fellowships each year.

Bilingual Education Research and the National Institute of Education.—In terms of priority needs, the Committee ranks bilingual research and development (R&D) at a high level. Ideally, good bilingual teachers and sound bilingual programs are inseparable.

As in the development of bilingual educators, the Federal government's efforts in bilingual R&D fall far short of the need. Since enactment of P.L. 92-318 in 1972, the responsibility for research in education has belonged to the National Institute of Education. Regrettably, the Committee's review of NIE's progress toward bilingual-bicultural R&D has revealed little evidence that the Institute has viewed research in bilingual education with the priority regard the Committee feels it warrants. The Committee—recognizing that the Federal responsibility for research in bilingual education rests, by law, with NIE—expects leadership from the Institute in attaining the objectives mandated by the Committee bill. These objectives include the identification of elements of a successful bilingual education program, an examination of current testing patterns and the projection of new and more suitable ones, the publication of R&D findings, the development of curriculum materials and teaching aids, and the dissemination of bilingual-bicultural education techniques and methodologies for use by schools at their discretion.

What is at stake here is the future of the Federal bilingual education effort. R&D leadership by NIE must be forthcoming. Therefore, the Committee bill allocates a specific amount of NIE's expenditures to bilingual-bicultural R&D programs and mandates several objectives for NIE to pursue in moving toward a more comprehensive, well-directed Federal bilingual education program.

National Advisory Council on Bilingual Education.—The recent reactivation of an Advisory Council on the Education of Bilingual Children is encouraging, although the Committee notes that the legislation creating such a Council was enacted in 1967 as part of the original Bilingual Education Act, and that between 1970 and 1974 the Council did not meet.

The Committee envisions a strong and active Advisory Council. The reported bill specifies the appointment of fifteen members, to terms of varied length, drawn from the ranks of both lay and professional persons interested and experienced in the education of bilingual persons. Classroom teachers, teacher trainers, and school board members are among the categories of persons to be appointed to the Council.

The Council is directed to submit an annual report on its own, to the President and the Congress, covering and evaluating the current status and projected directions for bilingual education and other Federal bilingual programs in the Nation, as observed from the Council's unique vantage point.

Federal Support of State Bilingual Activities.—The current Title VII status, which would be replaced by the Committee bill, does not provide a role for State education agencies in the Federal bilingual effort. In the past, Federal monies have been granted to local education agencies and to organizations and institutions supporting LEA activities, but not to the State agencies themselves. The Committee bill provides for a wider range of State activities especially in training, and includes authority for the Commissioner to grant some funds to the State educational agencies for supportive and technical services.

Also, the Committee bill calls for consultations by the Commissioner with State education agencies, and others, in the development of suggested model bilingual education statutes, curricula, and teacher certification processes that might voluntarily be adapted for use in a variety of locations.

The Committee is aware that the recent decision of the Supreme Courts in *Lau* v. *Nichols et al.* will require far greater efforts by State educational agencies to provide bilingual education opportunities to non-English speaking students. The Committee intends to review the participation of State education agencies in the programs funded under Title VII during the course of its oversight activities in this area.

Mr. KENNEDY. Mr. President, I rise to speak in support of the passage of S. 1539 and to call the attention of my colleagues to the provisions of that bill extending and improving the Federal role in bilingual education.

In the 7 years since the enactment of the Bilingual Education Act of 1967, title VII of the Elementary and Secondary Education Act, the Federal Government has funded a series of demonstration projects in bilingual-bicultural education. These model programs represented the first Federal response to the millions of children whose native language is other than English.

Former Senator Ralph Yarborough was the chief architect of the original law, and his leadership in this area deserves mention in any discussion of this subject. The original act marked a sharp break with the past record of neglect of the needs of the Spanish-speaking and other linguistic minority groups in this country.

Projects have been designed to enable Spanish-speaking, Eskimo, and American Indian, Portuguese and Asian Americans to utilize their native languages in the education process.

However, the gap between need and resources remains enormous. Conservative estimates indicate that there are approximately 5-million children in the United States who can benefit from bilingual education services. In fiscal year 1973, the appropriation of $41 million for title VII served only 147,000 children in 217 projects.

The U.S. Civil Rights Commission published its final report on Mexican American education in February 1974, "Toward Quality Education for Mexican Americans." It found that only 6.5 percent of 500 school districts in the southwest had bilingual programs in existence. Testimony to the Senate Education Subcommittee also disclosed that in 5 States surveyed, bilingual programs served barely 5 percent of the Puerto Rican children classified as of limited English-speaking ability.

While the enactment of title VII has had some positive effect in stimulating State governments to respond to limited English-speaking children, the level of State effort continues to be inadequate. Several States repealed laws prohibiting the use of languages other than English in the classroom. Ten States now have statutes permitting bilingual instruction. My own State of Massachusetts mandates bilingual education wherever there are concentrations of children with limited English-speaking ability. Four States, including California, now have laws authorizing funds for bilingual education program development and another 9 have moneys in their budgets for bilingual education purposes. However, the dollar amounts remain small and the priority assigned remains low.

Perhaps most distressing when one reviews the past 7 years has been the inertia, the lack of direction and the absence of leadership evident in the U.S. Office of Education in the area of bilingual education. For the first several years of this administration, the original budget request from the President actually was less than the Congress had authorized the previous year. In addition, in 1973 some $9.75 million was impounded. Once again, this year's original budget request was some $15 million less than the $50.35 level Congress appropriated in the original fiscal year 1974 Labor-HEW Appropriations bill.

The results of the failure to provide adequate bilingual education programs are evident from the following statistics: 50 percent of the Spanish-speaking students in California drop out by the 8th grade; 87 percent of Puerto Ricans over 25 years of age in New York City have not completed high school; the average number of school years completed by Mexican Americans in the southwest is 7.1 years, compared to 12.1 for the Anglo child.

The results are shown as well in the findings of the Civil Rights Commission that Mexican-American youngsters are not only shunted out of the college bound courses, but all too frequently are placed in classes for the mentally retarded—not because of any intelligence deficiency, but because of an English language deficiency. Thus, in 30 districts cited by the Office of Civil Rights for non compliance with Civil Rights Act title IV provisions, 14 "were found to be assigning Mexican-American students into EMR—educable mentally retarded—classes on the basis of criteria which essentially measure English language skills."

As a result of these conditions, I introduced S. 2552, the Bilingual Reform Act of 1973 last year, and Senator CRANSTON introduced S. 2553, the Bilingual Education Amendments of 1973. We were joined by Senator MONTOYA in introducing these measures. Following hearings in which we heard testimony from academic experts, from parents, from teachers, from school administrators, from State bilingual education directors, and from the U.S. Office of Education, we worked together with other members of the committee in drafting the provisions of the current bill.

I particularly would like to commend Senator CRANSTON for his leadership and counsel in developing the final version of the bilingual education reform contained in this bill.

Perhaps the major innovation concerning bilingual education in the legislation before us today is the emphasis on teacher training and the development of bilingual education personnel ranging from teacher aides to school administrators. I felt when I introduced my bill last year that its priority consideration of the need to expand the corps of bilingual educators was essential in any final version. I am pleased that the committee has adopted this priority as its own.

Witnesses before the committee testified to the paucity of bilingual education teachers, teacher aides, counselors, and administrators. Many cited this as the major failure of the previous 7 years of experience with the 1967 act. Although the authority for teacher training was included in that act, no funds were expended under title VII to improve or develop teacher training programs or to increase the number of bilingual education personnel. There has been only a 1.2 percent increase in the number of Spanish-surnamed teachers since 1968.

The current situation is as follows. Only 4.8 percent of approximately 250,000 teachers in the Southwest were Spanish surnamed, according to the U.S. Civil Rights Commission, while nearly 20 percent of the school-age children in those States were Spanish-surnamed. Similarly, while Chinese students represent nearly 15 percent of the student population in San Francisco, barely 5.4 percent of the teachers are Chinese. In New Mexico, while over 22,000 American Indian children are in the public schools, there are only 114 Native American teachers. On the east coast, similar statistics exist for the Puerto Rican community. Puerto Rican youngsters comprise 22 percent of the New York City school population, while Puerto Rican professionals hold less than 1 percent of all positions in the schools.

Although no one has suggested, nor do I favor, a quota system; nevertheless, it seems painfully obvious that these

groups have few teachers with whom they can identify and, in many cases, few with whom they can even communicate.

A sampling of title VII projects across the country resulted in an estimate that the total need for trained bilingual teachers in projects today is 35,117. In contrast, there are only 9,448 teachers in title VI projects.

Because of these dramatic shortfalls, the committee has earmarked 15 percent of each bilingual education grant for in-service and preservice training of teachers and aides in those projects. In addition, 50 percent of all appropriations above $35 million and 33⅓ percent of all appropriations in excess of $60 million are earmarked for the preparations of new bilingual teachers, administrators, counselors, and other education personnel and the development of appropriate graduate education programs for these purposes. In addition, the Commission is authorized to provide a bilingual education fellowship program of from 200 to 500 fellowships each year.

The committee also extended the bilingual education authority through June 30, 1978 and provided authorizations of $135 million for fiscal year 1974, $145 million for fiscal year 1975, $155 million for fiscal year 1976 and $175 million for fiscal years 1977 and 1978.

The underlying belief of the committee is that the provision of bilingual education programs is essential to meet the requirement of full equal educational opportunity to children of limited English-speaking background. The decisions of the U.S. Supreme Court in "Lau et al. against Nichols et al." on January 21, 1974 held that title VI of the Civil Rights Act of 1974 demands that school districts respond to the needs of their limited English-speaking students. The Court quoted in its decision from the May 25, 1970 guidelines of HEW which stated:

> Where inability to speak and understand the English language excludes national origin minority group children from effective participation in the educational program offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to these students.

I firmly believe that the most effective tool for accomplishing the goal of providing equal educational opportunity is a comprehensive program of bilingual-bicultural education.

Basically bilingual education involves the use of two languages, one of which is English, as media of instruction. Both languages have the same value content. Both are used to transfer information and skills. Both are used in the total curriculum. Bilingual education is the best method we have discovered to encourage and to remove barriers that prevent a child of limited English-speaking ability from developing his individual skills and talents to their fullest.

These two factors—the use of the child's native language and respect for his cultural background—distinguish bilingual education from English-as-a-second language and remedial reading. The U.S. Civil Rights Commission in testimony to the subcommittee, which is quoted in the report accompanying this bill, stated:

> (1) Using the native language to teach other subjects allows the education of the child to continue uninterruptedly from home to school, thus preventing his retardation in subject matter while he learns English.
>
> (2) Teaching a child to read first in the language he brings with him when he enters school facilitates his learning to read and write in a second language because the basic skills of reading are generally transferable from one language to another.
>
> (3) Curriculum which incorporates the student's familiar experiences, community, history, and cultural heritage will help build pride and self-confidence in the student, and by being more relevant to the student's personal experiences, heighten his interest and motivation in school.
>
> (4) By integrating the language and cultural background of all students, bilingual-bicultural education reinforces and increases the communication between home and school, thus improving the student's motivation and achievement.

The bill before us seeks to instill these principles in the bilingual programs to be carried out under this act.

Too often, the concept underlying educational programs for the limited English-speaking has been to stamp out their native language and their culture at all costs.

The Library of Congress has cited examples of the extreme, where children in a South Texas school—

> Are forced to kneel in the playground and beg forgiveness if they are caught talking to each other in Spanish . . .

While it is evident that English language competence is an essential product of the educational system in this land, competence sufficient to enable all children to compete on equal footing, the native language of the Spanish-speaking child or Chinese-speaking and the cultural tradition and understanding that usually accompanies it should be treated as extra benefits, resources to be maintained and developed.

When the United States is the fifth largest Spanish-speaking country in the world and when a near majority of people in this hemisphere speak Spanish, surely our educational system should not be designed so that it destroys the language and the culture of children from Spanish-speaking backgrounds.

I believe that this bill marks a reaffirmation of our determination to encourage education models enabling limited English-speaking children not only to learn as effectively in English as in their native language but also to maintain their pride in their culture and background and to preserve their native language ability.

The bill focuses its major attention on the elementary school level where limited Federal funds can be most effective and where the need appears greatest. At the same time, special projects at the preschool and secondary level are specifically authorized.

Beyond the new emphasis in teacher training and the more articulated concept of bilingual education, the bill contains many of the provisons contained within the legislation I originally introduced. Among the major innovations of this bill regarding bilingual education are:

First, it establishes a Bureau of Bilingual Education with direct lines to the Commissioner of Education. This is to provide the sense of priority and direction which has been lacking within the Office of Education in the past.

Second, it directs the National Institute of Education to undertake research in the area of bilingual education by authorizing $5 million for that purpose and in the event those funds are not appropriated by earmarking up to 5 percent of NIE's funds for that purpose. Included in this effort is the requirement that NIE establish a Center for Bilingual Education to serve as a clearinghouse for information, research reporting, counsel, and support in the area of bilingual education.

Third, the bill includes provisions amending the Adult Education Act to require the adult education program of the Office of Education to consider the needs of limited English-speaking persons in each State.

Fourth, the bill amends the Vocational Education Act to require, for the first time, that each State with a substantial number of limited English-speaking residents include in its State vocational plans, programs to serve their constituency. In addition, some $40 million is specifically authorized for this purpose along with a 5 percent aside of State plans where there are significant numbers of limited English-speaking students in the State.

A separate Bilingual Vocational Training section is added, following an amendment offered by Senator DOMINICK, which Senator CRANSTON and I cosponsored, to focus on the needs of dropouts, and secondary school graduates who are unemployed or underemployed.

Fifth, State educational agencies are encouraged to develop State bilingual education programs and provision is made for a limited participation by these agencies in teacher training. However, the bill sets forth specific criteria that States must meet before they may participate directly.

Sixth, a National Advisory Council is established but with insured participation by bilingual educators, teachers, parents, and school board members. The council will report both to the Commissioner and to the Congress.

Seventh, a strong requirement for the involvement of those local groups most concerned with bilingual education—parents, teachers, and community representatives—in the design of local projects is contained within the bill.

Eighth, there is a special recognition of Indian bilingual needs and an effort made to insure that non-Bureau of Indian Education schools as well as the BIA schools have access to bilingual education moneys.

Ninth, the bill amends the Library Services and Construction Act to insure that the needs of the limited English-speaking community are met.

Tenth, the bill incorporates a separate amendment I introduced to the Higher Education Act to support developing post-

secondary colleges and universities in areas of substantial numbers of Spanish-speaking. To qualify for assistance as developing institutions, these institutions would only have to meet the requirements for 2, rather than 5 years. Since many of these schools are newcomers, they have had difficulty in qualifying for assistance. This amendment parallels to a large extent similar action taken with regard to the Indian colleges 2 years ago.

Eleventh, the bill includes an amendment introduced by Senator WILLIAMS, which I cosponsored, to provide special assistance to the limited English-speaking to enable them to more effectively cope with the problems of college. They would be eligible under amendment to the Higher Education Act to receive bilingual teaching and counseling.

Finally, the bill requires that a national assessment of bilingual education needs for the next 5 years be made by the Commissioner.

Although the Federal Government's role continues to be one of stimulating the States and of providing the resources to backup local and State efforts through the preparation of adequate numbers of bilingual educators and the development of effective models, the committee expects to review closely the progress made at the State level.

I believe the bill before use commits the Federal Government to a major new initiative in the area of bilingual education and I am hopeful that it will be followed by similar actions at the State and local level.

For far too long, we have denied the limited English speaking an equal opportunity to succeed in the schools of America. This bill takes a major stride toward ending that neglect.

Mr. HUMPHREY. Mr. President, the "Education Amendments of 1974" is one of the most important pieces of legislation we will be considering this year. We are not dealing simply with the expenditure of funds, but with investment in our most valuable resource—the young people who will form our Nation's future. We are faced with two needs: to insure that the talents of these young people do not go to waste, and to insure that each of them has the opportunity to develop his or her talents to the greatest extent possible, in order to become a full participant in American society.

The central mechanism by which the Federal Government can assist in the education of our young people is through the distribution of funds to be made available to the local school districts in each State to meet their own needs, or to supplement particular programs for which the Congress feels that there is a national need, and for which the Office of Education can provide coordinated support. There has been a great deal of disagreement during the discussion of this bill as to which formula for distribution of Federal funds was most equitable and most advantageous for the fulfilling of our common goal. The results have not been entirely in accord with what I would have preferred, and most likely not entirely in accord with what any other individual here would have preferred. But we have refined a method of providing Federal aid to State and local education agencies, and I think that the important thing to remember now is that it is vital that this education bill be passed, that agreement be reached in House-Senate conference on final legislation, and that we get the money out to the States so that the valuable work of providing a quality education to all of our young people can proceed.

This bill does considerably raise the authorization level for assistance to the States from previous years. Under the formula for distribution of funds to local educational agencies, for example, Minnesota is authorized to receive $7 million more in fiscal 1975 than in fiscal 1974. This is a step in the right direction—toward increasing the assistance to the States in their efforts to improve their own local educational systems. There is, unfortunately, an inadequate accounting for the needs of urban areas—and particularly urban poverty areas—in the bill as amended, though some effort has been made to rectify that deficiency today, with the re-institution of funds targeted especially on areas with a high concentration of poverty families.

There are a number of provisions introduced by this bill which are innovative, and many changes which have been made to up-date or rationalize the procedures by which funds are allocated. Among the most important of these are the substantially expanded aid for the handicapped, and the new program for the improvement of reading.

HANDICAPPED CHILDREN

The funds for our handicapped children have for years been deplorably low. As a result, the handicapped have not been provided with the trained teachers, the specialized materials, or the necessary facilities required for their education. They have, as the courts are now making clear to us, not been provided with their full rights, with an equal opportunity to participate in the educational system of this country. I was, therefore, happy to be able to cosponsor the measure introduced by Senator MATHIAS designed to provide a 1-year intensive base of support for education of the handicapped. This measure provides funds for initiating projects to educate handicapped children—projects which can be developed more fully under funds provided by the comprehensive bill for education of the handicapped (S. 6) presently before the Labor and Public Welfare Committee.

One of the principal handicaps faced by all too many children in this country has been their inability to read. A recent study by the Office of Education revealed that more than half of those children from families where the head of the household is illiterate are themselves illiterate. We have not been doing nearly enough in the educational system to address this need. Yet we all know that reading is the key to education; it is the prerequisite to success in all other areas.

READING PROGRAM

We also know that the failure to develop the skills which are basic to reading in the earliest years of schooling creates barriers which are very difficult to overcome in later years. Title VII of S. 1539, the national reading improvement program—aimed particularly at children in the elementary grades, and providing the expertise and assistance necessary to improve the reading skills of children—was one of the most valuable innovations in this year's legislation. It reaches children while they are still young enough that their entire career as students can still be influenced, thus opening to them career opportunities which they would otherwise not have had.

My own amendment to that title, providing the funds for a small number of demonstration programs for preschool children, was intended as an effort to strengthen further the purpose of the reading program established in the bill.

STUDENT INTERNS

I am gratified that the Senate also adopted my second amendment, to establish an internship program in offices of elected officials of State and local government, to provide college students with an invaluable educational experience, while also carrying out responsible tasks in the provision of public services.

Another innovation in this year's legislation is the establishment of a data-gathering agency for educational statistics within HEW. As in so many areas important to our Nation, the Senate Labor and Public Welfare Committee discovered that when it became necessary to make some of the hard decisions on our priorities for the future, the data necessary to make those decisions wisely was often lacking. Although the administration might protest that it had the information, it could not provide the hard facts.

The ability to gather and analyze essential information has clearly become one of the most critical prerequisites for national planning and the wise use of resources in our country, and yet one of the needs least frequently met. As in all of the other areas where vital national decisions must be made, it has become apparent that steps must be taken immediately to set up a capacity to coordinate information on our educational accomplishments and needs, and to isolate what information we still need to gather. The establishment of an ageny in HEW for this purpose may well prove to be a great long-term advantage to the educational development of the country.

The Education Amendments of 1974 include a number of additional measures which are of considerable importance—including education to help end sex discrimination and funds to aid in bilingual education. The bill also includes provisions for the consolidation of some of the programs currently funded separately, and for the rationalization of the procedure by which States apply for these funds. These changes should allow some development of useful new programs, while eliminating some of the bureaucratic obstacles which have caused difficulty in the funding of old programs.

This year's education bill is a valuable vehicle for the improvement of a

great variety of the components of effective education and it is highly innovative in its efforts with respect to some of the most pressing national educational problems. It provides a framework within which State and local education agencies can plan for the development of their programs over the next several years. I believe we should support this bill, and I hope that every effort will be made to expedite the final enactment of the urgently needed education assistance authorizations.

Mr. WILLIAMS. Mr. President, I know that this has been a long and difficult week for the Senate and we have considered and debated this important and vitally necessary education bill. But, as hard as we have worked on the legislation this past week, there are some of my colleagues who deserve special praise for their efforts over the last year. Most notably I want to extend my highest thanks and commendation to the chairman of the Education Subcommittee and floor manager of the bill, Senator PELL. When his subcommittee began hearings on S. 1539 in April of 1973, the distinguished Senator from Rhode Island was, as always, in the chair, and since that time has devoted his energies to assuring that the legislation before us today will represent another major step toward providing quality education for all Americans. Senator PELL can indeed be proud of his achievements.

And I think that we must also pay tribute to other Senators who have worked so diligently and effectively in fashioning this bill. The Senator from Colorado (Mr. DOMINICK) has shown his deep concern for strengthening our Federal education programs. And, the Senator from New York (Mr. JAVITS) who is the ranking minority member of the full committee has done his usual excellent job in helping to move a good bill through the committee and the Senate.

Finally, Mr. President, I want to commend the staff of the committee for their assistance in developing this landmark bill. Specifically, I want to express my appreciation to Steve Wexler, Jean Frohlicher, and Dick Smith of the Education Subcommittee, Roy Millenson and John Adair with the minority, and my own staff, Lisa Walker and Nik Edes. These men and women deserve our special thanks.

SCHOOL LOAN GUARANTEES

Mr. HUMPHREY. Mr. President, I had planned to call up my amendment No. 1249 to S. 1539, but due to the crowded schedule for discussion of the education bill, this has not been possible. I would like, however, to discuss the purpose of my amendment, and to explain why I feel that action of the kind it authorizes is necessary.

This amendment would provide a positive solution to the problem of sorely needed up-to-date school facilities in our country. It makes funds for building available to school districts at the time when they need facilities, and yet it costs the Federal Government very little. This amendment uses loan guarantees and interest subsidies to help school districts tap major private investment resources for their needs. This makes effective planning for long-range requirements possible in spite of the difficulties in floating local bond issues, and without the liabilities of crushing interest rates on local resources.

Over the last quarter century the most common way for local school systems to raise revenues for construction has been through issuing bonds, with the percentage of capital outlay financed in this way varying between 60 and 85 percent. But it has become increasingly difficult in recent years for school districts to win voter acceptance of the issuing of these bonds, and the result has been a trend toward spasmodic responses to short term crises, rather than rational assessment and planning for long-term development.

Over the last decade there has been an increase of over 20 percent in rejections of bond issues at the polls. This has certainly not been because modernization and new construction were not needed, or because they would not benefit the community. Rather, the taxpayer, faced with the overwhelming burden of uncontrolled inflation and a high local tax rate, was understandably concerned with the immediate problem of his own finances. This has been most true in exactly those areas where expansion and improvement were most desperately required. Without the capability for a degree of assurance in their planning, school districts have often had to embark on wasteful expenditures tied directly to immediate problems, such as failure of buildings to meet health or safety regulations. The economic savings and design-benefits which could have resulted from comprehensive planning have been lost, and school boards now often feel safe in recommending bond issues only on an emergency basis.

One objection which might be raised against this amendment is that the school-age population is declining. As a result, we are told, there are a few unused schoolrooms scattered about here and there. I find this objection most remarkable for what it omits, for what it is blind to. It illustrates the dangers of failing to correlate statistics with reality.

In the first place, there are areas of the country where school systems are still expanding rapidly. One of the suburbs of Washington, D.C., Prince William County, has had to build four elementary schools, four middle schools, and four senior high schools in the past 3 years to house a student population which has increased by some 2,000 during that period.

Equally important is the question of the kinds of comparisons we are making. A few years ago we had woefully inadequate physical facilities for our children's schools.

We had classrooms for elementary school children with 50 and 60 students in them. We had double sessions where children went to school at odd hours, and often for only half a day. We had ramshackle buildings lacking in anything but the most primitive equipment for scientific or vocational studies.

It is true that a reduced student population may mean that there are fewer double sessions than before, and that some of the larger classes are reduced to the range of 45 to 55 students. It may even be the case that there are atypical rural areas, or towns where a major factory has closed down, where there are now empty classrooms. But I should hardly have thought that these would be heralded as indications that the need for further work was done. I would never have considered these unexceptional achievements to be our goals.

The declining student population in fact gives us for the first time a realistic opportunity to expand and improve our facilities to a point where they more nearly approach what we ought to have. We must pursue with adequate energy and planning the construction of good classrooms to make it possible that all children can be in reasonably sized classes and receives the attention they need. We should modernize facilities for technical subjects so that students can obtain the practical experience they need. We can construct facilities which genuinely meet the needs of our handicapped and retarded youths so that they can learn to participate as fully as possible in American society.

In taking these actions, we will have made a long-term investment in this Nation's welfare which will repay many times over the small amount which we now expend. We have never had sufficient effort in this area in the past. We cannot now argue against expanding our effort on the grounds that things are marginally less bad than they used to be.

There are two additional points I would like to make about this amendment. First, the proposal is economically sound. Large funds are made available, but they are available primarily as guarantees, and they remain with the Federal Government. 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 gradual expenditures to cover their needs, rather than requiring sudden immense expenditures which only partially meet long-term objectives. 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. I think it is equally appropriate that the Federal Government get itself involved in encouraging the modernization of educational facilities for our primary and secondary schools, even though we may not now be able to get involved in the business of supplying the funds directly.

I would like now to explain in somewhat more detail the provisions of this amendment. It 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. The amount authorized for each of 2 fiscal years is $2.5 billion, of which no more than $300 million may be used for subsidizing interest payments. There are appropriate conditions in the amendment to protect the financial interests of the United States, permitting the United States to recover from the State or local educational agency any payments made pursuant to the guarantee, unless the Commissioner waives his right of recovery, and assuring that the control of funds and title to property derived therefrom, shall be in a public agency. The operating mechanisms of this amendment are standard procedure in guaranteed loan systems of this kind.

I would like to point out that this amendment is not something which I am introducing for the first time today. This was first introduced as title II of the National Education Investment Act, S. 1817, which I introduced on May 17, 1973. I should note that strong support for this bill was stated by Mr. Jack Dodds, past president of the National Association of Elementary School Principals, and by a number of sectors of the education community.

On November 12, 1973, I wrote to Senator PELL, requesting that scheduled action by the Senate Subcommittee on Education on draft legislation on elementary and secondary education amendments, include consideration of S. 1817. I urged that particular attention be given to titles II and III—for a national educational trust fund—of that bill.

Mr. President, I ask unanimous consent that a copy of my letter to Senator PELL be inserted in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. HUMPHREY. Mr. President, in his reply, Senator PELL indicated his own concern that broader problems of financing our schools be addressed, and noted that legislation he had introduced also spoke to this need, although the current legislative situation appeared to dictate a more limited focus in Federal programs of assistance. I understood the problems which the Subcommittee on Education confronted in drafting legislation which would at least maintain existing Federal education assistance programs. However, I strongly believe the Senate must face squarely major problems of school financing experienced across the Nation.

I urge the Senate to make the proposals advanced in this amendment a priority matter for consideration in the near future. There must be no further delay in dealing with the problems of capital outlay required for the improvement of our schools.

Mr. President, I ask unanimous consent that the text of my amendment also be included in the RECORD.

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

(See exhibit 2.)

EXHIBIT 1

NOVEMBER 12, 1973.

Hon. CLAIBORNE PELL,
Chairman, Subcommittee on Education, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR CLAIBORNE: I sincerely commend the subcommittee decision to give executive consideration to draft legislation—S. 1539, Elementary and Secondary Education Amendments—to extend vital programs of Federal assistance to education and to address serious problems of school financing.

I am hopeful that careful consideration will be given to provisions of S. 2414, the Elementary and Secondary Education Assistance Act, introduced by Senator Mondale and cosponsored by myself and others, which would establish a program of general grants for elementary and secondary education and provide for an experimental program on achievement progress tests.

I would also urge that attention be given to respective titles of the National Education Investment Act of 1973, S. 1817, which I introduced on May 15, 1973. This bill provides for grants and loan guarantees for vitally needed school construction and improvements—now frequently held in abeyance due to limited local fiscal resources or voter resistance to higher property taxes to finance this construction. It would also establish a National Educational Trust Fund designed to address simultaneously our serious school financing problems and the need to initiate State and local tax reforms. In calling for an increase in the Federal investment in education to one-third of all public resources, the bill specifies administrative reforms, in the establishment of a new Department of Education, to carry through what must now become a high national priority.

While certain provisions of S. 1817 may be reflected in other bills, I would ask that particular consideration be given to Titles II and III establishing, respectively, the program of Federal loan guarantees and interest subsidies for school facilities, and the National Educational Trust Fund.

In anticipation of the resumption of subcommittee executive consideration of pending legislation on November 14–16, 1973, I am enclosing a Congressional Record reprint containing my remarks in introducing S. 1817, a summary of the several titles of the National Education Investment Act, and the text of the bill.

Sincerely,

HUBERT H. HUMPHREY.

EXHIBIT 2

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 AUTHORIZED

"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 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 (e), 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 recipient 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 or repayments of principal on loans 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 Commissioner 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 to 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 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 of 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 Reorgani-

zation 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.".

Mr. PEARSON. Mr. President, S. 1539, the Education Amendments of 1974, is a very broad bill which encompasses many issues. Perhaps it is unfortunate that our attention has been focused on a relatively few of these issues. Nevertheless, there is little doubt that with passage of this act, Congress is reaffirming its commitment to adequate Federal support for education.

Since 1965, with the passage of the Elementary and Secondary Education Act, we have struggled to find the correct mechanisms for distributing Federal aid. Quite correctly, many have proposed consolidation of the myriad of categorical programs. Reforms in impact aid have been advanced every year. The distribution formula for title I funding has been a continuous problem. The bill before us is unique in that it addresses all of these problems.

Unfortunately, there are numerous substantive issues which will not be fully resolved by this bill. We will, for example, continue to struggle with the difficulties inherent in administering numerous Federal programs. State and local authorities will continue to fight redtape. Nevertheless, we have made a substantial beginning toward the solution of these problems. Section 401 of the bill, for example, consolidates State application for Federal assistance. I am hopeful that this will also lead to a meaningful reform at the local level.

Beyond these broad questions, however, there are several extremely important provisions of the bill which need to be singled out for comment.

First, section 203(d) recognizes an important problem in the distribution of impact aid. Formerly, section 5(d)(2) of Public Law 874 prohibited a State government from including Federal impact aid in the computation of State expenditures for any district. Violation of the section resulted in a withholding of impact aid for the entire State. Although justified in its intentions, this had the unintended result of thwarting State efforts to equalize educational expenditures among local districts. This was inequitable for States which had enacted equalization formulas, and the Senate, last year, granted a 1-year exemption for States which would have been faced with a loss of their entire impact aid package. Kansas fell into this category since it has previously enacted an equalization formula.

S. 1539 recognizes the need for a revision in this section. It permits a State to treat impact aid in the same manner as State and local funds in making their determination of financial needs and resources. This should, when accompanied by appropriate regulations, promote even greater equalization of school funding.

Second, the Senate has the amendment to section 406 proposed by the junior Senator from Wyoming, Mr. HANSEN. I was pleased to cosponsor this provision which requires greater local coordination and planning prior to the filing of an application for assistance under the Community Schools Act. The goal of maximum utilization of existing school resources should not be accomplished at the expense of existing community education programs. The amendment to section 406 requires coordination with local community colleges and recreation programs before a community school program can be established. This should enable the program to more effectively enhance educational opportunities in the entire community.

Finally, the bill makes an important revision in the original veterans cost of instruction program. The measure was passed in the Education Amendments of 1972 required that an institution of higher learning was eligible for funding only if it increased its veterans enrollment by 10 percent a year. This unfairly penalized schools which had previously made major efforts to recruit veterans, but which were unable to meet the incremental limits.

For example, Wichita State University in Kansas maintained a veterans enrollment totaling nearly 15 percent of its student body. It was, however, ineligible to participate in the veterans cost of instruction program. The bill before us will permit a school with a veterans enrollment equal to 10 percent of its enrollment to participate. I am pleased to see that the measure has been included in this bill.

Mr. President, these three sections have not, perhaps, received the notice which they deserve. I am hopeful that they can be included in the bill which comes out of the conference committee, and that they can be fully implemented in the near future.

Mr. CLARK. Mr. President, the Senate is about to approve the major education bill for the next 4 years. It is a comprehensive measure—and badly needed because it comes at a time of prohibitive property taxes and burdensome State taxes which have decimated the financial underpinning of American education. The Federal aid to education bill, S. 1539, hopefully will guarantee the ability of State and local educational institutions to maintain current programs—in the face of rising costs—without raising taxes.

In drafting this legislation, the distinguished Senator from Rhode Island (Mr. PELL) and the other members of the Education Subcommittee have worked for hundreds of hours reviewing the record of the existing law—the accomplishments and the mistakes—and improving it. The result is legislation that provides assistance for an incredible array of educational needs.

The bill amends 15 existing acts and creates 3 new ones—the Community Schools Act of 1974, the Special Projects Act, and the Women's Educational Equity Act of 1974.

It extends the authority for title I funds to assist educationally deprived children. The formula has been updated to more equitably meet today's needs

without crippling those schools which have come to depend upon certain levels of Federal funds under the old formula.

It provides for construction of facilities and funds for textbooks.

It encourages special programs to help those with special needs—the handicapped, adults, and people requiring bilingual education.

It streamlines administration and cuts out unnecessary paperwork, as well as paving the way for conferences, studies, and demonstration projects to encourage innovation.

The bill continues the existing carryover authority, allowing local education agencies to spend money received too late in a fiscal year in the following year. At the same time, it urges once again that the long-overdue funds for the advanced funding concept already approved by Congress be appropriated and allocated promptly so this situation need not reoccur.

Additionally, the legislation authorizes funds for metric education, gifted and talented education programs, career education, community education, and arts education.

It establishes safeguards for the rights of privacy rights of both parents and children.

But most importantly, the bill provides the money financially besieged schools need to allow them to emphasize the basic skills, especially reading, so vital to successful participation in 20th century American life.

Mr. President, it is a pleasure to support such a fine piece of legislation. I urge my colleagues to support it as well, and I sincerely hope that the differences between the House and Senate bills will be quickly resolved in conference and the legislation will be signed into law by the President so our educational institutions can continue their crucial work.

Mr. PELL. Mr. President, Senator HART, who was unable to be here today, requested an opportunity to ask a question about a portion of S. 1539, dealing with impact aid. I ask unanimous consent that Senator HART's statement and question be printed at this point in the RECORD, followed by my answer.

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

Mr. HART. I would like to ask a question about language on page 209 of the bill referring to PL 81-874 funds and state plans to equalize expenditures.

There are several school districts in Michigan which are heavily impacted with federally-related students. These districts, small in size, get more than 20 percent of their budget from impact aid.

Needless to say, these districts are concerned about losing that large a part of their budget, and I think it is fair to say that if they did, the quality of education in those communities would suffer greatly.

As I understand the language of the bill, the prohibition against using impact aid to offset financial assistance from a state is continued.

However, the bill does create an exception, which, according to the Committee Report, would work this way:

". . . if a State has in effect a program of State aid for free public education which was adopted after June 30, 1972, and which is designed to equalize expenditures for free public education among the local educational agencies of that State, impact aid payments to local educational agencies in that State may be taken into consideration by the State in determining the relative financial resources available to local educational agencies in that State and in determining the relative financial need of such agencies for the provision of free public education for children served by such agencies. In other words, in State equalization situations, States may treat impact aid in the same manner as State and local funds in making their determination of financial resources and financial needs of local educational agencies."

The superintendents of the school districts in question are concerned that the exception would allow a major reduction in state assistance because of the amount of impact aid these districts receive.

Michigan has adopted a millage-equalization program under which one mill of tax, regardless of a community's tax base, raises the same amount of money for education.

My questions are:

"Does Michigan's millage-equalization program qualify as a program designed to equalize expenditures under the language and intent of the Senate bill?

"If not, does that mean that the prohibition against using impact aid to offset state aid still apply to Michigan?"

Mr. PELL. Mr. President, the provision in the Senate bill simply permits an evaluation of Impact Aid funds in order to determine relative resources and relative need of school districts. It is designed to prevent "windfall" payments to 874 districts. The language in the bill does not permit the States to reduce State aid when school districts receive 874 funds. This is presently prohibited in the bill.

I cannot say whether the Michigan plan qualifies for the exception; however, I note that the bill speaks in terms of expenditures not millage power. One would have to look at the result of the application of the millage equalization plan in Michigan. If the intended effect is not to equalize expenditures, then the Michigan plan does not qualify for the exemption.

Mr. HATHAWAY. Mr. President, as a long-time supporter of the library programs, I am dismayed by the continual downgrading of the unit within the Office of Education responsible for administering these programs. Recent reorganizations within USOE have demoted the Bureau of Libraries and Learning Resources to a Division of Library Programs. The Division of Library Programs is under the Bureau of Postsecondary Education.

One might think that this Division of Library Programs deals solely with libraries in institutions of higher education. This conclusion, which is erroneous, would stem from the placement of the Division of Libraries within the Bureau of Postsecondary Education. One conclusion, which I submit is valid, is that the library programs of the Office of Education have through the years been moved about, lodged hither and yon, and in recent years slated for virtual extinction.

Such treatment is not surprising in view of the attitude of this administration toward the library programs of the Office of Education. There are glowing statements from the White House during National Library Week each year, and just as regularly there are proposals for phaseout, termination, and zero funding of library programs when the President's budget is submitted each year.

Mr. President, the Office of Education is responsible for administration of programs that are vital to the continuance and development of library services for all the people of this Nation. These include the school library resources program originally authorized by title II of the Elementary and Secondary Education Act and the instructional equipment program originally authorized by title III of the National Defense Education Act.

For the libraries of institutions of higher education, the Office provides assistance for acquisition of materials under title II of the Higher Education Act. The Office also administers programs that foster the training of librarians and other specialists in educational media. The Office is responsible for the programs authorized by the Library Services and Construction Act which strengthen public libraries: extend their services to special groups, including the handicapped, the aged, and those living in institutions; support research; and encourage more efficient and economical operation of libraries by development of more cooperative arrangements among them.

The President's budget for fiscal year 1975 proposes cutting the staff of the Library Division by almost 50 percent overall, eliminating the staff of some library programs altogether. For example, the public library construction staff would be reduced to zero according to the fiscal year 1975 budget. And yet, title II of the Library Services and Construction Act is authorized through fiscal year 1976. It provides matching grants to the States for public library construction. In my own State of Maine, State officials estimate the need for 25 library construction projects over the next few years. At least three of these are ready to move forward in fiscal year 1975. Once the LSCA title II appropriation is available so too the State and local matching funds will be in hand: Waterville Public Library is ready to build a new wing, Scarborough a new addition, and Fort Kent a new library. And this is only one State. The great majority of other States also have need for public library construction. And yet the Office of Education plans to eliminate its public library construction staff in fiscal year 1975. This is only one example of the incongruity of OE plans and congressional intent. So long as Congress votes to continue the library programs, as we have now for many years, the administration cannot be allowed to go in the opposite direction by eliminating the staff necessary to carry out these programs.

According to the provisions of S. 1539—title V, section 508 on page 324—a Bureau of Libraries and Learning Resources would be established within the Office of Education so that the library programs will be concentrated in one unit within USOE that has a visibility and stature commensurate with its responsibilities. At present, the library pro-

grams of the Office of Education are too far down the totem pole to command the support within the Office, the HEW Department and, indeed, the administration that they inherently deserve and that the Senate has repeatedly asserted they require. For the reasons I have just discussed, I fully support this provision of the bill.

Mr. HUGH SCOTT. Mr. President, last week the Senate showed sound wisdom and a strong sense of support for the orderly working of our system of government. The Senate adopted a substitute offered by myself and the distinguished majority leader for the amendment which had been proposed by the assistant minority leader.

That amendment we offered did not modify the substantive language of the Griffin amendment. But it did make clear that Congress would not try to arrogate to itself the determination of what appropriate remedies were to be ordered where it was a matter of the courts assuring the desegregation which they found required by the 5th and 14th amendments to the U.S. Constitution.

As the Senator from Alabama (Mr. ALLEN) was quoted in the Washington Post the following day, when he summarized the effect of this amendment, it makes clear that the Congress is offering to the courts a guideline as to the priority of remedies and the use of particular remedies, which we would prefer to see implemented.

But as adopted, the provisions are in no way intended to bind the courts, if in their own determination of what the 14th amendment and 5th amendment requires, they find that our preference may not be fully followed.

The Senate, thus, takes the posture that it is not trying to tell the courts what they can and cannot do, nor to tell them how to interpret the Constitution and the requirements of the 14th amendment. We have made our preferences clear, but we leave that task of enforcing the Constitution to them.

I am pleased the Senate saw fit to make that clear and I trust our conferees will not yield on that fundamental point in the conference.

Mr. PELL. Mr. President, there has been much discussion by the administration about the so-called "miles of redtape" and specific governmental organization within the Department of HEW, which enactment of this legislation would create. I believe it would be helpful to the Senate if I were to explain why the subcommittee chose to become so involved in this type of specific law and why we chose to enact various offices and bureaus within HEW.

I am sure every Senator here has had the misfortune of dealing with one of the many executive agencies under this administration and, I must admit, under previous administrations, which took an enacted statute and interpreted that statute against the stated legislative will and intent of the Congress. As chairman of the Education Subcommittee I have been appalled at their complete disregard for certain statutorily established commissions, their misinterpretation of student financial aid language, and, more inclusively, their endless reorganizations and realinements of offices and programs. We received reports that in 1 year alone there have been up to six different shifts of lines of authority and control with regard to one specific program. And this from an administration which prides itself on zero-defect management.

This problem of the executive branch ignoring the will of Congress is not limited to this administration. However, it has been used to a much greater extent, as the following chart will show:

A PARTIAL LIST OF PROGRAMS AUTHORIZED BUT UNIMPLEMENTED

1. International Education—Public Law 89-698 (1966).

2. Law School Clinical Experience, Networks for Knowledge, Education for Public Services—Public Law 90-575 (1968), last year of Johnson Administration; unimplemented by Nixon Administration.

3. Council on Equality in Education—Public Law 91-230 (1970).

4. Title X of the Higher Education Act of 1965—Public Law 92-318 (1972), Community Colleges and Occupational Education.

5. Sections 1202 and 1203 of the Higher Education Act of 1965—Public Law 92-318 (1972), State Postsecondary Planning Commissions. (Forced on the Administration by appropriations).

6. Ethnic Heritage Studies of the Higher Education Act of 1965—Public Law 92-318 (1972). (Forced on the Administration by appropriations).

7. Indian Education of the Higher Education Act of 1965—Public Law 92-318 (1972). (Forced on the Administration by appropriations; impounded funds freed by lawsuit).

8. Veterans' Cost of Instruction Allowance of the Higher Education Act of 1965—Public Law 92-318 (1972). (Forced on the Administration by appropriations; impounded funds freed by lawsuit).

My instructions to the staff as they were drafting the bill were to insure that the will of the Congress was carried out. This is sought to be accomplished by the enactment of certain internal HEW structures. I will be the first to admit that this is not as I would wish it, nor is this the best way "by which our system of government can operate." I would much rather have legislation which is broadly drawn and let the administration sketch in the organization. However, the blatant refusal of this administration to follow the will of Congress in many instances has necessitated this type of internal organization. There may be some so-called redtape involved for some Federal bureaucrats. However, I do not worry about Federal bureaucrats. I worry about these programs which the Congress has deemed necessary, and if the only way we can see them become functional is to create an internal organization, then that is the path we must follow.

Mr. TAFT. Mr. President, I voted to report the education amendments of 1974, S. 1539, from the Labor and Public Welfare Committee of which I am a member.

Overall, as reported, I believed it to be a good piece of legislation. However, in supplemental views, along with other Republican members of the committee, I expressed dissatisfaction with the "consolidation provisions." As reported by the committee, only 50 percent of the funds appropriated in excess of designated prior years would be used for consolidation of established programs. Fortunately, a namendment with my support was adopted by the Senate which would provide that all of the funds appropriated in excess of designated prior years could be used for consolidation purposes.

The bill, in addition to consolidating certain established categorical programs, also, after a 3-year trial period, would call for consolidation of certain programs to meet newly perceived needs. These programs are: the use of the metric system of measurements; education of gifted and talented children; community schools; career education; consumers' education—although this program has been authorized it has never been funded—and, women's educational equity.

I have long recommended that Federal assistance for elementary and secondary education be combined into a smaller, more manageable number of grant categories, in order to provide larger amounts of aid to problems of the highest priority.

I am disappointed in the title I formula adopted on the Senate floor for the allocation of funds to local educational programs and projects for educationally disadvantaged children. Under the floor-adopted formula, several counties in my State of Ohio do not fare too well. I voted against adoption of the amendment offered on the Senate floor, but unfortunately, we were not successful in maintaining the committee formula. Nonetheless, the challenge of educational deficits must continue to be elevated to a position of high national priority for the welfare of educationally disadvantaged children. The educational problems in America will never be resolved until the quality of education for all children, regardless of their social or economic status, attains a level commensurate with the demands of life in our complex society and offers the opportunity for the fulfillment of the potential abilities of all children.

I am pleased that the State administered programs for the handicapped, neglected and delinquent chilren, and migrant children remain as reported by the committee. Hopefully, the Senate will prevail in conference.

The educational goals of excellence and equality of opportunity to which I subscribe should apply to all American children regardless of whether they attend public or nonpublic schools. Therefore, I support the provision in the bill calling for what is commonly known as a "bypass" which authorizes the Commissioner of Education to bypass State or local school authorities where they are prohibited by State law from providing equitable participation for nonpublic school children, or where they fail to do so. The committee amendment would authorize a hearing before invocation of the bypass by the Commissioner, and would allow an expedited appeal by a State or local educational agency which desired judicial review of the Commissioner's decision.

Amendments to Public Laws 815 and 874 of the 81st Congress were adopted both in committee and on the floor.

Public Law 815 permits school construction assistance in federally impacted areas and areas experiencing major disasters. These programs would be extended through fiscal 1978.

Public Law 874 payments, commonly known as impacted aid, are slightly changed. Under current law, category "A" children—those whose parents live and work on Federal property—are entitled to payment at 100 percent of the local contribution rate, if the school district enrolls 25 percent or more of these children. This would continue. However, an amendment adopted on the Senate floor would protect the Federal payment for those children from any percentage reduction, called for in the committee bill, should there be inadequate appropriations.

Current law pays all "B" category children—those whose parents live or work on Federal property—50 percent of the district's local contribution. The committee bill distinguishes between rates for "B" military and "B" nonmilitary children.

The category of "C" children—those whose parents live and/or work in federally connected public housing—would be eligible for Federal payment as either "A" or "B" category children.

A floor amendment which I supported would provide for a transitional phasedown period for heavily impacted "B" districts so as to permit drastic payment reduction as well as postpone the effective date of these changes for one year. Under the committee, these changes would have been effective in the next fiscal year, which begins on July 1.

Continuation and expansion of the adult education provisions are very important. Through these programs, we are able to help adults prepare for and compete effectively for good jobs. Because many adults are not trained or educated to handle jobs requiring certain levels of education and relatively sophisticated skills, they are forced into lower paying occupations.

Regarding the bilingual education provisions in the bill, the congressional findings state that many of the children whose native tongue is not English have a cultural heritage which differs from that of English-speaking persons; that a primary means by which a child learns is through the use of such child's language and cultural heritage; that, therefore, large numbers of children of limited English-speaking ability have educational needs which can be met by the use of bilingual education methods and techniques; and, with which I could not agree more, all children benefit through the fullest utilization of multiple language and cultural resources.

I believe that it is imperative for the education system to prevent or offset educational deficiencies with special programs at the earliest possible age. To this end, I cosponsored an amendment to give the Assistant Secretary of Education authority to make contracts and grants for the purpose of teaching advanced mathematics to elementary schoolchildren.

As a member of the Senate Subcommittee on the Handicapped, and going back to my Ohio legislature experience, I am aware of the need and role of the Federal Government in helping the handicapped and heartily support the section of the bill which provides for education of the handicapped.

Of special interest to Ohioans, this section extends the authorization of appropriations for the operation of the National Center on Educational Media and Materials for the Handicapped, which is located at the Ohio State University. Established in June 1972, it will stimulate development and dissemination of much-needed instructional resources for handicapped individuals.

I have long called for expansion of the community school concept included in this bill. It attacks multiple community-related problems; it uses existing systems and facilities; and, it reflects the needs and wants of the local area. Under the community school program, the school becomes a neighborhood facility serving not only schoolchildren, but adults, senior citizens, community groups and the like with a full array of services.

Reading is the foundation upon which we build the other elementary educational programs. I welcome the emphasis in this bill on reading improvements. Regardless of what materials are used, one cannot build a strong house upon a weak foundation. If our children are to benefit from the many educational programs provided in this bill—they must be able to read.

As to the so-called busing provisions of the bill, I explained my position on these provisions and amendments thereto when the subject was considered on the floor on May 16, at page S8240 of the CONGRESSIONAL RECORD.

Mr. President, we bear no greater responsibility in a self-governing society than to the education of our citizens and I support this bill which continues, expands, and establishes many worthwhile educational programs toward the accomplishment of that goal.

STATUS OF ADVISORY COUNCIL EMPLOYEES

Mr. PELL. Mr. President, a question has been raised concerning the employees of advisory councils which advise respecting the administration of education programs. The law, with respect to these particular advisory councils, is a bit confusing because there are, in effect, two advisory council codes controlling their status: One is part D of the General Education Provisions Act and the other is the Federal Advisory Committee Act. Since the Federal Advisory Committee Act became law later than the advisory council code adopted for education programs, conflict between the two codes must necessarily be resolved in favor of the Federal Advisory Committee Act. Under the advisory council code for education programs, presidentially appointed advisory councils are generally authorized to appoint or otherwise obtain the service of such personnel which may be necessary to enable them to carry out their function without regard to provision of title V of the U.S. Code.

However, the Federal Advisory Committee Act contains language which the Comptroller General has construed to mean that advisory council employees are to be considered Federal employees within the meaning of Civil Service Laws. However, this language also makes clear that advisory council employees are not subject to agency controls under the Civil Service laws. On page 327 of the bill the language used is that the advisory council employees would be appointed and compensated at a rate not "in excess of that which such employee would receive if such employee were appointed subject to" the Civil Service laws.

This section makes clear that the Congress does not consider these employees to be civil servants in the ordinary sense. In addition, on page 327 of the bill there is a paragraph which states that:

> No provision of any law establishing, authorizing the establishment of, or controlling the operation of, an advisory council which is not consistent with the provisions of part D of the General Education Provisions Act shall apply to any advisory council to which such part D applies.

I am hopeful that this language and my explanatory statement will clarify this problem.

EXPLANATION OF SECTION 5(D) OF PUBLIC LAW 874, 81ST CONGRESS

Mr. PELL. Mr. President, I have received an inquiry from Joe W. Fleming, Esq., concerning the meaning of a certain phraseology in the proposed section 5(d) of Public Law 874, 81st Congress, in S. 1539. By way of explanation, I would say that existing law, in section 5(d)(2) of such Public Law 874, 81st Congress, prohibits Public Law 874 payments to any local educational agency in any State which takes such payments into consideration in its program of State aid for free public education or which distributes State aid money in such a manner that any local educational agency receives less money in State aid than it would receive were such local educational agency not receiving Public Law 874 payments.

This language was adopted in 1968 to prevent the States from substituting Federal funds for State funds in State aid programs.

In recent years States have been adopting State programs of aid for free public education which are designed to achieve equalized expenditures among local educational agencies. The prohibition in section 5(d)(2) of Public Law 874, 81st Congress, has, in some instances, resulted in windfalls for local educational agencies receiving Public Law 874 payments. For this reason the committee is recommending a very narrow exception to the existing rule under such section 5(d)(2). Under that recommendation a State may, in its State aid program, take into consideration Public Law 874 payments for two purposes—

First, in determining the relative financial resources available to local educational agencies in that State; and

Second, in determining the relative financial need of such agencies for the provision of free public education.

A State could be eligible for the exemption only if—

First, the State presently has in effect a program of State aid for free public education which is designed to equalize

expenditures for free public education among the local educational agencies of the State; and

Second, such program was adopted after 1972.

In Mr. Fleming's letter, the question of State aid programs adopted prior to June 30, 1972, was posed. My understanding of the problem is: what is the interpretation of the word "adopted." After reviewing the situation, I have come to the conclusion that any State aid equalization program which complies with existing law and which is revised to take advantage of the exemption created in the committee language would have to be revised extensively. Such revision would be so extensive that it would constitute the adoption of a substantially different State aid program from that which complies with existing law. Such a revision would in effect constitute the adoption of a new State aid program within the meaning of the new language. I hope that this explanation for the record and for the purposes of legislative history clarifies this point.

I ask unanimous consent that the letter from Mr. Fleming be inserted at this point in the RECORD.

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

FLEMING AND KREVOR,
Washington, D.C., April 10, 1974.

Hon. CLAIBORNE PELL,
Chairman, Subcommittee on Education, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR SENATOR PELL: I am writing on behalf of the Education Commission of the States, which our firm represents, to seek clarification of language in S. 1539, as reported by the Committee on Labor and Public Welfare, pertaining to the treatment of payments under Public Law 874 under state equalization programs. As you are aware, ECS has been active in encouraging and assisting the reform of school finance systems in the states. The current prohibition in Section 5(d)2 of P.L. 874 has posed an impediment to the formulation of equalization programs by the states. Testimony on this issue was presented on behalf of ECS by State Representative Tom Jenson of Tennessee and Governor Calvin L. Rampton of Utah during the hearings on S. 1539.

In response, the Committee included in S. 1539, as reported, a modification of Section 5(d)2 of Public Law 874 to permit states to take into account payments under Public Law 874 to local educational agencies in establishing the financial resources and need of such agencies for state aid under equalization programs. The language in the Committee bill allows impact aid funds to be so regarded by state law "if the state has in effect a program of state aid for free public education for any fiscal year, which program was adopted after June 30, 1972, and is designed to equalize expenditures for free public education among the local educational agencies of that state, . . ." The reference to June 30, 1972 is apparently derived from Section 11 of Public Law 93–150 which was enacted in 1973 to accommodate the states of Kansas and North Dakota, which had enacted new school finance laws. At least two other state equalization plans, adopted since June 30, 1972, take into account impact aid payments in determining local educational agency resources and computing state aid. Both of these would be covered by the Committee bill.

The language in the Committee bill does, however, pose a problem for states which adopted equalization programs prior to June 30, 1972. Because of the present prohibition in Section 5(d)2 these plans do not recognize impact aid payments as resources of local educational agencies with the effect that impacted districts generally receive disproportionately high state aid to the prejudice of other districts in the State. The state of Minnesota, which totally revised its school finance system in 1971, is a good example.

If the term "adopted" in Section 5(d)2, as it would be revised by the Committee bill, is construed to foreclose modifications to equalization plans adopted prior to June 30, 1972, it is patently unfair to states which have been leaders in school finance reform. If, on the other hand, "adopted" is intended by the Committee to cover any amendment of a state school finance system which is designed to move toward equalized expenditures (as defined in the bill), the effect is far more equitable and rational. This interpretation would permit states to amend existing equalization plans to iron out the disequalizing effects created by Section 5(d)2 as it currently exists.

It would be very helpful to have an indication of the Committee's view on this issue.

Sincerely yours,

JOE W. FLEMING.

GEORGE F. WILL ON THE "SPIRIT" OF THE BROWN DECISION

Mr. ALLEN. Mr. President, it seems appropriate to me, during our discussion of the elementary and secondary education amendments debate, and the consideration of the various proposals to halt the wheeling about, hither and yon, of schoolchildren, to consider all points of view about the trend of judicial orders which have brought about the busing nightmare.

George F. Will, writing a column entitled "Distorting the Spirit of the Brown Decision," in the May 17 Washington Post, makes some excellent observations about the genesis of the busing problem. Believing that all Senators will be interested in Mr. Will's comments, I ask unanimous consent that the article be printed in the RECORD.

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

DISTORTING THE SPIRIT OF THE BROWN DECISION

(By George F. Will)

Today there is a remarkably broad national consensus supporting the spirit of the *Brown v. Board of Education* school desegregation decision handed down by the Supreme Court 20 years ago today.

But there is an equally broad consensus against the policies of coerced integration—especially busing—that are presented as the logical extension of that decision.

Brown was a libertarian decision which originally meant only this: No government may compel the separation of the races. But today Brown is encrusted with 20 years' worth of derivative decisions that are anything but libertarian.

Brown insisted that segregation which then meant *enforced* racial separation, damaged the "hearts and minds" of minority children. The decision cited some scholars' empirical studies concerning the deleterious impact of segregation on "educational opportunities."

Brown was the result of the intersection between a novel interpretation of the Fourteenth Amendment's equal protection of the law provision, and this social science evidence.

Although *Brown* turned on empirical evidence that enforced separation—was harmful—and hence unconstitutional—it was only a short, easy, irresistible step to the doctrine that any separation, compelled or otherwise, is unconstitutional.

In politics, controlling the relevant vocabulary is half the battle. In a historic semantic sleight-of-hand, civil rights activists made the word "segregation" a synonym for "racial isolation," even when the isolation is dictated by demographic factors.

Soon the civil rights thrust begun by *Brown* was transmogrified. What began as a libertarian thrust against coercive segregation laws became a drive to use benevolent coercion on behalf of integration. Many people who had applauded *Brown* parted company with the civil rights movement, insisting that the Constitution stipulates a free society, not necessarily an integrated society.

Today there still is no substantial evidence to support the crucial empirical claim in *Brown*—the claim that there is a favorable correlation between the mixed racial composition of schools and the academic attainment of pupils. But events have their own logic, and by now no mere lack of evidence can derail the drive for coerced integration.

Brown held that "separate but equal" educational facilities are inherently unequal. We would be better off today if the court had just baldly asserted that enforced separation of the races *anywhere* is unconstitutional, and had asserted this without reference to empirical evidence concerning the psychic damage wrought by enforced separation.

That is, the court should have asserted that all American laws must be color-blind. That, after all, was the spirit of *Brown*.

True, the framers and ratifiers of the Fourteenth Amendment did not intend anything like a sweeping assertion of color-blindness. But they did not intend to outlaw school segregation either.

Had a sweeping mandate of color-blindness been written into the letter of *Brown*, we would not now be faced with the widespread perversion of the spirit of the decision.

A 1954 color-blindness mandate would have prevented the government from sliding from a libertarian antisegregation stand into a coercive program of forced integration.

If when halting forced separation of the races the court had asserted the noble principle of color-blindness, the government today would not be violating that principle—with busing and other measures—in its attempts to force the races together.

Because color-blindness was not asserted, the 1954 decision that no black child should be excluded from a school on the basis of race has led, through subsequent decisions, to the wholesale assignment of children, white and black, to schools on the basis of race. Forced busing to achieve integration would be impossible under a color-blind legal system because before you can bus young American citizens you first have to sort them out along racial lines.

Lacking a color-blindness mandate, we are plagued by policies of "affirmative action" on behalf of "reverse discrimination" to impose "benevolent quotas" in employment, university admission and elsewhere. Today American law is becoming less color-blind.

Today the broad public consensus against segregation, as originally understood, has been eclipsed by an emerging judicial consensus that predominantly black neighborhood schools are impermissible, even when they do not result from anyone's segregative intent.

And the civil rights movement, which was a freedom movement when striking down forced segregation, is no longer a freedom-expanding movement. Perhaps its new goal—integration—can be achieved by busing and other coercion, and conceivably such coercion is justified.

But there is no blinking the fact that forced busing to achieve integration is the most substantial new infringement of American freedom since World War II. And it is not prudent to ignore Justice Louis Brandeis' warning: "Experience should teach us to be most on our guard to protect liberty when the government's purposes are beneficent."

S. 1539 AND PROGRAM CONSOLIDATION

Mr. DOMENICI. Mr. President, as I have already mentioned, I intend to vote for passage of the education bill, S. 1539, when the Senate considers final action on this measure later today. Yet, even though I plan to vote for S. 1539, I have grave reservations about certain aspects of this bill. I have previously spoken out about impact aid funding as the program relates to State equalization formulas. In addition to those reservations, however, I feel that the Committee on Labor and Public Welfare and the Senate have missed an important opportunity to do more regarding the badly needed consolidation of the numerous categorical education programs administered by the U.S. Office of Education.

From the information I receive from State and local educators in New Mexico, I am convinced that a large number of our local school districts are literally awash in a sea of categorical program regulations, applications, guidelines, fiscal reports, and other project reports. There are so many categorical programs that I am told that local educators often cannot keep track. In fact, it seems that the Office of Education itself has difficulty in determining exactly how many categorical programs currently authorize aid for elementary and secondary educational purposes. Unfortunately, even when local educators do finally receive a grant that they feel they can use, I have the impression that the specific categorical nature of many programs is often too restrictive for local educators trying to meet unique local educational needs.

Now as I understand the committee bill, it essentially authorizes three kinds of consolidations. In the first instance, the bill authorizes a single, simplified State application for certain programs including ESEA title I—education of the disadvantaged, ESEA title II—textbooks and library resources, ESEA title III—Innovation, NDEA title III—National Defense Education Act—Equipment, and the Adult Education and Vocational Education Acts. This kind of simplification of the State application and reporting process seems to me a step in the right direction and it should help out our State agency educators. However, it remains unclear to me exactly how much such administrative consolidation at the State level will help our overburdened local administrators who will still have to know the specifics concerning each program.

The second consolidation in the committee bill would combine six State-administered programs—ESEA title II, ESEA title III—except Section 306, ESEA title V—Strengthening State Educational Agencies, NDEA title III, NDEA title V—Guidance, Counseling, and Testing, and the EPDA part B-2—Education Professions Development Act—Attracting Teachers—into a new ESEA title VI: "Assistance to the States for Supplemental, Auxiliary, and Supportive Educational Services." Under this new title VI, funds would be available for broad purposes similar to those in the existing six categorical programs.

Now while this second consolidation has the potential to help alleviate at least some of the burdens imposed on local educators by categorical programs, this consolidation can only occur if the new title VI is advance funded and only in those years for which the aggregate title VI appropriation exceeds $307,302,813. Thus, this second consolidation—which involves only a half-dozen programs to begin with—may never occur at all if these two preconditions are not met. Additionally, the off-again/on-again potential in the bill could well leave local educators facing the task of remaining knowledgeable on both the consolidated and nonconsolidated versions of these six programs.

The third and final consolidation in S. 1539 establishes a new Special Projects Act involving the consolidation of a number of discretionary grant programs including the Cooperative Research Act, the Commissioner's 15 percent discretionary fund under ESEA title III, the Education Professions Development Act—except the Teacher Corps, and the Dropout Prevention, Health and Nutrition, and Corrective Education sections under ESEA title VIII. While the statement of purpose for the Special Projects Act is broad, at the same time this new act also authorizes six new categorical programs and earmarks 50 percent of any funding for these new categoricals which include: First, education for the use of the metric system of measurements; second, education of gifted and talented children; third, community schools; fourth, career education; fifth, consumers' education; and sixth, women's educational equity.

Now it is true, Mr. President, that I am a cosponsor of the reading title—title VII—within the bill. However, I wish to underscore as forcefully as possible that I would much prefer if we could find a way to achieve important educational objectives without the proliferation of narrowly categorical programs which both burden and restrict the local educational process. I am not advocating that the Congress adopt such wholesale consolidation as was outlined under the administration's special educational revenue-sharing proposal—the Better Schools Act. Yet at the same time, I, for one, am personally disappointed that S. 1539 does not do more real and unqualified program consolidation.

THE 874 FUNDS AND STATE EQUALIZATIONS

Mr. President, I am somewhat disturbed to see that with the passage of this bill, we are approving the full use of 874 funds for State equalization programs.

Please do not misunderstand me. I believe the State equalization concept to be an essentially good one, and I realize its day has come. In particular, I am pleased that New Mexico has been working on this problem prior to this time in an effort to utilize the available moneys in the State in as equitable a way as possible.

Many of the members of the committee have informed me that any amendment to S. 1539 to change the provision referring to impact aid as it relates to State equalization programs would not have the committee support at this time. The provision as outlined in the bill is preferred by the majority. I understand the membership will be open to possible changes later if the plan was not working in some States such as in New Mexico.

I am not certain, however, that the State equalization formula in my own State, and throughout the country, has taken into consideration the very difficult problems such as those faced by school districts with a high Indian population—school districts such as the Gallup-McKinley school system in New Mexico. This particular district is one I am most familiar with, and I would like to use it as an example.

Over the past 10 years, there has been a 50-percent increase in the number of Indian student enrollees. I understand it costs any school district in New Mexico approximately $716 to $816 per year to educate an Indian child. Yet the State equalization formula now allots $616.50 for each student each year, no matter the circumstances. Indian youngsters come to school with exaggerated cultural and economic disadvantages. In New Mexico, the Navajo child usually knows only his native language upon entrance in kindergarten. Yet these same youngsters are asked to jump into the typical American school at a very early age to compete as though their backgrounds, language, and attitudes toward education were the same as their Anglo classmates. This has been proven to be an unreasonable assumption. A study conducted 3 or 4 years ago called the National Study of Indian Education revealed that in the Southwest region of the country 39 percent of the Indian students are school dropouts before the 12th grade. The national average is closer to 10 percent. These comparative figures are certainly an indication of special problems for the Indian child.

It is obvious that whatever delight these children exhibited for learning in kindergarten, it is quickly squashed as they wander through an educational system that may try, but usually cannot take the time, to direct itself to these special educational problems.

Congress also sensed this need when during the 90th and 91st Congresses, extensive hearings were held on the problems of the Indian child. In addition, during the debate on the Indian Education Act in 1972, the need was further documented and legislation was subsequently passed in an attempt to rectify the situation. It has helped, but it is not yet enough.

I have said that I am not certain that State equalization programs adequately handle these special problems. I am not certain $616.50 per student is enough for our young native Americans in my State. I am not certain that we have the best approach to protect this serious need.

I am aware that equalization formulas take into account special funding for Indian education through the Johnson-

O'Malley program, title I funds, and most recently the Indian Education Act, but I do think that equalization should also take into consideration the truly unique problems facing our districts with high numbers of Indian students and consider if those problems are being met. I am well aware that there is a hold-harmless clause in S. 1539. I am sure it was with good intentions that this clause was added to the bill. But in a school district such as the Gallup-McKinley system there has been an influx of 200 Indian students over the past year. With only the same funds from last year, there would not be money to go around this year.

These past several weeks, I have debated the introduction of an amendment to S. 1539, an amendment which I felt would provide additional necessary moneys to school districts such as Gallup-McKinley. I had planned to support the State equalization clause of the bill, except in the instance of impact aid funds designated for Indian students. However, on the advice of New Mexico's State Director for Public Finance, Mr. Harry Wulgalter, I will wait such action. Dr. Walgalter assured me that if the State equalization formula were left intact in this bill, he would do everything possible in the ensuing year to adjust New Mexico's formula to meet the type of problem Gallup-McKinley's district has. I appreciate this pledge of understanding and cooperation from this State official. I trust that the State will also recognize the peculiar, and similar, problems of Magdalena, Cuba, Jemez Springs, Bloomfield, Tularosa, and Central Consolidated school districts.

The House overwhelmingly agreed to allow 874 funds to be used by States in equalization formulas to supplement local income as they are unable to raise tax revenues themselves on Federal lands. I realize that impact aid moneys were not intended to be a bonus, but I am convinced that certain school districts have additional educational burdens. I will urge the State legislature in my own State to take these facts into consideration when distributing educational moneys. Hopefully, the State will meet its responsibility in this area. If not, I would most certainly go that "extra mile" in this body to protect the educational rights of our Indian youngsters in the future. I expect the committee will also follow these events when considering subsequent education bills.

BUSING AMENDMENTS

Mr. PEARSON. Mr. President, in the past few days the Senate voted on matters of paramount importance to the Nation's 46 million schoolchildren. At issue was the challenge of providing quality education and equal educational opportunity for all Americans.

As I have stated in the past, the busing of children from schools near their homes to those far away so that an arbitrary number of black and white pupils may sit in the same classroom is not the way to achieve a goal all Americans share. I oppose the busing of children solely to achieve some numerical racial balance in our schools.

Nevertheless, I oppose even more the creation and maintenance of segregated school systems. During my years in the Senate, I have supported consistently legislation to provide all Americans the right to equal opportunity in all segments of our society. To do less would, I believe, violate the faith which I place in the equal protection provisions of the Constitution.

Mr. President, I opposed the adoption of the amendment offered by my distinguished colleague from Florida, because after long and careful consideration I concluded that it was essentially unconstitutional. This view of the inherent unconstitutionality of the amendment is upheld by the majority of legal scholars across the country. This amendment would have imposed on the courts a restriction which would have prevented due process and which would have required the courts to ignore their duties under the law.

Nevertheless, Mr. President, I believe that conditions on busing which meet the test of constitutionality are necessary and desirable. Therefore, in the debate on S. 1539 I have supported amendments which include the following provisions:

A prohibition of Federal funds for court-ordered busing unless specifically requested by appropriate local school officials;

A restriction on Federal officials to coerce local school officials to use State or local funds in the implementation of a busing program, when such program would cause substantial risk to the health and safety of schoolchildren.

A postponement of all court-ordered busing until all appeals had been exhausted;

A requirement that a court or school district implement busing only if all other remedies fail to achieve a unitary school system;

A prohibition on busing if it involves transportation between two or more adjoining school districts;

The requirement that no busing program be implemented until the start of the next school year.

As a result of these conditions, busing can be used only as an extreme and last resort and as the only final alternative to the continuation of a segregated and, therefore, unconstitutional school system.

Mr. President, I believe the provisions of S. 1539 which I have supported constitute a fair and equitable approach to the problem of meeting the constitutional mandate providing equal educational opportunity to all Americans. However, we must recognize that this cannot be the final answer. In the coming months and years we must continue our efforts of finding new ways to forever cast the ominous shadow of segregation behind us. I have great hope that a solution to this perplexing issue can be attained; that we can find an answer which all Americans can support; and that the most fundamental and far-reaching promises of our constitutional system can be maintained.

Mr. MOSS. Mr. President, I support the basic provisions of S. 1539, the Education Amendments of 1974.

My colleagues who serve on the Education Subcommittee and the Labor and Public Welfare Committee are to be commended for their dedication to quality education. Following 1½ years' work, and after numerous days of public hearings, the committee has put together an education package that meets the varied and diverse educational needs of this Nation. I commend the efforts of those involved directly in writing the most comprehensive education bill to come before the Senate.

S. 1539 is a complex bill. It covers many facets of education. If one examines the distribution system for the money that goes to the many school districts in the United States, or examines the provisions for impact aid, adult education, consolidation of various education programs, education of the handicapped, a national reading improvement program, and student transportation, an appreciation of the work of the Labor and Public Welfare Committee is easily achieved.

The distinguished floor manager of this bill, Senator PELL, should be singled out for his work in providing a workable and effective education bill. His understanding and insight on this Nation's education issues have helped to meet our education needs. S. 1539 is an indication of his dedication and assistance to quality education.

Mr. President, my correspondence from Utah indicates widespread support for S. 1539. Commendations from education, business, and labor have been common. Although I appreciate all support for this legislation, I want to single out that which has come to me from the Utah educational community. Members of the Utah State Board of Education feel S. 1539 is a "strong bill." Educators from throughout Utah have indicated support for the education philosophy in S. 1539. Many who have written have been so impressed with the committee report, they have not wanted any amendments attached to the committee bill. This is indeed a compliment to the work of those who were involved in putting this legislation together.

The importance of S. 1539 is evident from the debate and amendments that have been offered to it. Although I have not supported every amendment, I have appreciated the thought-provoking debate on education that has occurred in the Senate over the past week. Such discussion has helped to create the education bill on which we are voting this afternoon.

My record indicates the importance which I place on education. Without the proper cultivation of our children's minds, the other natural resources of this Nation are meaningless. It is tragic to shortchange ourselves when it comes to education. No matter what indignities a man may suffer, if he has the ability to think clearly, and the education to dispel fear and ignorance, that man is rich indeed.

If the dignity of the individual is to be achieved, a quality education for our young people is necessary. S. 1539 provides the means by which this objective can be achieved. This bill will enable educators to instill in young people the

need of an informed citizenry—a citizenry that can express itself through the democratic process in a constructive and forthright manner. This bill will allow many young people to be exposed to the world in which they live. Such exposure can enable the ideal of an informed citizenry to become a reality.

I do not think it necessary for me to go into each section of this bill. My voting record, and the amendments that I have cosponsored, provide a record of my support of quality education for all young Americans.

Historically, Utah has placed great emphasis on education. Utah's early pioneers established a good educational program. This program has expanded steadily to meet the changing times. Utah's educational system benefits and enriches the lives of the young people of Utah and provides a means by which they can meet the challenges of the future. This bill will aid Utah in this endeavor.

Mr. President, in conclusion, I support very strongly S. 1539. I hope that my colleagues will also support it. This legislation is worthy of the support of the entire Senate. A good balance has been struck, after careful consideration, between the education alternatives that have been given. We, as Senators, can be proud of the overall education concepts encompassed in this important legislation.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that rule XII be waived and that, as provided in the unanimous-consent agreement, the Senate now proceed to third reading and final passage of H.R. 69, with the vote to run for 15 minutes.

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

The question is on the third reading of S. 1539.

The bill (S. 1539) was read the third time.

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of H.R. 69, which the clerk will read by title.

The legislative clerk read as follows:

Calendar No. 734, H.R. 69, an act to extend and amend the Elementary and Secondary Education Act of 1965, and for other purposes.

The PRESIDING OFFICER. Under the unanimous-consent agreement, the Senate will proceed to vote on the motion to strike out all after the enacting clause of the House bill and insert in lieu thereof the language of S. 1539 as read the third time.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the third reading of H.R. 69.

The bill was read the third time.

The PRESIDING OFFICER. The question is on the final passage of H.R. 69.

Mr. JAVITS. Mr. President, I ask for the yeas and nays.

Mr. HUMPHREY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HUMPHREY. The House bill as amended, or the House bill?

The PRESIDING OFFICER. The House bill as amended by the Senate substitute.

Mr. JAVITS. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. HANSEN (after having voted in the negative). Mr. President, on this vote I have a pair with the Senator from New Mexico (Mr. MONTOYA). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I, therefore, withdraw my vote.

Mr. FANNIN (after having voted in the negative). On this vote I have a pair with the Senator from Louisiana (Mr. JOHNSTON). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I, therefore, withdraw my vote.

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 Louisiana (Mr. JOHNSTON), the Senator from Wyoming (Mr. MCGEE), the Senator from New Mexico (Mr. MONTOYA), and the Senator from Michigan (Mr. HART) are necessarily absent.

I further announce that if present and voting, the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), and the Senator from Wyoming (Mr. MCGEE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY) is necessarily absent.

I also announce that the Senator from New Hampshire (Mr. COTTON) and the Senator from Hawaii (Mr. FONG) are absent on official business.

I further announce that the Senator from North Dakota (Mr. YOUNG) is absent to attend the funeral of a relative.

I further announce that, if present and voting, the Senator from Hawaii (Mr. FONG) and the Senator from North Dakota (Mr. YOUNG) would each vote "yea."

The result was announced—yeas 81, nays 5, as follows:

[No. 212 Leg.]

YEAS—81

Abourezk	Ervin	Nelson
Aiken	Griffin	Nunn
Allen	Gurney	Packwood
Baker	Hartke	Pastore
Bartlett	Haskell	Pearson
Bayh	Hatfield	Pell
Beall	Hathaway	Percy
Bellmon	Hollings	Proxmire
Bennett	Hruska	Randolph
Bentsen	Huddleston	Ribicoff
Bible	Hughes	Roth
Biden	Humphrey	Schweiker
Burdick	Jackson	Scott, Hugh
Byrd, Harry F., Jr.	Javits	Scott, William L.
Byrd, Robert C.	Kennedy	Sparkman
Cannon	Long	Stafford
Case	Magnuson	Stennis
Chiles	Mansfield	Stevens
Clark	Mathias	Stevenson
Cook	McClellan	Symington
Cranston	McClure	Taft
Curtis	McGovern	Talmadge
Dole	McIntyre	Tower
Domenici	Metcalf	Tunney
Dominick	Metzenbaum	Weicker
Eagleton	Mondale	Williams
Eastland	Moss	
	Muskie	

NAYS—5

Brock	Goldwater	Thurmond
Brooke	Helms	

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Fannin, against
Hansen, against

NOT VOTING—12

Buckley	Fulbright	Johnston
Church	Gravel	McGee
Cotton	Hart	Montoya
Fong	Inouye	Young

So the bill (H.R. 69) was passed.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PELL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PELL. Mr. President, I ask unanimous consent that, in the engrossment of the amendment of the Senate to the act, H.R. 69, the Secretary of the Senate be authorized to make such technical and minor changes in such amendment, including, but not limited to, changes in section and subsection designations and cross-references thereto as may be necessary to reflect the amendments made by the Senate to S. 1539, the text of which is embodied in such amendment to H.R. 69.

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

Mr. PELL. Mr. President, I ask unanimous consent that H.R. 69 be printed as passed by the Senate, and be printed in the CONGRESSIONAL RECORD as passed by the Senate.

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

H.R. 69

An act to extend and amend the Elementary and Secondary Education Act of 1965, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America assembled, That this Act, with the following table of contents, may be cited as the "Education Amendments of 1974".

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GENERAL PROVISIONS

SEC. 2. (a) As used in this Act—

(1) the term "Secretary" means the Secretary of Health, Education, and Welfare;

(2) the term "Assistant Secretary" means the Assistant Secretary of Health, Education, and Welfare for Education; and

(3) the term "Commissioner" means the Commissioner of Education;

unless the context of such use requires another meaning.

(b) Unless otherwise specified, the redesignation of a title, part, section, subsection, or other designation by any amendment in this Act shall include the redesignation of all references to such title, part, section, subsection, or other designation in any Act or regulation, however styled.

(c) (1) Unless otherwise specified, each provision of this Act and each amendment made by this Act shall be effective on and after the sixtieth day after the enactment of this Act.

(2) In any case where the effective date for an amendment made by this Act is expressly stated to be effective after June 30, 1973, or on July 1, 1973, such amendment shall be deemed to have been enacted on June 30, 1973.

(d) If any provision of, or any amendment made by, this Act is held invalid by reason of being inconsistent with the Constitution, all provisions of this Act and amendments made by this Act which are separable from such invalid provision or amendment shall remain in effect. If any such provision or amendment is held invalid in one or more applications of such provision or amendment, such provision or amendment shall remain in effect in all valid applications which are separable from any such application.

NATIONAL POLICY WITH RESPECT TO EQUAL EDUCATIONAL OPPORTUNITY

SEC. 3. Recognizing that the Nation's economic, political, and social security require a well-educated citizenry, the Congress (1) reaffirms, as a matter of high priority, the Nation's goal of equal educational opportunity, and (2) declares it to be the policy of the United States of America that every citizen is entitled to an education to meet his or her full potential without financial barriers.

POLICY WITH RESPECT TO ADVANCE FUNDING OF EDUCATION PROGRAMS

SEC. 4. The Congress declares it to be the policy of the United States to immediately and continually implement section 412 of the General Education Provisions Act, relating to advance funding for education programs, so as to afford responsible State, local, and Federal officers adequate notice of available Federal financial assistance for education authorized under this and other Acts of Congress.

WHITE HOUSE CONFERENCE ON EDUCATION

SEC. 5. (a) The President is authorized to call and conduct a White House Conference on Education in 1977 (hereafter in this section referred to as the "Conference") in order to stimulate a national assessment of the condition, needs, and goals of education and to obtain from a group of citizens broadly representative of all aspects of education, both public and nonpublic, a report of findings and recommendations with respect to such assessment.

(b) (1) In carrying out the provisions of this section, participants in conferences and other activites at local, State, and Federal levels are authorized to consider all matters relevant to the purposes of the Conference set forth in subsection (a), but shall give special consideration to the following:

(A) The implementation of the policy set forth in section 3.

(B) The means by which educational systems are financed.

(C) Preschool education (including child care and nutrition programs), with special attention to the needs of disadvantaged children.

(D) The adequacy of primary education in providing all chidren with the fundamental skills of communication (reading, writing, spelling, and other elements of effective oral and written expression) and mathematics.

(E) The effectiveness of secondary education in preparing students for careers, as well as for postsecondary education.

(F) The place of occupational education (including education in proprietary schools) in the educational structure and the role of vocational and technical education in assuring that the Nation's requirements for skilled manpower are met.

(G) The structure and needs of postsecondary education, including methods of providing adequate levels of student assistance and institutional support.

(H) The adequacy of education at all levels in meeting the special educational needs of such individuals as handicapped persons, economically disadvantaged, racially or culturally isolated children, those who need bilingual instruction, and gifted and talented children.

(I) Ways of developing and implementing expanded educational opportunities for adult at the basic and secondary education equivalency levels.

(J) The contribution of nonpublic primary and secondary education in providing alternate educational experiences for pupils and a variety of options for parents in guiding their children's development.

(2) Participants in conference activities at the State and local levels are authorized to narrow the scope of their deliberations to the educational problems which they consider to be most critical in their respective areas, but shall be encouraged by the National Conference Committee (established pursuant to subsection (c)) to consider such problems in the context of the total educational structure.

(c) (1) There is established a National Conference Committee (hereafter in this section referred to as the "Committee"), composed of not more than thirty-five members (of whom not more than twelve shall be educators) who are broadly representative of the public interest in education. The members of the Committee shall be appointed by the President, who shall, from among such members, designate a Chairman and a Vice Chairman.

(2) (A) The Committee shall provide guidance and planning for the Conference and shall make a final report (and such interim reports as may be desirable) of the results, findings, and recommendations of the Conference to the President and to the Congress not later than December 1, 1977.

(B) The Committee is authorized to provide such assistance as may be necessary for State and local conference activities in preparation for the National Conference.

(3) The Commissioner shall support the activities of the Committee by providing technical assistance, advice, and consultation.

(4) Members of the Committee shall serve without compensation, but may receive travel expenses (including per diem in lieu of subsistence) as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently, while employed in the business of the Committee away from their homes or regular places of business.

(5) The Committee is authorized to appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive civil service, a Conference Director and such professional technical, and clerical personnel as may be necessary to assist in carrying out its functions under this section.

(d) (1) From the sums appropriated pursuant to subsection (e) the Commissioner is authorized to make a grant to each State, upon application of the Governor thereof, in order to assist in meeting the costs of that State's participation in the Conference program (including the conduct of conferences at the State and local levels).

(2) Grants made pursuant to paragraph (1) shall be made only with the approval of the Chairman of the Committee.

(3) Funds appropriated for the purposes of this subsection shall be apportioned among the States by the Commissioner in accordance with their respective needs for assistance under this subsection, except that no State shall be apportioned more than $75,000 nor less than $25,000.

(e) There are authorized to be appropriated, without fiscal year limitations, $10,000,000 to carry out the purposes of this section; and sums so appropriated shall remain available for expenditure until June 30, 1978.

(f) For the purposes of this section, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

POLICY OF THE UNITED STATES WITH RESPECT TO MUSEUMS AS EDUCATIONAL INSTITUTIONS

SEC. 6. The Congress, recognizing—

(1) that museums serve as sources for schools in providing education for children,

(2) that museums provide educational services of various kinds of educational agencies and institutions and institutions of higher education, and

(3) that the expense of the educational services provided by museums is seldom borne by the educational agencies and institutions taking advantage of the museums' resources,

declares that it is the policy of the United States that museums be considered educational institutions and that the cost of their educational services be more frequently borne by educational agencies and institutions benefiting from those services.

POLICY OF THE UNITED STATES WITH RESPECT TO CAREER EDUCATION PROGRAMS FOR DISADVANTAGED CHILDREN

SEC. 7. It is the intent of the Congress to encourage the use of title I funds for appropriate career education programs for disadvantaged children.

TITLE I—AMENDMENTS TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

AMENDMENTS TO TITLE I OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965—SPECIAL EDUCATIONAL PROGRAMS AND PROJECTS FOR EDUCATIONALLY DEPRIVED CHILDREN

SEC. 101. (a) (1) Section 102 of title I of the Elementary and Secondary Education Act of 1965 is amended to read as follows:

"DURATION OF ASSISTANCE

"SEC. 102. During the period beginning July 1, 1973, and ending June 30, 1978, the Commissioner shall, in accordance with the provisions of this title, make payments to State educational agencies for grants made on the basis of entitlements created under this title.".

(2) (A) (i) (I) Such title I is amended by inserting immediately after the heading of part A of the following new heading:

"Subpart 1—Grants to Local Educational Agencies"

(II) Section 103(a) of such title I is amended to read as follows:

"SEC. 103. (a) (1) There is authorized to be appropriated for each fiscal year for the purpose of this paragraph 3 per centum of the amount appropriated for such year for payments to States under section 143(a) (other than payments under such section to jurisdictions excluded from the term 'State' by this subsection, and payments under subpart 2 of this part), and there shall be authorized to be appropriated such additional sums as will assure at least the same level of funding under this title as in fiscal year 1973 for the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and to the Secretary of the Interior for payments pursuant to paragraphs (1) and (2) of subsection (d). The amount appropriated pursuant to this paragraph shall be allotted by the Commissioner (A) among the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for grants under this part, and (B) to the Secretary of the Interior in the amount necessary (i) to make payments pursuant to paragraph (1) of subsection (d), and (ii) to make payments pursuant to paragraph (2) of subsection (d). The grant which a local educational agency in the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands is eligible to receive shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this title.

"(2) In any case in which the Commissioner determines that satisfactory data for that purpose are available, the grant which a local educational agency in a State shall be eligible to receive under this part for a fiscal year shall (except as provided in paragraph (3)) be determined by multiplying the number of children counted under subsection (c) by 40 per centum of the amount determined under the next sentence. The amount determined under this sentence shall be the average per pupil expenditure in the State except that (A) if the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, such amount shall be 80 per centum of the average per pupil expenditure in the United States, or (B) if the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, such amount shall be 120 per centum of the average per pupil expenditure in the United States. In any case in which such data are not available, subject to paragraph (3), the grant for any local educational agency in a State shall be determined on the basis of the aggregate amount of such grants for all such agencies in the county or counties in which the school district of the particular agency is located, which aggregate amount shall be equal to the aggregate amount determined under the two preceding sentences for such county or counties, and shall be allocated among those agencies upon such equitable basis as may be determined by the State educational agency in accordance with basic criteria prescribed by the Commissioner.

"(3) (A) Upon determination by the State educational agency that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children described in clause (C) of paragraph (1) of subsection (c), who are living in institutions for neglected or delinquent children, the State educational agency shall, if it assumes responsibility for the special educational needs of such children, be eligible to receive the portion of the allocation to such local educational agency which is attributable to such neglected or delinquent children, but if the State educational agency does not assume such responsibility, any other State or local public agency, as determined by regulations established by the Commissioner, which does assume such responsibility shall be eligible to receive such portion of the allocation.

"(B) In the case of local educational agencies which serve in whole or in part the same geographical area, and in the case of a local educational agency which provides free public education for a substantial number of children who reside in the school district of another local educational agency, the State educational agency may allocate the amount of the grants for those agencies among them in such manner as it determines will best carry out the purposes of this title.

"(4) For purposes of this subsection, the term 'State' does not include the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.".

(ii) Section 103(b) of such title I is amended by striking out "aged five to seventeen, inclusive, described in clauses (A), (B), and (C) of the first sentence of paragraph (2) of subsection (a)" and inserting in lieu thereof "counted under subsection (c)".

(B) Section 103(c) of such title I is amended to read as follows:

"(c) (1) The number of children to be counted for purposes of this section is the aggregate of (A) the number of children aged five to seventeen, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraph (2) (A), (B) two-thirds of the number of children aged five to seventeen, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (2) (B), and (C) the number of children aged five to seventeen, inclusive, in the school district of such agency living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursuant to section 123 for the purposes of a grant to a State agency, or being supported in foster homes with public funds.".

(C) (i) Subsection (d) of section 103 is redesignated as paragraph (2) of subsection (c).

(ii) The first sentence of such paragraph (2) as redesignated by this section is amended to read as follows:

"(A) For purposes of this section, the Commissioner shall determine the number of children aged five to seventeen, inclusive, from families below the poverty level on the basis of the most recent satisfactory data available from the Department of Commerce for local educational agencies (or, if such data are not available for such agencies, for counties); and in determining the families which are below the poverty level, the Commissioner shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census.".

(iii) The second sentence of paragraph (2) of such subsection (c) (as redesignated by this section) is repealed.

(iv) The third sentence of such paragraph (2) is amended to read as follows:

"(B) For purposes of this section, the Secretary of Health, Education, and Welfare shall determine the number of children aged five to seventeen, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census for a nonfarm family of four in such form as those criteria have been updated by increases in the Consumer Price Index. The Secretary shall determine the number of such children and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of January of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the second calendar year preceding such month of January) or, to the extent that such data are not available to him before April 1 of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to him at the time of such determination.".

(v) The fourth sentence of such paragraph (2) (as redesignated by this section) is amended by striking out the word "When" and inserting in lieu thereof the following: "(C) When"; and by striking out "having an annual income less than the low-income factor (established pursuant to subsection (c))" and inserting in lieu thereof "below the poverty level (as determined under paragraph (A) of this subsection)".

(vi) Section 103(e) of such title is repealed.

(D) Section 103 of such title I is amended by adding at the end thereof the following:

"(d) (1) From the amount allotted for payments to the Secretary of the Interior under clause (B) (i) in the second sentence of subsection (a) (1), the Secretary of the Interior shall make payments to local educational agencies, upon such terms as the Commissioner determines will best carry out the purposes of this title, with respect to out-of-State Indian children in the elementary and secondary schools of such agencies under special contracts with the Department of the Interior. The amount of such payment may not exceed, for each such child, 40 per centum of (A) the average per pupil ex-

penditure in the State in which the agency is located or (B) 120 per centum of such expenditure in the United States, whichever is the greater.

."(2) The amount allotted for payments to the Secretary of the Interior under clause (B)(ii) in the second sentence of subsection (a)(1) for any fiscal year shall be, as determined pursuant to criteria established by the Commissioner, the amount necessary to meet the special educational needs of educationally deprived Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. Such payments shall be made pursuant to an agreement between the Commissioner and the Secretary containing such assurances and terms as the Commissioner determines will best achieve the purposes of this title. Such agreement shall contain (A) an assurance that payments made pursuant to this subparagraph will be used solely for programs and projects approved by the Secretary of the Interior which meet the applicable requirements of section 141(a) and that the Department of the Interior will comply in all other respects with the requirements of this title, and (B) provision for carrying out the applicable provisions of sections 141(a) and 142(a)(3).".

(E) Such title I is amended by inserting at the end of part A the following:

"Subpart 2—State Operated Programs"

"PROGRAMS FOR HANDICAPPED CHILDREN

"SEC. 121. (a) A State agency which is directly responsible for providing free public education for handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education), shall be eligible to receive a grant under this section for any fiscal year.

"(b) Except as provided in section 124, the grant to which a State agency shall be entitled under this section shall be an amount equal to—

"(1)(A) 50 per centum of the average per pupil expenditure of all the local educational agencies in the State, or

"(B) 50 per centum of the average per pupil expenditure of all the local educational agencies in all the States,

whichever is greater,

multiplied by—

"(2) the number of such children in average daily attendance, as determined by the Commissioner,

at schools for handicapped children operated or supported by the State Agency, including schools providing special education for handicapped children under contract or other arrangement with such State agency, in the most recent fiscal year for which satisfactory data are available.

"(c) A State agency shall use the payments made under this section only for programs and projects (including the acquisition of equipment, and where, necessary, the construction of school facilities) which are designed to meet the special educational needs of such children, and the State agency shall provide assurances to the Commissioner that each such child in average daily attendance counted under subsection (b) will be provided with such a program, commensurate with his special needs, during any fiscal year for which such payments are made.

"(d) In the case where such a child leaves an educational program for handicapped children operated or supported by the State agency in order to participate in such a program operated or supported by a local educational agency, such child shall be counted under subsection (b) if (1) he continues to receive an appropriately designed educational program and (2) the State agency transfers to the local educational agency in whose program such child participates an amount equal to the sums received by such State agency under this section which are attributable to such child, to be used for the purposes set forth in subsection (c).

"PROGRAMS FOR MIGRATORY CHILDREN

"SEC. 122. (a)(1) A State educational agency or a combination of such agencies, upon application, shall be entitled to receive a grant for any fiscal year under this section to establish or improve, either directly or through local educational agencies, programs of education for migratory children of migratory agricultural workers or of migratory fishermen. The Commissioner may approve such an application only upon his determination—

"(A) that payments will be used for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of migratory children of migratory agricultural workers or of migratory fishermen, and to coordinate these programs and projects with similar programs and projects in other States, including the transmittal of pertinent information with respect to school records of such children;

"(B that in planning and carrying out programs and projects there has been and will be appropriate coordination with programs administered under part B of title III of the Economic Opportunity Act of 1964;

"(C) that such programs and projects will be administered and carried out in a manner consistent with the basic objectives of clauses (1)(B) and (3) through (12) of section 141(a); and

"(D) that, in planning and carrying out programs and projects, there has been adequate assurance that provision will be made for the preschool educational needs of migratory children of migratory agricultural workers or of migratory fishermen, whenever such agency determines that compliance with this clause will not detract from the operation of programs and projects described in clause (A) of this paragraph after considering the funds available for this purpose.

The Commissioner shall not finally disapprove an application of a State educational agency under this paragraph except after reasonable notice and opportunity for a hearing to the State educational agency.

"(2) If the Commissioner determines that a State is unable or unwilling to conduct educational programs for migratory children of migratory agricultural workers or of migratory fishermen, or that it would result in more efficient and economic administration, or that it would add substantially to the welfare or educational attainment of such children, he may make special arrangements with other public or nonprofit private agencies to carry out the purposes of this section in one or more States, and for this purpose he may use all or part of the total of grants available for any such State under this section.

"(3) For purposes of this section, with the concurrence of his parents, a migratory child of a migratory agricultural worker or of a migratory fisherman shall be deemed to continue to be such a child for a period, not in excess of five years, during which he resides in the area served by the agency carrying on a program or project under this subsection. Such children who are presently migrant, as determined pursuant to regulations of the Commissioner, shall be given priority in this consideration of programs and activities contained in applications submitted under this subsection.

"(b) Except as provided in section 124, the grant to which a State agency shall be entitled under this section shall be an amount equal to—

"(1)(A) 50 per centum of the average per pupil expenditure of all the local educational agencies in the State, or

"(B) 50 per centum of the average per pupil expenditure of all the local educational agencies in all the States, whichever is greater,

multiplied by—

"(2)(A) the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State full time, and

"(B) the full-time equivalent of the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State part time, as determined by the Commissioner,

except that if, in the case of any State, such amounts exceeds the amount required under subsection (a), the Commissioner shall allocate such excess, to the extent necessary, to other States whose total of grants under this sentence would otherwise be insufficient for all such children to be served in other States. In determining the number of migrant children for the purposes of this section the Commissioner shall use statistics made available by the migrant student record transfer system or such other system as he may determine most accurately and fully reflects the actual number of migrant students.

"PROGRAMS FOR NEGLECTED OR DELINQUENT CHILDREN

"SEC. 123. (a) A State agency which is directly responsible for providing free public education for children in institutions for neglected or delinquent children or in adult correctional institutions shall be entitled to receive a grant under this section for any fiscal year (but only if grants received under this section are used only for children in such institutions).

"(b) Except as provided in section 124, the grant to which a State agency shall be entitled under this section shall be an amount equal to—

"(1)(A) 50 per centum of the average pupil expenditure of all the local educational agencies in the State, or

"(B) 50 per centum of the average per pupil expenditure of all the local educational agencies in all the States, whichever is greater,

multiplied by—

"(2) the number of such children in average daily attendance as determined by the Commissioner, at schools for such children operated or supported by that agency, including schools providing education for such children under contract or other arrangement with such agency, in the most recent fiscal year for which satisfactory data are available.

"(c) A State agency shall use payments under this section only for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of such children.

"RESERVATION OF FUNDS FOR TERRITORIES

"SEC. 124. There is authorized to be appropriated for each fiscal year for purposes of each of sections 121, 122, and 123, an amount equal to not more than 3 per centum of the amount appropriated for such year for such sections for payments to the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands under each such section. The amounts appropriated for each such section shall be allotted among the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for such grants, based on such criteria as the Commissioner determines will best carry out the purposes of this title.".

(F) (i) Section 121 of such title I and all references thereto are redesignated as section 126,

(ii) Section 126(b) of such title I (as redesignated by this subparagraph) is amended—

(I) by inserting "(1)" after "(b)";

(II) by striking out "$1" and inserting in lieu thereof "$1.50";

(III) by striking out "clauses (2), (5), (6), and (7) of section 103(a)" and inserting in lieu thereof "section 103 and subpart 2 of part A"; and

(IV) by inserting at the end thereof the following new paragraph:

"(2)(A) The aggregate of the amounts to which the States are entitled under this part for any fiscal year shall not exceed $75,000,000. If, for any fiscal year, such amounts, without the limitation in the preceding sentence, exceed $75,000,000, each of the entitlements created under this part shall be reduced ratably until such amounts do not exceed such limitation.

"(B) For the purpose of making entitlement payments under this part there are authorized to be appropriated not in excess of $75,000,000 for the fiscal year ending June 30, 1974, and for each of the four succeeding fiscal years.".

(G) Section 144 of such title I is amended by striking out the first sentence and inserting in lieu thereof the following: "If the sums appropriated for any fiscal year for making the payments provided in this title are not sufficient to pay in full the total amounts which all local and State educational agencies are eligible to receive under this title for such year, the amount available for each grant to a State agency eligible for a grant under section 121, 122, or 123 shall be equal to the total amount of the grant as computed under each such section. If the remainder of such sums available after the application of the preceding sentence is not sufficient to pay in full the total amounts which all local educational agencies are eligible to receive under part A of this title for such year, the allocations to such agencies shall, subject to adjustments under the next sentence, be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amount so appropriated. The allocation of a local educational agency which would be reduced under the preceding sentence to less than 85 per centum of its allocation under part A for the preceding fiscal year, shall be increased to such amount, the total of the increases thereby required being derived by proportionately reducing the allocations of the remaining local educational agencies, under the preceding sentence, but with such adjustments as may be neecssary to prevent the allocation to any remaining local educational agency from being thereby reduced to less than 85 per centum of its allocation for such year.".

(H) (i) Part D of such title I (including all references thereto) is redesignated as part C.

(ii) Section 141(a)(4) of such title is amended by striking out "section 145" and inserting in lieu thereof "section 433 of the General Education Provisions Act".

(iii) Section 141(a)(1)(B) of such title is amended by striking out "maximum".

(iv) Section 141(c) of such title is repealed.

(v) Section 143(a)(2) of such title is amended by striking out "maximum".

(vi) Section 142 of such title is amended by striking out "described in section 141(c)" and inserting in lieu thereof "provided for in section 122".

(vii) Section 142(a)(1) of such title is amended by striking out "section 103(a)(5)" and inserting in lieu thereof "section 121".

(viii) Section 143(a)(2) of such title is amended by striking out "or section 131".

(ix) Section 143(b)(1) of such title is amended to read as follows:

"(1) 1 per centum of the amount allocated to the State and its local educational agencies as determined for that year under this title; or".

(x) The third and fourth sentences of section 144 of such title are each amended by striking out "section 103(a)(6)" and inserting in lieu thereof "section 122".

(xi) Section 146 of such title is amended by striking out "section 141(c)" and inserting in lieu thereof "section 122".

(xii) Section 147 of such title is amended by striking out "section 141(c)" and inserting in lieu thereof "section 122".

(xiii) Section 403 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by adding at the end thereof the following new paragraph:

"(16) For purposes of title II, the 'average per pupil expenditure' in a State, or in the United States, shall be the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made (or if satisfactory data for that year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available), of all local educational agencies as defined in section 403(6)(B) in the State, or in the United States (which for the purposes of this subsection means the fifty States, and the District of Columbia), as the case may be, plus any direct current expenditures by the State for operation of such agencies (without regard to the source of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.".

(3) Such title I is amended by inserting after part B the following new part C:

"PART C—SPECIAL GRANTS

"ELIGIBILITY AND MAXIMUM AMOUNT OF SPECIAL GRANTS

"SEC. 131. (a) Each local educational agency in a State which is eligible for a grant under this title for any fiscal year shall be entitled to an additional grant for that fiscal year if it meets the requirements of subsection (b). The amount of such grant shall be determined in accordance with subsection (c).

"(b)(1) A local educational agency shall be entitled to a grant under this part for any fiscal year if the school district of such agency is located in a county in which—

"(A) the number of children described in paragraph (2) for such year amounts to at least 200 per centum of the average number of such children in all counties in the State in which such agency is located for that fiscal year; or

"(B) the number of children so described in such county for such year is 10,000 and amounts to 5 percentum of the total number of children in such county.

"(2) For the purposes of paragraph (1), the children counted with respect to a local educational agency shall be these children in such county who are—

"(A) in families having an annual income of $3,000 or less; or

"(B) in families receiving an annual income in excess of $3,000 from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; or

"(C) living in institutions for neglected or delinquent children or being supported in foster homes with public funds.

In determining the number of children under clause (C) in the preceding sentence, children in institutions operated by the United States and children counted for the purpose of a grant to a State agency under section 104 shall not be included.

"(3)(A) Determinations with respect to numbers of children in any county under paragraph (2) shall be made by the Commissioner on the basis of the most recent satisfactory data available to him.

"(B)(i) The number of children determined with respect to one or more counties shall be allocated, for the purposes of paragraph (2) among the local educational agencies with school districts located in such county or counties by the Commissioner.

"(ii) In any case where—

"(I) two or more local educational agencies serve, in whole or in part, the same geographical area; or

"(II) a local educational agency provides free public education for a substantial number of children who reside in the school district of another local educational agency,

the Commissioner may allocate the number of children determined under this subsection among such agencies in such a manner as will best achieve the purposes of this subsection.

"(C)(1) For the purposes of paragraph (2), the Commissioner shall determine the number of children from families have an annual income of $3,000 or less on the basis of the most recent satisfactory data available from the Department of Commerce. At any time such data for a county are available in the Department of Commerce, such data shall be used in making calculations under this subsection.

"(ii) For the purposes of this subsection, the Secretary of Health, Education, and Welfare shall determine the number of children from families receiving an annual income in excess of $3,000 from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act and the number of children living in institutions for neglected or delinquent children or being supported in foster homes with public funds, on the basis of caseload data for the month of January of the preceding fiscal year, or to the extent that such data are not available to him before April 1 of the calendar year in which the determination is made, then on the basis of the most recent data available to him at the time of such determination. For the purposes of this subsection, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

"(c) The amount of the grant to which a local educational agency shall be entitled for any fiscal year shall be—

"(A) the number of children determined with respect to such agency under subsection (b);

multiplied by—

"(B) 50 per centum of the average per pupil expenditure of all the local educational agencies in the State in which such agency is located.

"(d) Notwithstanding any other provision of this section, no entitlement payments for any fiscal year under this part to the local educational agencies in a single State shall exceed 12 per centum of the aggregate entitlement payments of all local educational agencies in that year.

"(e)(1) The aggregate of the amounts to which local educational agencies are entitled under this part for any fiscal year shall not exceed $75,000,000. If, for any fiscal year, such amounts, without the limitation in the preceding sentence, exceed $75,000,000, each of the entitlements created under this part shall be reduced ratably until such amounts do not exceed such limitation.

"(2) For the purpose of making entitlement payments under this part there are authorized to be appropriated not in excess of $75,000,000 for the fiscal year ending June

30, 1974, and for each of the four succeeding fiscal years.

"(f) For the purposes of this section, the term—

"(1) 'State' means the fifty States and the District of Columbia; and

"(2) 'children' includes all children aged five through seventeen, inclusive."

(4) Section 141 of such title I is amended by adding at the end thereof the following new subsections:

"(e)(1) If local educational agency is prohibited by law from complying with clause (2) of subsection (a), the Commissioner may waive such requirement with respect to such agency and shall arrange for the provision of services to the children to whom such clause applies through arrangements which shall be subject to the requirements of such clause (2).

"(2) If the Commissioner determines that a local educational agency has substantially failed to comply with clause (2) of subsection (a), he shall arrange for the provision of services to the children to whom such clause applies through arrangements which shall be subject to the requirements of such clause (2).

"(3) When the Commissioner arranges for services pursuant to this subsection, he shall, after consultation with the appropriate public and nonpublic school officials, pay the cost of such services from the appropriate allocation or allocations under this title.

"(f) The Commissioner shall not take action under subsection (e) with respect to any State or local educational agency without first affording such agency and other interested parties notice and an opportunity for a hearing. Such notice shall be given not less than sixty days prior to any final action of the Commissioner under such subsection. If the Commissioner determines that the provisions of subsection (e) apply to a substantial number of children who are in attendance at private schools, he shall proceed as required under such subsection. If the local educational agency or the State educational agency of the State in which such local educational agency is located is dissatisfied with the action of the Commissioner under subsection (e), either such agency or both shall qualify for judicial review of the Commissioner's action. If any State or local educational agency desires judicial review under subsection (e) of this subsection, such State or local educational agency shall, within sixty days after such action, file with the United States Court of Appeals for the circuit in which such State is located a petition for review of such 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. 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.".

(5) Section 141(a)(1)(A) of such title I is amended by adding at the end thereof the following: "(and at the discretion of the local educational agency, in any school of such agency not located in such a school attendance area, at which the proportion of children in actual average daily attendance from low-income families is substantially the same as the proportion of such children in such an area of that agency)"

(6) Section 141(a) of such title I is amended—

(A) by striking out the word "and" at the end of paragraph (12) the first time it appears in such section,

(B) by redesignating paragraph (12) the second time it appears in such section as paragraph (13),

(C) by striking out the period in paragraph (13) · (as redesignated by this paragraph) and inserting in lieu thereof a semicolon and the word "and", and

(D) by inserting at the end thereof the following new paragraph:

"(14) That the local educational agency will establish an Advisory Council for the school district under the jurisdiction of that agency which—

"(A) has a majority of members who are parents of children attending the schools of that agency,

"(B) is composed of members who are selected by the parents of the children attending schools of that agency,

"(C) has responsibility for advising that agency in the planning for, and the implementation and evaluation of, programs and projects assisted under this title, and

"(D) is provided by that agency, in accordance with regulations of the Commissioner, with access to appropriate information concerning such programs and projects.".

(7) Redesignate part C of such title I (as redesignated by paragraph (2) of this subsection), and all references thereto, as part D.

(8) Notwithstanding any other provision of this Act—

(A) the dollar amount for the computation of the maximum amount of a special incentive grant under part B of such title I shall be $1 except as provided in clause (E) of this paragraph;

(B) the aggregate amounts to which States are entitled under that part for any fiscal year shall not exceed $50,000,000 without regard to any other authorization for such part;

(C) entitlements created under that part shall be considered only with respect to appropriations for such title I in excess of $1,396,975,000;

(D) for the purposes of section 144 of such title I entitlements created under part B of such title I shall be treated in the same manner as entitlements under subpart 1 of part A of such title for the second sentence of such section 144, but only to the extent that appropriations for any fiscal year exceed $1,396,975,000; and

(E)(i) in addition to the amount provided for in clause (A), an additional amount of 50 cents shall be computed under such part B; and

(ii) the aggregate amounts to which States are entitled under that part for any fiscal year, in addition to the amount specified in clause (B) of this paragraph, shall not exceed $25,000,000; and

(iii) for the purpose of this clause there are authorized to be appropriated not to exceed $25,000,000 for the fiscal year ending June 30, 1974, and for each of the four succeeding fiscal years.

(9) There is authorized to be appropriated for each fiscal year a sum not to exceed $35,000,000 to be allocated at the discretion of the Commissioner to assist those local education agencies whose total allocation under part A of title I of the Elementary and Secondary Education Act of 1965 is 90 per centum or less than such allocation under such part A during the preceding fiscal year: *Provided, however,* That in allocating such funds the Commissioner shall take into account the fiscal ability of each such local education agency to compensate from local revenue for the loss of such allocation under part A.

(b) The amendments made by subsection (a) shall be effective on and after July 1, 1974.

SCHOOL LIBRARY RESOURCES, TEXTBOOKS, AND OTHER INSTRUCTIONAL MATERIALS

SEC. 102. (a)(1) Section 201(b) of the Elementary and Secondary Education Act of 1965 is amended by striking out all that follows "to be appropriated" and inserting in lieu thereof the following: "$220,000,000 for the fiscal year ending June 30, 1974, and for each of the succeeding fiscal years ending prior to July 1, 1978.".

(2) The third sentence of section 202(a)(1) of such Act is amended by striking out "July 1, 1973," and inserting in lieu thereof "July 1, 1978,".

(3) Section 204(b) of such Act is amended by striking out "July 1, 1973," and inserting in lieu thereof "July 1, 1978,".

(b) The amendments made by this section shall be effective on and after July 1, 1973.

SUPPLEMENTAL EDUCATIONAL CENTERS AND SERVICES; GUIDANCE, COUNSELING, AND TESTING

SEC. 103. (a)(1) Section 301(b) of the Elementary and Secondary Education Act of 1965 is amended by striking out "the fiscal year ending June 30, 1978" and inserting in lieu thereof "each of the succeeding fiscal years ending prior to July 1, 1978".

(2) Section 302(a)(1) of such Act is amended by striking out "July 1, 1973," and inserting in lieu thereof "July 1, 1978,".

(3) Section 305(c) of such Act is amended by striking out "July 1, 1973," and inserting in lieu thereof "July 1, 1978,".

(b) Section 307 of such Act is amended by adding at the end thereof the following new subsection:

"(g) The Commissioner shall not take action under subsection (f) with respect to any State or local educational agency without first affording such agency and other interested parties notice and an opportunity for a hearing. Such notice shall be given not less than sixty days prior to any final action of the Commissioner under such subsection. If the Commissioner determines that the provisions of subsection (f) apply to a substantial number of children who are in attendance at private schools, he shall proceed as required under such subsection. If the local educational agency or the State educational agency of the State in which such local educational agency is located is dissatisfied with the action of the Commissioner under subsection (f), either such agency or both shall qualify for judicial review of the Commissioner's action. If any State or local educational agency desires judicial review under subsection (f) of this subsection, such State or local educational agency shall, within sixty days after such action, file with the United States Court of Appeals for the circuit in which such State is located a petition for review of such 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. The court shall have jurisdiction to affirm the action of the Commissioner or 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.".

(c) The amendments made by this section shall be effective on and after July 1, 1973.

STRENGTHENING STATE AND LOCAL EDUCATIONAL AGENCIES

SEC. 104. (a)(1) Section 501(b) of the Elementary and Secondary Education Act of 1965 is amended by striking out "the fiscal year ending June 30, 1973" and inserting in lieu thereof "each of the succeeding fiscal years ending prior to July 1, 1978".

(2) Section 521(b) of such Act is amended by striking out "the fiscal year ending June 30, 1973" and inserting in lieu thereof "each of the succeeding fiscal years ending prior to July 1, 1978".

(3) Section 531(b) of such Act is amended by striking out "the fiscal year ending June 30, 1973" and inserting in lieu thereof "each

of the succeeding fiscal years ending prior to July 1, 1978".

(b) The amendments made by this section shall be effective on and after July 1, 1973.

BILINGUAL EDUCATIONAL PROGRAMS

SEC. 105. (a) (1) Title VII of the Elementary and Secondary Education Act of 1965 is amended to read as follows:

"TITLE VII—BILINGUAL EDUCATION

"SHORT TITLE

"SEC. 701. This title may be cited as the 'Bilingual Education Act'.

"POLICY; APPROPRIATIONS

"SEC. 702. (a) Recognizing—

"(1) that there are large numbers of children of limited English-speaking ability;

"(2) that many of such children have a cultural heritage which differs from that of English-speaking persons;

"(3) that a primary means by which a child learns is through the use of such child's language and cultural heritage;

"(4) that, therefore, large numbers of children of limited English-speaking ability have educational needs which can be met by the use of bilingual educational methods and techniques; and

"(5) that, in addition, all children benefit through the fullest utilization of multiple language and cultural resources,

the Congress declares it to be the policy of the United States, in order to establish equal educational opportunity for all children (A) to encourage the establishment and operation, where appropriate, of educational programs using bilingual educational practices, techniques, and methods, and (B) for that purpose, to provide financial assistance to local educational agencies, and to State educational agencies for certain purposes, in order to enable such local educational agencies to develop and carry out such programs in elementary and secondary schools, including activities at the preschool level, which are designed to meet the educational needs of such children; and to demonstrate effective ways of providing, for children of limited English-speaking ability, instruction designed to enable them, while using their native language, to achieve competence in the English language.

"(b) Except as is otherwise provided in this title, for the purpose of carrying out the provisions of this title, there are authorized to be appropriated $135,000,000 for the fiscal year ending June 30, 1974; $145,000,000 for the fiscal year ending June 30, 1975; $155,000,000 for the fiscal year ending June 30, 1976; and $175,000,000 for the fiscal years ending June 30, 1977, and June 30, 1978; and there is further authorized to be appropriated for such purpose for each such fiscal year such additional sums as the Congress may determine. From the sums so appropriated for any fiscal year—

"(1) the Commissioner shall reserve 50 per centum of that part thereof which is in excess of $35,000,000 but does not exceed $60,000,00 for training activities carried out under clauses (1) and (3) of subsection (a) of section 721, and shall reserve for such activities 33⅓ per centum of that part thereof which is in excess of $60,000,000; and

"(2) the Commissioner shall reserve from the amount not reserved pursuant to clause (1) of this subsection such amounts as may be necessary, but not in excess of 10 per centum thereof, for the purposes of sections 732 and 743.

"DEFINITIONS; REGULATIONS

"SEC. 703 (a) The following definitions shall apply to the terms used in this title:

"(1) The term 'limited English-speaking ability', when used with reference to an individual, means—

"(A) individuals who were not born in the United States and whose native language is a language other than English; and

"(B) individuals who come from environments where a language other than English is dominant, as further defined by the Commissioner by regulation;

and, by reason thereof, have difficulty speaking and understanding instruction in the English language.

"(2) The term 'native language', when used with reference to an individual of limited English-speaking ability, means the language normally used by such individuals, or in the case of a child, the language normally used by the parents of the child or in the environment from which the child comes.

"(3) The term 'low-income' when used with respect to a family means an annual income for such a family which does not exceed the low annual income determined pursuant to section 103 of title I of the Elementary and Secondary Education Act of 1965.

"(4) (A) The term 'program of bilingual education' means a full-time program of instruction, designed for children of limited English-speaking ability in elementary or secondary school, in which, with respect to the years of study to which such program is applicable—

"(i) there is instruction given both in the native language of the children of limited English-speaking ability and in English and given with appreciation for the cultural heritage of such children, and, with respect to elementary school instruction, such instruction shall, to the maximum extent feasible, be in all courses or subjects of study which are required of a child in elementary school by, or pursuant to, the law of the State;

"(ii) both the native language of the child of limited English-speaking ability and English are studied, including speaking, reading, and writing;

"(iii) there is study of the history and culture of the nation, territory, or geographical area with which the native language of the child of limited English-speaking ability is associated and of the history and culture of the United States; and

"(iv) the requirements in subparagraphs (B) through (E) of this paragraph and established pursuant to subsection (b) of this section are met.

"(B) A program of bilingual education shall make provision for the voluntary enrollment to a limited degree therein, on a regular full-time basis, of children whose language is English in order that they may learn the language and cultural heritage of the children of limited English-speaking ability for whom the particular program of bilingual education is designed. In determining eligibility to participate in such bilingual education programs, priority shall be given to the children whose language is other than English. In no event shall the primary purpose of the program be to teach a foreign language to English-speaking children.

"(C) In such courses or subjects of study as art, music, and physical education, a program of bilingual education shall make provision for the participation of children of limited English-speaking ability in regular classes.

"(D) Children enrolled in a program of bilingual education shall, if graded classes are used, be placed, to the extent practicable, in classes with children of approximately the same age and level of educational attainment. If children of significantly varying ages or levels of educational attainment are placed in the same class, the program of bilingual education shall seek to insure that each child is provided with instruction which is appropriate for his or her level of educational attainment.

"(E) An application for a program of bilingual education shall be developed (i) in open consultation with parents of children of limited English-speaking ability, teachers, and, where applicable, secondary school students, including public hearings at which such persons have had a full opportunity to understand the program for which assistance is being sought and to offer recommendations thereon, and (ii) with the full participation of a committee composed of, and selected by, such parents and teachers, and in the case of secondary schools, representation of secondary school students. A substantial number of the members of such committee shall be parents of children of limited English-speaking ability.

"(5) The term 'Bureau' means the Bureau of Bilingual Education established under this title.

"(6) The term 'Director' means the Director of the Bureau of Bilingual Education.

"(7) The term 'Council' means the National Advisory Council on Bilingual Education.

"(b) The Commissioner, after receiving recommendations from State and local educational agencies and groups and organizations involved in bilingual education, shall establish and publish, with respect to programs of bilingual education, suggested model guidelines containing recommendations to State and local educational agencies with respect to pupil-teacher ratios, teacher qualifications, and other factors affecting the quality of instruction offered in such programs. In carrying out programs under part A of this title, State and local educational agencies shall consult with the Commissioner in order to achieve maximum voluntary conformity with such guidelines.

"(c) In prescribing regulations under this section, the Commissioner shall consult with State and local educational agencies, appropriate organizations representing parents and children of limited English-speaking ability, and appropriate groups and organizations representing teachers and educators involved in bilingual education.

"PART A—FINANCIAL ASSISTANCE FOR BILINGUAL EDUCATION PROGRAMS

"BILINGUAL EDUCATION PROGRAMS

"SEC. 721. (a) Funds available for grants under this part shall be used for—

"(1) the establishment, operation, and improvement programs of bilingual education, including auxiliary and supplementary training programs for personnel preparing to participate in, or personnel participating in, the conduct of such programs;

"(2) auxiliary and supplementary community and educational activities designed to facilitate and expand the implementation of a program described in clause (1), including such activities as (A) adult education programs related to the purposes of this title, particularly for parents of children participating in programs of bilingual education, and carried out, where appropriate, in coordination with programs assisted under the Adult Education Act, and (B) preschool programs preparatory and supplementary to bilingual education programs;

"(3) the establishment, operation, and improvement of training programs for personnel preparing to participate in, or personnel participating in, the conduct of programs of bilingual education; and

"(4) planning, and providing technical assistance for, and taking other steps leading to the development of, such programs.

"(b) (1) A grant may be made under this section only upon application therefor by one or more local educational agencies (or, in the case of a training activity described in clause (3) of subsection (a) of this section, by eligible applicants as defined in section 723). Such application shall—

"(A) include a description of the activities set forth in one or more of the clauses of subsection (a) which the applicant desires to carry out; and

"(B) provide evidence that the activities so described will make substantial progress toward making programs of bilingual education available to the children having need thereof in the area served by the applicant.

"(2) An application for a grant under this part may be approved only if—

"(A) the provision of assistance proposed in the application is consistent with criteria established by the Commissioner, after consultation with the State educational agency, for the purpose of achieving an equitable distribution of assistance under this part within the State in which the applicant is located, which criteria shall be developed by him taking into consideration (i) the geographic distribution of children of limited English-speaking ability, (ii) the relative need of persons in different geographic areas within the State for the kinds of services and activities described in subsection (a), (iii) with respect to grants to carry out programs described in clauses (1) and (2) of subsection (a) of section 721, the relative ability of particular local educational agencies within the State to provide such services and activities, and (iv) with respect to such grants, the relative numbers of persons from low-income families;

"(B) in the case of applications from local educational agencies to carry out programs of bilingual education under clause (1) of subsection (a) of section 721, the Commissioner determines that not less than 15 per centum of the amounts paid to the applicant for the purposes of such programs shall be expended for auxiliary and supplementary training programs in accordance with the provisions of such clause and section 723;

"(C) the Commissioner determines (i) that the program will use the most qualified available personnel and the best resources and will substantially increase the educational opportunities for children of limited English-speaking ability in the area to be served by the applicant, and (ii) that, to the extent consistent with the number of children enrolled in nonprofit, nonpublic schools in the area to be served whose educational needs are of the type which the program is intended to meet, provision has been made for participation of such children; and

"(D) the State educational agency has been notified of the application and been given the opportunity to offer recommendations thereon to the applicant and to the Commissioner.

"(3)(A) If for any fiscal year the Commissioner determines with respect to any State that—

"(i) the State educational agency of such State has developed high-quality leadership capabilities for the coordination and provision of, and technical assistance with respect to, programs of bilingual education in operation by local educational agencies in such State, or, with assistance under section 743, will for such fiscal year develop and maintain such capability;

"(ii) there is in effect at the beginning of such fiscal year for such State a statute enacted under the constitution of such State designed to provide, or a decision of the highest court of such State, or of a court of the United States with respect to such State, requiring equal educational opportunity for children of limited English-speaking ability through programs of bilingual education;

"(iii) the local educational agencies in such State operate programs of bilingual education serving a substantial number of children of limited English-speaking ability in such State;

"(iv) the expenditures for such fiscal year from State revenues specifically for programs of bilingual education operated by local educational agencies in such State constitute not less than 15 per centum in the first year for which a State receives payments under this paragraph, 20 per centum in the second such year, and 25 per centum in each succeeding such year, of the total expenditures for such programs in such State; and

"(v) local educational agencies in such State will be paid under this part, in the aggregate, amounts at least equal to the aggregate of the amounts paid to such local educational agencies from appropriations for the fiscal year 1973 pursuant to section 703 of this title as in effect on June 30, 1973;

the Commissioner shall, upon application from the State educational agency of such State, make provision for the submission and approval of a State program for the coordination by such State educational agency of, and the provision by such State agency of technical assistance to, programs of bilingual education in such State assisted under this part. Such State program shall contain such provisions, agreements, and assurances as the Commissioner shall, by regulation, determine necessary and proper to achieve the purposes of this title. If the law of a State gives the chief State school officer of the State authority to issue and enforce such a regulation, a regulation issued by the chief State school officer of the State which is designed to provide equal educational opportunity for children of limited English-speaking ability through programs of bilingual education shall satisfy the requirements of clause (ii) in the preceding sentence.

"(B) Except as is provided in the second sentence of this subparagraph, the Commissioner shall pay for each fiscal year to each State educational agency which has had a State program submitted and approved under subparagraph (A) such sums as may be necessary for the proper and efficient conduct of such State program. The amount paid by the Commissioner to any State educational agency under the preceding sentence for any fiscal year shall not exceed an amount which, when added to any amount which such State receives pursuant to section 743, equals 5 per centum of the aggregate of the amounts paid under this part to local educational agencies in the State of such State educational agency. For the purpose of this paragraph there are authorized to be appropriated such sums as may be necessary for any fiscal year.

"(c) In funding programs of bilingual education under this part, not more than 10 per centum of the first $35,000,000 obligated from sums appropriated under subsection (b) of section 702, and not more than 15 per centum of amounts obligated in excess of $35,000,000 from sums so appropriated, may be paid, in the aggregate, in any fiscal year to programs at the elementary school level where graded classes are not used and to programs at the secondary school level.

"(d) In determining the distribution of funds under this title, the Commissioner shall provide an equitable distribution of such funds in all areas of the United States while giving priority to States within such areas having the greatest need for programs assisted under this title.

"(e) Notwithstanding any other provision of this title, the Commissioner is authorized to accept and approve applications from the Commonwealth of Puerto Rico for programs and projects for children of Puerto Rican ancestry who—

"(1) live in Puerto Rico; but

"(2) are of limited Spanish-speaking ability;

which are designed to teach such children, using bilingual education methods, practices, and techniques.

"INDIAN CHILDREN IN SCHOOLS

"SEC. 722. (a) For the purpose of carrying out programs under this part for individuals serviced by elementary and secondary schools operated predominantly for Indian children, a nonprofit institution or organization of the Indian tribe concerned which operates any such school and which is approved by the Commissioner for the purposes of this section may be considered to be a local educational agency as such term is used in this title.

"(b) From the sums appropriated pursuant to section 702(b), the Commissioner is authorized to make payments to the Secretary of the Interior to carry out programs of bilingual education for children on reservations serviced by elementary and secondary schools for Indian children operated or funded by the Department of the Interior. The terms upon which payments for such purpose may be made to the Secretary of the Interior shall be determined pursuant to such criteria as the Commissioner determines will best carry out the policy of section 702(a).

"(c) The Secretary of the Interior shall prepare and, not later than November 1 of each year, shall submit to the Congress and the President an annual report detailing a review and evaluation of the use, during the preceding fiscal year, of all funds paid to him by the Commissioner under subsection (b) of this section, including complete fiscal reports, a description of the personnel and information paid for in whole or in part with such funds, the allocation of such funds, and the status of all programs funded from such payments. Nothing in this subsection shall be construed to relieve the Director of any authority or obligation under this part.

"(d) The Secretary of the Interior shall, together with the information required in the preceding subsection, submit to the Congress and the President, an assessment of the needs of Indian children with respect to the purposes of this title in schools operated or funded by the Department of the Interior, including those State educational agencies and local educational agencies receiving assistance under the Johnson-O'Malley Act (25 U.S.C. 452 et seq., as amended) and an assessment of the extent to which such needs are being met by funds provided to such schools for educational purposes through the Secretary of the Interior.

"TRAINING

"SEC. 723. (a)(1) In carrying out the provisions of clauses (1) and (3) of subsection (a) of section 721, with respect to training, the Commissioner shall, through grants to, and contracts with, eligible applicants, as defined in subsection (b), provide for—

"(A)(i) training, carried out in coordination with any other programs training auxiliary educational personnel, designed (I) to prepare personnel to participate in, or for personnel participating in, the conduct of programs of bilingual education, including programs emphasizing opportunities for career development, advancement, and lateral mobility, (II) to train teachers, administrators, paraprofessionals, teacher aides, and parents, and (III) to train persons to teach and counsel such persons, and (ii) special training programs designed (I) to meet individual needs, and (II) to encourage reform, innovation, and improvement in applicable education curricula in graduate education, in the structure of the academic profession, and in recruitment and retention of higher education and graduate school facilities, as related to bilingual education;

"(B) the operation of short-term training institutes designed to improve the skills of participants in programs of bilingual education in order to facilitate their effectiveness in carrying out responsibilities in connection with such programs; and

"(C) fellowships for study leading to an advanced degree for persons planning to pursue a career in bilingual education with preference in the award of such fellowships to persons whose native language is other than English.

Not less than two hundred fellowships nor more than five hundred fellowships shall be

awarded pursuant to clause (C) of this paragraph in any fiscal year, except that the Commissioner may award less than two hundred fellowships in any such year upon a certification by him, published in the Federal Register and submitted to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Public Welfare of the Senate, that two hundred fellowships could not properly be awarded because applications from two hundred qualified applicants were not submitted for such fellowships.

"(2) The Commissioner shall include in the terms of any arrangement described in paragraph (1) of subsection (a) of this section provisions for the payment, to persons participating in training programs so described, of such stipends (including allowances for subsistence and other expenses for such persons and their dependents) as he may determine, which shall be consistent with prevailing practices under comparable federally supported programs.

"(3) In making grants or contracts under this section, the Commissioner shall give priority to eligible applicants with demonstrated competence and experience in the field of bilingual education. Funds provided under grants or contracts for training activities described in this section to or with a State educational agency, separately or jointly, shall in no event exceed in the aggregate in any fiscal year 10 per centum of the total amount of funds obligated for training activities pursuant to clauses (1) and (3) of subsection (a) of section 721 in such year.

"(4) An application for a grant or contract for preservice or in-service training activities described in division (I) of clause (i) and division (I) of clause (ii) of subparagraph (A) and in subparagraph (B) of paragraph (1) of subsection (a) of this section shall be considered an application for a program of bilingual education for the purposes of subparagraph (E) of paragraph (4) of subsection (a) of section 703.

"(b) For the purposes of this section, the term 'eligible applicants' means—

"(1) institutions of higher education (including junior colleges and community colleges) which apply, after consultation with, or jointly with, one or more local educational agencies;

"(2) local educational agencies; and

"(3) State educational agencies.

"PART B—ADMINISTRATION

"BUREAU OF BILINGUAL EDUCATION

"SEC. 731. (a) There shall be, in the Office of Education, a Bureau of Bilingual Education through which the Commissioner shall carry out his functions relating to bilingual education.

"(b)(1) The Bureau shall be headed by a Director of Bilingual Education, appointed by the Commissioner, to whom the Commissioner shall delegate all of his delegable functions relating to bilingual education. The Director shall be placed in grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code.

"(2) The Bureau shall be divided into such branches, units, and offices as the Director determines to be appropriate in order to enable him to carry out his functions and responsibilities effectively.

"(3) In order to assist the Director in carrying out his functions and responsibilities, there are hereby established in the Division two positions which shall be placed in grade 17 of the General Schedule set forth in section 5332 of title 5, United States Code, and one of which shall be filled by a Deputy Director who shall act as Director in the event of the absence or disability of the Director or of a vacancy in the office of the Director.

"(4) The positions created by this subsection shall be in addition to the number of positions (A) placed in the appropriate grades under section 5108 of title 5, United States Code, or (B) otherwise placed in the Office of Education.

"(c) The Director, in consultation with the Council, shall prepare and, not later than November 1 of each year, shall submit, through the Commissioner, to the Congress and the President an annual report on the condition of bilingual education in the Nation and the administration and operation of this title and of other programs for persons of limited English-speaking ability. Such report shall include—

"(1) a national assessment of the educational needs of children and other persons with limited English-speaking ability and of the extent to which such needs are being met from Federal, State, and local efforts, including (A) not later than July 1, 1976, the results of a survey of the number of such children and persons in the States, and (B) a plan, to be carried out during the five-year period beginning on such date, for extending programs of bilingual education and bilingual vocational and adult education programs to all such preschool and elementary school children and other persons of limited English-speaking ability, including (i) a phased plan for the training of the necessary teachers and other educational personnel necessary for such purpose, and (ii) detailed cost estimates of the expenditures necessary in each fiscal year for such purpose, and of the share of such cost which may reasonably be expected to be borne by State and local government, private institutions, foundations, and the Federal Government;

"(2) a report on and an evaluation of the activities carried out under this title during the preceding fiscal year and the extent to which each of such activities achieves the policy set forth in section 702(a);

"(3) a statement of the activities intended to be carried out during the succeeding fiscal year, including an estimate of the cost of such activities;

"(4) an assessment of the number of teachers and other educational personnel needed to carry out programs of bilingual education under this title and those carried out under other programs for persons of limited English-speaking ability and a statement describing the activities carried out thereunder designed to prepare teachers and other educational personnel for such programs, and other educational personnel needed to carry out programs of bilingual education in the States and a statement describing the activities carried out under this title designed to prepare teachers and other educational personnel for such programs; and

"(5) a description of the personnel, the functions of such personnel, and information available at the regional offices of the Department of Health, Education, and Welfare dealing with bilingual programs within that region.

"(d) If any report to be submitted pursuant to subsection (c) of this section, or subsection (c) of section 732, is submitted, prior to submission to the Congress, for review by the Office of Management and Budget or any other Federal department or agency or official thereof and if any such review process delays the submission of such report to the Congress beyond the date established for such submission by this section or section 732(c), the Director shall immediately on such date submit, through the Commissioner, to the Congress the report in exactly the form it was submitted to such review process.

"NATIONAL ADVISORY COUNCIL ON BILINGUAL EDUCATION

"SEC. 732. (a) Subject to part D of the General Education Provisions Act, there shall be a National Advisory Council on Bilingual Education composed of fifteen members appointed by the Secretary, one of whom he shall designate as Chairman. At least eight of the members of the Council shall be persons experienced in dealing with the educational problems of children and other persons who are of limited English-speaking ability, at least one of whom shall be representative of persons serving on boards of education operating programs of bilingual education. At least three members shall be experienced in the training of teachers in programs of bilingual education. At least two members shall be persons with general experience in the field of elementary and secondary education. At least two members shall be classroom teachers of demonstrated teaching abilities using bilingual methods and techniques. The members of the Council shall be appointed in such a way as to be generally representative of the significant segments of the population of persons of limited English-speaking ability and the geographic areas in which they reside.

"(b) The Council shall meet at the call of the Chairman, but, notwithstanding the provisions of section 446(a) of the General Education Provisions Act, not less often than four times in each year.

"(c) The Council shall advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration and operation of this title, including the development of criteria for approval of applications, and plans under this title, and the administration and operation of other programs for persons of limited English-speaking ability. The Council shall prepare and, not later than November 1 of each year, submit a report to the Congress and the President on the condition of bilingual education in the Nation and on the administration and operation of this title, including those items specified in section 731(c), and the administration and operation of other programs for persons of limited English-speaking ability.

"(d) The Commissioner shall procure temporary and intermittent services of such personnel as are necessary for the conduct of the functions of the Council, in accordance with section 445 of the General Education Provisions Act, and shall make available to the Council such staff information, and other assistance as it may require to carry out its activities effectively.

"PART C—SUPPORTIVE SERVICES AND ACTIVITIES

"ADMINISTRATION

"SEC. 741. (a) The provisions of this part shall be administered by the Assistant Secretary, in consultation with—

"(1) the Commissioner, through the Bureau of Bilingual Education; and

"(2) the Director of the National Institute of Education, notwithstanding the second sentence of section 405(b)(1) of the General Education Provisions Act;

in accordance with regulations.

"(b) The Assistant Secretary shall, in accordance with clauses (1) and (2) of subsection (a), develop and promulgate regulations for this part and then delegate his functions under this part, as may be appropriate under the terms of section 742 and 743.

"RESEARCH AND DEMONSTRATION PROJECTS

"SEC. 742. (a) The National Institute of Education shall, in accordance with the provisions of section 405 of the General Education Provisions Act, carry out a program of research in the field of bilingual education in order to enhance the effectiveness of bilingual education programs carried out under this title and the authorities set forth in subsection (c) of section 731.

"(b) In order to test the effectiveness of research findings by the National Institute of Education and to demonstrate new or innovative practices, techniques, and methods for use in such bilingual education programs, the Director and the Commissioner are authorized to make contracts with public and private educational agencies, institutions, and organizations for such purpose.

"(c) In carrying out their responsibilities under this section, the Commissioner and the Director shall, through contracts with appropriate public and private agencies, institutions, and organizations—

"(1) undertake studies to determine the basic educational needs and language acquisition characteristics of, and the most effective conditions for, educating children of limited English-speaking ability;

"(2) develop models (including model bilingual and bicultural curricula) for such bilingual education programs and for other activities for which funds may be used under subsection (a) of section 721.

"(3) develop a suggested model State statute or statutes designed to promote equal educational opportunity for children of limited English-speaking ability through bilingual education practices, techniques, and methods;

"(4) develop, publish, and disseminate instructional materials and equipment suitable for use in bilingual education programs; and

"(5) establish and operate a Center for Bilingual Education designed to serve as a national clearinghouse of information for bilingual education, which shall collect, analyze, and disseminate information about bilingual education and such bilingual education and related programs.

"(d) In carrying out their responsibilities under this section, the Commissioner and the Director shall provide for periodic consultation with representatives of State and local educational agencies and appropriate groups and organizations involved in bilingual education.

"(e) There is authorized to be appropriated for each fiscal year prior to July 1, 1978, $5,000,000 to carry out the provisions of this section. In any such year in which appropriations made pursuant to the preceding sentence of this subsection do not amount to at least $5,000,000, not to exceed 5 per centum of the funds appropriated for the use of the National Institute of Education, but in no event less than $3,000,000, shall be available to carry out the provisions of this section.

"LEADERSHIP CAPABILITIES FOR STATE EDUCATIONAL AGENCIES

"SEC. 743. The Commissioner and the Director are authorized to make contracts with State educational agencies for the development in such agencies of leadership capabilities in the field of bilingual education, in order that such agencies may be able to assist local educational agencies in providing bilingual educational opportunities for children of limited English-speaking ability.".

(2) (A) The amendment made by this subsection shall be effective upon the date of enactment of this Act, except that the provisions of part A of title VII of the Elementary and Secondary Education Act of 1965 (as amended by subsection (a) of this section) shall become effective on July 1, 1975, and the provisions of title VII of the Elementary and Secondary Education Act of 1965 in effect immediately prior to the date of enactment of this Act shall remain in effect through June 30, 1975, to the extent not inconsistent with the amendment made by this section.

(B) The National Advisory Council on Bilingual Education, for which provision is made in section 732 of such Act, shall be appointed within ninety days after the enactment of this Act.

(b) (1) Section 703(a) of title VII of such Act is amended by adding at the end thereof the following:

"(8) The term 'other programs for persons of limited English-speaking ability' when used in sections 731 and 732 means the program authorized by section 708(c) of the Emergency School Aid Act and the programs carried out in coordination with the provisions of this title pursuant to section 122 (a) (4) (C) and part J of the Vocational Education Act of 1963, and section 306(a) (11) of the Adult Education Act, and programs and projects serving areas with high concentrations of persons of limited English-speaking ability pursuant to section 6(b) (4) of the Library Services and Construction Act.".

(2) The amendment made by this section shall be effective on and after July 1, 1974.

DROPOUT PREVENTION PROJECTS

SEC. 106. (a) Section 807(c) of the Elementary and Secondary Education Act of 1965 is amended by striking out "the fiscal year ending June 30, 1973" and inserting in lieu thereof "each of the succeeding fiscal years ending prior to July 1, 1978".

(b) The amendments made by this section shall be effective on and after July 1, 1973.

SCHOOL NUTRITION AND HEALTH SERVICES

SEC. 107. (a) Section 808(d) of the Elementary and Secondary Education Act of 1965 is amended by striking out "the fiscal year ending June 30, 1973" and inserting in lieu thereof "each of the succeeding fiscal years ending prior to July 1, 1978".

(b) The amendments made by this section shall be effective on and after July 1, 1973.

CORRECTION EDUCATION SERVICES

SEC. 108. (a) Section 809 of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new subsection:

"(c) For the purpose of carrying out this section, there is authorized to be appropriated $500,000 for the fiscal year ending June 30, 1974, and for each of the succeeding fiscal years ending prior to July 1, 1978."

(b) The amendments made by this section shall be effective on and after July 1, 1973.

IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN

SEC. 109. (a) Section 810(g) of the Elementary and Secondary Education Act of 1965 is amended by striking out "two succeeding fiscal years" and inserting in lieu thereof "succeeding fiscal years ending prior to July 1, 1978".

(b) The amendments made by this section shall be effective on and after July 1, 1973.

OPEN MEETINGS OF EDUCATIONAL AGENCIES

SEC. 110. Title VIII of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new section:

"OPEN MEETINGS OF EDUCATIONAL AGENCIES

"SEC. 812. No application for assistance under this Act may be considered unless the local educational agency making such application certifies to the Commissioner that members of the public have been afforded the opportunity upon reasonable notice to testify or otherwise comment regarding the subject matter of the application. The Commissioner is authorized and directed to establish such regulations as necessary to implement this section."

ETHNIC HERITAGE STUDIES CENTERS

SEC. 111. (a) (1) Section 907 of the Elementary and Secondary Education Act of 1965 is amended by striking out "the fiscal year ending June 30, 1973" and inserting in lieu thereof "each of the fiscal years ending prior to July 1, 1978".

(2) The amendments made by this section shall be effective on and after July 1, 1973.

(b) Section 903 of such Act is amended by—

(1) striking out "elementary and secondary schools and institutions of higher education" in clause (1) of such section, and inserting in lieu thereof "elementary or secondary schools or institutions of higher education";

(2) striking out "elementary and secondary schools and institutions of higher education" in clause (2) of such section and inserting in lieu thereof "elementary or secondary schools or institutions of higher education";

(3) inserting the word "or" after clause (1) of such section; and

(4) inserting the word "or" at the end of clause (2) of such section.

TITLE II—AMENDMENTS TO PUBLIC LAWS 815 AND 874 OF THE EIGHTY-FIRST CONGRESS

DURATION OF PAYMENTS UNDER PUBLIC LAW 815, EIGHTY-FIRST CONGRESS

SEC. 201. (a) (1) The first sentence of section 3 of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), is amended by striking out "June 30, 1973" and inserting in lieu thereof "June 30, 1978".

(2) Section 15(15) of such Act is amended by striking out "1968–1969" and inserting in lieu thereof "1973–1974".

(b) Section 16(a) of such Act is amended—

(1) in clause (1) (A) thereof, by striking out "July 1, 1973" and inserting in lieu thereof "July 1, 1978"; and

(2) in clause (1) (B) thereof, by inserting after "seriously damaged" the following ", prior to July 1, 1978".

(c) The amendments made by this section shall be effective on and after July 1, 1973.

DURATION OF PAYMENTS UNDER TITLE I OF PUBLIC LAW 374, EIGHTY-FIRST CONGRESS EXCEPT SECTION 3 THEREOF

SEC. 202. (a) (1) Section 2(a) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by striking out "July 1, 1973" and inserting in lieu thereof "July 1, 1978".

(2) Section 4(a) of such Act is amended, in that part thereof which precedes clause (1), by striking out "July 1, 1973" and inserting in lieu thereof "July 1, 1978".

(3) Section 7(a) of such Act is amended—

(A) in clause (1) (A), by striking out "July 1, 1973"; and inserting in lieu thereof "July 1, 1978,"; and

(B) in clause (1) (B), by inserting after "seriously damaged" the following: "prior to July 1, 1978".

(b) The amendments made by this section shall be effective on and after July 1, 1973.

AMENDMENTS TO SECTIONS 3, 5, AND 7 OF PUBLIC LAW 874, EIGHTY-FIRST CONGRESS

SEC. 203. (a) (1) Section 3 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended to read as follows:

"CHILDREN RESIDING ON, OR WHOSE PARENTS ARE EMPLOYED ON, FEDERAL PROPERTY

"Children of Persons Who Reside and Work on Federal Property

"SEC. 3. (a) For the purpose of computing the amount to which a local educational agency is entitled under this section for any fiscal year ending prior to July 1, 1978, the Commissioner shall determine the number of children who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such fiscal year, and who, while in attendance at such schools, resided on Federal property and—

"(1) did so with a parent employed on Federal property situated (A) in whole or in part in the county in which the school district of such agency is located, or (B) if not in such county, in whole or in part in the same State as the school district of such agency; or

"(2) had a parent who was on active duty in the uniformed services (as defined in section 101 of title 37, United Statse Code).

In making a determination under clause (2) of the preceding sentence with respect to a local educational agency for any fiscal year, the Commissioner shall include the number of children who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such year, and who, while in attendance at such schools, resided on Indian lands, as defined under clause (A) of section 401(1).

"Children of Persons Who Reside or Work on Federal Property

"(b) For the purpose of computing the amount to which a local educational agency is entitled under this section for any fiscal year ending prior to July 1, 1978, the Commissioner shall, in addition to any determination made with respect to such agency under subsection (a), determine the number of children (other than children with respect to whom a determination is made for such fiscal year under subsection (a)) who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such fiscal year, and who, while in attendance at such schools, either—

"(1) resided on Federal property, or

"(2) resided with a parent employed on Federal property situated (A) in whole or in part in the county in which the school district of such agency is located, or (B) if not in such county, in whole or in part in the same State as the school district of such agency, or

"(3) had a parent who was on active duty in the uniformed services (as defined in section 101 of title 37, United States Code).

For such purpose, with respect to a local educational agency, in the case of any fiscal year ending prior to July 1, 1978, the Commissioner shall also determine the number of children (other than children to whom subsection (a) or the preceding sentence applies) who were in average daily attendance at the schools of such agency and for whom such agency provided free public education, during such fiscal year, and who, while in attendance at such schools resided with a parent who was, at any time during the three-year period immediately preceding the beginning of the fiscal year for which the determination is made, a refugee who meets the requirements of clauses (A) and (B) of section 2(b)(3) of the Migration and Refugee Assistance Act of 1962, except that the Commissioner shall not include in his determination under this sentence for any fiscal year any child with respect to whose education a payment was made under section 2(b)(4) of such Act.

"Eligibility for Payments

"(c)(1) Except as is provided in paragraph (2), no local educational agency shall be entitled to receive a payment for any fiscal year with respect to a number of children determined under subsection (a) and subsection (b), unless the number of children so determined with respect to such agency amounts to—

"(A) at least four hundred such children; or

"(B) a number of such children which equals at least 3 per centum of the total number of children who were in average daily attendance, during such year, at the schools of such agency and for whom such agency provided free public education;

whichever is the lesser.

"(2)(A)(i) Clause (B) of paragraph (1) shall not operate to make any local educational agency eligible for a payment under this section for any fiscal year unless the number of children with respect to whom determination was made under subsections (a) and (b) respecting such agency for that fiscal year is at least ten.

"(ii) If a local educational agency is eligible for a payment for any fiscal year by the operation of clause (B) of paragraph (1), it shall continue to be so eligible for the two succeeding fiscal years even if such agency fails to meet the requirement of such clause (B) during such succeeding fiscal years, except that the number of children determined for the second such succeeding fiscal year with respect to such agency for the purpose of any clause in paragraph (1) of subsection (d) shall not exceed 50 per centum of the number of children determined with respect to such agency for the purpose of that clause for the last fiscal year during which such agency was so eligible.

"(iii) If the Commissioner determines with respect to any local educational agency for any fiscal year that—

"(I) such agency does not meet the requirement of clause (B) of paragraph (1); and

"(II) the application of such requirement, because of exceptional circumstances, would defeat the purposes of this title;

the Commissioner is authorized to waive such requirement with respect to such agency.

"(B) No local educational agency shall be entitled to receive a payment for any fiscal year with respect to a number of children determined under the second sentence of subsection (b) unless the number of children so determined constitutes at least 20 per centum of the total number of children who were in average daily attendance at the schools of such agency and for whom such agency, during such fiscal year, provided free public education.

"Amount of Payments

"(d)(1) Except as is provided in paragraph (2), the amount to which a local educational agency shall be entitled under this section for any fiscal year shall be—

"(A) in the case of any local educational agency with respect to which the number of children determined for such fiscal year under subsection (a) amounts to at least 25 per centum of the total number of children who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education, an amount equal to 100 per centum of the local contribution rate multiplied by the number of children determined under such subsection plus the sum of the products obtained with respect to such agency under clauses (B)(iii), (B)(iv), and (B)(v); and

"(B) in any other case, an amount equal to the sum of—

"(i) the product obtained by multiplying 100 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clause (2) of subsection (a),

"(ii) the product obtained by multiplying 90 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clause (1) of subsection (a),

"(iii) the product obtained by multiplying 50 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clause (3) of subsection (b),

"(iv) the product obtained by multiplying 45 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clauses (1) and (2)(A) of subsection (b), and

"(v) the product obtained by multiplying 40 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clause (2)(B) of subsection (b).

"(2)(A) Not later than December 1 during each fiscal year beginning after June 30, 1977, the Commissioner shall, except as is provided in clause (iii) in the third sentence of this subparagraph, determine the total number of children with respect to whom determinations are made under subsection (b) for all local educational agencies making application for payments under this section which meet the eligibility requirements set forth in subsection (c). The Commissioner shall determine the percentage which such number constitutes of the total number of children who were in average daily attendance at the schools of such agencies during such fiscal year and for whom such agencies provided free public education. In calculating the products under clauses (B)(iii), (B)(iv), and (B)(v) of paragraph (1), with respect to any local educational agency for any fiscal year, the Commissioner shall reduce the number of children with respect to whom a determination is made under subsection (b) by a number equal to one-half of the number which the percentage determined under the preceding sentence constitutes of the total number of children with respect to whom such determination is made and who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education, except that—

"(i) such percentage shall not exceed 4 per centum;

"(ii) the number reduced shall not exceed three hundred; and

"(iii) this subparagraph shall not apply to any local educational agency. (I) with respect to which the number of children determined under subsection (b) for any fiscal year amounts to at least 10 per centum of the total number of children who were in average daily attendance at the schools of such agency during such fiscal year and for education, or (II) during any fiscal year in which such agency receives more than 25 per centum of the funds for its current expenditure from payments under this section.

In determining the total number of children who were in average daily attendance at the schools of an agency during any fiscal year under clause (iii) (I) in the preceding sentence, the number of children in such schools with respect to whom a determination is made under subsection (a) for such year shall not be considered.

"(B) If the Commissioner determines that—

"(i) the amount computed under paragraph (1), as is otherwise provided in this subsection with respect to any local educational agency for any fiscal year, together with the funds available to such agency from State and local sources and from other sections of this title, is less than the amount necessary to enable such agency to provide a level of education equivalent to that maintained in the school districts of the State which are generally comparable to the school district of such agency;

"(ii) such agency is making a reasonable tax effort and exercising due diligence in availing itself of State and other financial assistance;

"(iii) not less than 50 per centum of the total number of children who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education were, during such fiscal year, determined under either subsection (a) or clause (1) of subsection (b), or both; and

"(iv) the eligibility of such agency under State law for State aid with respect to free public education of children residing on Federal property, and the amount of such aid, are detemined on a basis no less favorable to such agency than the basis used in determining the eligibility of local educational agencies for State aid, and the amount

thereof, with respect to the free public education of other children in the State;

the Commissioner is authorized, to increase the amount computed under paragraph (1) with respect to such agency for such fiscal year to the extent necessary to enable such agency to provide a level of education equivalent to that maintained in such comparable school districts. The Commissioner shall not, under the preceding sentence, increase the amount computed under paragraph (1) with respect to any local educational agency for any fiscal year to an amount which exceeds the product of—

"(I) the amount the Commissioner determines to be the cost per pupil of providing a level of education maintained in such comparable school districts during such fiscal year,

multiplied by—

"(II) the number of children determined with respect to such agency for such year under either subsection (a) or clause (1) of subsection (b), or both, minus the amount of State aid which the Commissioner determines to be available with respect to such children for the fiscal year for which the computation is being made.

"(3)(A) Except as is provided in subparagraph (B), in order to compute the local contribution rate for a local educational agency for any fiscal year, the Commissioner, after consulting with the State educational agency of the State in which the local educational agency is located and with the local educational agency, shall determine which school districts within such State are generally comparable to the school district of the local educational agency for which the computation is being made. The local contribution rate for such agency shall be the quotient of—

"(i) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made, which the local educational agencies of such comparable school districts derived from local sources.

divided by—

"(ii) the aggregate number of children in average daily attendance for whom such agency provided free public education during such second preceding fiscal year.

"(B)(i) The local contribution rate for a local educational agency in any State shall not be less than—

"(I) 50 per centum of the average per pupil expenditures in such State, or

"(II) 50 per centum of such expenditures in all the States,

whichever is greater, except that clause (II) shall not operate in such a manner as to make the local contribution rate for any local educational agency exceed an amount equal to the average per pupil expenditure in such State.

"(ii) If the current expenditure in those school districts which the Commissioner has determined to be generally comparable to the school district of the local educational agency for which a computation is made under subparagraph (A) are not reasonably comparable because of unusual geographical factors which affect the current expenditures necessary to maintain, in the school district of such agency, a level of education equivalent to that maintained in such other school districts, the Commissioner is authorized to increase the local contribution rate for such agency by such an amount which he determines will compensate such agency for the increase in current expenditures necessitated by such unusual geographical factors.

"(iii) The local contribution rate for any local educational agency in—

"(I) Puerto Rico, Wake Island, Guam, American Samoa, or the Virgin Islands, or

"(II) any State in which a substantial proportion of the land is in unorganized territory, or

"(III) any State in which there is only one local educational agency,

shall be determined for any fiscal year by the Commissioner in accordance with policies and principles which will best achieve the purposes of this section and which are consistent with the policies and principles provided in this paragraph for determining local contribution rates in States where it is possible to determine generally comparable school districts.

"(C) For the purposes of this paragraph—

"(i) the term 'State' does not include Puerto Rico, Wake Island, Guam, American Samoa, or the Virgin Islands; and

"(ii) the 'average per pupil expenditure' in a State shall be (I) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made of all local educational agencies in the State, divided by (II) the aggregate number of children in average daily attendance for whom such agencies provide free public education during such second preceding fiscal year.

"Adjustments for Decreases in Federal Activities

"(e) Whenever the Commission determines that—

"(1) for any fiscal year, the number of children determined with respect to any local educational agency under subsections (a) and (b) is less than 90 per centum of the number so determined with respect to such agency during the preceding fiscal year;

"(2) there has been a decrease or cessation of Federal activities within the State in which such agency is located; and

"(3) such decrease or cessation has resulted in a substantial decrease in the number of children determined under subsection (a) and (b) with respect to such agency for such fiscal year;

the amount to which such agency is entitled for such fiscal year and for any of the three succeeding fiscal years shall not be less than 90 per centum of the amount to which such agency was so entitled for the preceding fiscal year. That part of any entitlement of any local educational agency which is in excess of the amount which such entitlement would be without the operation of the preceding sentence shall be deemed to be attributable to determinations of children with respect to such agency under subsection (b)(2)(A).

"Determinations on the Basis of Estimates

"(f) Determinations with respect to a number of children by the Commissioner under this section for any fiscal year shall be made, whenever actual satisfactory data are not available, on the basis of estimates. No such determination shall operate, because of an underestimate, to deprive any local educational agency of its entitlement to any payment (or the amount thereof) under this section to which such agency would be entitled had such determination been made on the basis of accurate data.".

(2) Section 5 of such Act is amended to read as follows:

"PAYMENTS

"Applications

"SEC. 5. (a)(1) Any local educational agency desiring to receive the payments to which it is entitled for any fiscal year under section 2, 3, or 4 shall submit an application therefor through the State educational agency of the State in which such agency is located to the Commissioner. Such applications shall be submitted at such time, in such form, and containing such information as the Commissioner may reasonably require to enable him to carry out his functions under this title and shall give adequate assurance that the applicant will submit such reports as the Commissioner may reasonably require to determine whether such agency is entitled to a payment under any of such sections and the amount of such payment.

"(2)(A) Applications submitted under paragraph (1) for payments on the basis of children determined under section 3(a) or 3(b) who reside, or reside with a parent employed, on Indian lands shall set forth adequate assurance that Indian children will participate on an equitable basis in the school program of the local educational agency.

"(B) For the purposes of this paragraph, the term 'Indian lands' means that property included within the definition of Federal property under clause (A) of section 401(1).

"Payments by the Commissioner

"(b) The Commissioner shall pay to each local educational agency, making application pursuant to subsection (a), the amount to which it is entitled under section 2, 3, or 4. Sums appropriated, for any fiscal year, to enable the Commissioner to make payments pursuant to this title shall, notwithstanding any other provision of law unless enacted in express limitation of this subsection, remain available for obligation and payments with respect to amounts due local educational agencies under this title for such fiscal year, until the end of the fiscal year succeeding the fiscal year for which such sums are appropriated.

"Adjustments Where Necessitated by Appropriations

"(c) If the sums appropriated for any fiscal year for making payments on the basis of entitlements established under sections 2, 3, and 4 for that year are not sufficient to pay in full the total amounts which the Commissioner estimates all local educational agencies are entitled to receive under such sections for such year, the Commissioner shall allocate such sums among local educational agencies and make payments to such agencies as follows:

"(1) He shall first allocate to each local educational agency which is entitled to a payment under section 2 and section 3 an amount equal to 25 per centum of the amount to which it is entitled as computed under section 2 or section 3(d), as the case may be, for such fiscal year.

"(2) From that part of such sums which remains after the allocation required by paragraph (1) for any fiscal year, he shall allocate an additional amount—

"(A) to each local educational agency described in clause (A) of section 3(d)(1) which equals 60 per centum of the amount to which such agency is entitled, as computed under section 3(d), for such fiscal year.

"(B) to each local educational agency with respect to which a number of children is determined under clause (2) of section 3(a) which equals 65 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 3(d), for such fiscal year;

"(C) to each local educational agency with respect to which a number of children is determined under clause (1) of section 3(a) which equals 63 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 3(d), for such fiscal year;

"(D) to each local educational agency with respect to which a number of children is determined under clause (3) of section 3(b) which equals 35 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 3(d), for such fiscal year;

"(E) to each local educational agency with respect to which a number of children de-

termined under clause (2)(A) of section 3(b) which equals 32 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 3(d) for such fiscal year;

"(F) to each local educational agency with respect to which a number of children is determined under clause (2)(B) of section 3(b) which equals 28 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 3(d), for such fiscal year; and

"(G) to each local educational agency with respect to the amount to which such agency is entitled under section 2 that proportion of its entitlement, unsatisfied after allocations under paragraph (1), which bears the same ratio to the total of the unsatisfied entitlements under sections 2 and 3, remaining after allocation under paragraph (1), as the sums appropriated for payments under this section, remaining after allocations under paragraph (1), bears to the amount necessary to satisfy the total of such unsatisfied entitlements.

"(3) Any sums remaining after allocations are made pursuant to paragraph (2) for any fiscal year shall be allocated by the Commissioner among local educational agencies which have unsatisfied entitlements established under sections 2, 3, and 4 in proportion to the degree to which such entitlements are unsatisfied for that fiscal year, after allocations are made pursuant to paragraphs (1) and (2).

No allocation may be made pursuant to paragraph (2) or (3) and no payment may be paid on the basis of any such allocation unless allocations are made pursuant to paragraph (1) and payments are made on the basis of such allocations. No allocation may be made pursuant to any clause of paragraph (2) and no payment may be made on the basis of any such allocation unless allocations are made pursuant to all of the clauses of such paragraph and payments are made on the basis of such allocations.

"Treatment of Payments by the States in Determining Eligibility for, and the Amount of, State Aid

"(d)(1) No payments may be made under this title for any fiscal year to any local educational agency in any State (A) if that State has taken into consideration payments under this title in determining—

"(i) the eligibility of any local educational agency in that State for State aid for free public education of children; or

"(ii) the amount of such aid with respect to any such agency;

during that fiscal year or the preceding fiscal year, or (B) if such State makes such aid available to local educational agencies in such a manner as to result in less State aid to any local educational agency which is eligible for payments under this title than such agency would receive if such agency were not so eligible.

"(2) Notwithstanding clauses (A)(ii) and (B) of paragraph (1), if a State has an effect a program of State aid for free public education for any fiscal year, which program was adopted after June 30, 1972, and is designed to equalize expenditures for free public education among the local educational agencies of that State, payments under this title for any fiscal year may be taken into consideration by such State in determining the relative—

"(A) financial resources available to local educational agencies in that State; and

"(B) financial need of such agencies for the provision of free public education for children served by such agency.

The term 'equalize expenditures' shall not be construed in any manner adverse to a program of State aid for free public education which provides for taking into consideration the additional cost of providing free public education for particular groups or categories of pupils in meeting the special educational needs of such children as handicapped children, economically disadvantaged, those who need bilingual education, and gifted and talented children.

"(3) The terms 'State aid' and 'equalize expenditures' as used in this subsection shall be defined by the Commissioner by regulation.".

(3) Section 7(c) of such Act is amended by striking out the second sentence thereof and inserting in lieu thereof the following: "Pending such appropriation, the Commissioner is authorized to expend (without regard for subsections (a) and (e) of section 3679 of the Revised Statutes (31 U.S.C. 665)) from any funds appropriated to the Office of Education and at that time available to the Commissioner, such sums as may be necessary for providing immediate assistance under this section. Expenditures pursuant to the preceding sentence shall—

"(1) be reported by the Commissioner to the Committees on Appropriations and Education and Labor of the House of Representatives and the Committees on Appropriations and Labor and Public Welfare of the Senate within thirty days of the expenditure;

"(2) be reimbursed from the appropriations authorized by the first sentence of this subsection.

The report required to the Committees on Appropriations by clause (1) in the preceding sentence shall constitute a budget estimate within the meaning of section 201(a)(5) of the Act of June 10, 1921 (31 U.S.C. 11(a)(5)).".

(b)(1)(A) Except as provided in subparagraph (B), the amendments made by paragraphs (1) and (2) of subsection (a) shall be effective on and with respect to appropriations for fiscal years beginning on and after July 1, 1975, and the amendments made by paragraph (3) of subsection (a) shall be effective upon enactment of this Act.

(B) Section 3(a) of the Act of September 30, 1956 (Public Law 874, Eighty-first Congress) is amended by striking out "July 1, 1973" and inserting in lieu thereof "July 1, 1975".

(2)(A)(i) Notwithstanding any other provision of law unless enacted in express limitation of this subparagraph—

(I) in the case of any local educational agency which is entitled to a payment under section 3 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) for the fiscal year ending June 30, 1973, which constituted an amount equal to not less than 10 per centum of the current expenditures of such agency for such fiscal year, the amount paid to such agency pursuant to such Act of September 30, 1950, for any fiscal year ending prior to July 1, 1978, on the basis of the entitlement of that agency under such section 3, shall not be less than 90 per centum of the amount paid to such agency on the basis of such entitlement for the preceding fiscal year; and

(II) in the case of any other local educational agency, the amount so paid during any fiscal year ending prior to July 1, 1978, shall not be less than 80 per centum of the amount so paid for the preceding fiscal year.

In the case of any local educational agency which is eligible prior to July 1, 1975, for a payment under section 3 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) by reason of the 3 per centum requirement in clause (B) of section 3(c)(2) of such Act, as in effect prior to the effective date of the amendment made by paragraph (1) of subsection (a), but which fails to meet such requirement in any fiscal year ending prior to July 1, 1977, such agency shall continue to the eligible for a payment under such section 3 as then in effect for the two succeeding fiscal years, but the payment under such section during the scond of such succeeding fiscal years shall not exceed 50 per centum of the amount of the payment such agency was entitled to receive during the most recent fiscal year in which it was so eligible by reason of such clause (B).

(ii) Funds appropriated for any fiscal year for making payments to local educational agencies pursuant to the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), which are increased by reason of the provisions of division (i) shall, to the extent of any such increase, be separate from funds appropriated for such fiscal year for payments pursuant to title I of such Act which are not so increased. If, for any fiscal year, a law making appropriations for payments pursuant to such title I is enacted and such law makes no express provision for payments increased by division (i)—

(I) all funds so appropriated shall be allocated and paid in accordance with section 5 of such Act of September 30, 1950, and without regard for the provisions of division (i); and

(II) not later than fifteen days after the enactment of such law, the Commissioner shall submit a report to the Committees on Appropriations and on Education and Labor of the House of Representatives and the Committees on Appropriations and Labor and Public Welfare of the Senate, which report shall contain a statement detailing the dollar amounts necessary to satisfy the requirements of division (i) and constitute a budget estimate within the meaning of section 201(a)(5) of the Act of June 10, 1921 (31 U.S.C. 11(a)(5)).

(B) In the case of any local educational agency which experiences a decrease in the number of children determined by the Commissioner of Education under section 3 of the Act of September 1950 (Public Law 874, Eighty-first Congress) of 10 per centum or more of such number—

(i) during the fiscal year ending June 30, 1974, or the fiscal year ending June 30, 1975; or

(ii) during the period beginning July 1, 1973, and ending June 30, 1975;

as the result of a decrease in, or cessation of, Federal activities affecting military installations in the United States announced after April 16, 1973, the amount of the payment to which such agency shall be entitled under title I of such Act, as computed under section 3 of such Act, for any fiscal year ending prior to July 1, 1978, shall not be less than 90 per centum of the amount to which the agency was so entitled during the preceding fiscal year. The provisions of this subparagraph shall be effective on and after July 1, 1973, and with respect to appropriations for the fiscal year ending June 30, 1974, and succeeding fiscal years, and such provisions shall be deemed to have been enacted before the beginning of the fiscal year ending June 30, 1974. Nothing in this subparagraph shall be construed to decrease the amount of the payment to which any local educational agency is entitled for any fiscal year on the basis of entitlements created under section 3 of such Act of September 30, 1950.

(C) During the first fiscal year in which the amendments made by subsection (a) are effective and each of the succeeding fiscal years ending prior to July 1, 1978, the Commissioner shall determine with respect to each local educational agency in any State the number of children who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such fiscal year, and who, while in attendance at such schools resided with a parent employed on Federal property in a State or in a county other than the State or county, as the case may be, in which the school district of such agency is

located but which is situated within a reasonable commuting distance from the school district of such agency. If the number of children determined under the preceding sentence is equal to at least 10 per centum of the total number of children determined with respect to such agency for such fiscal year under section 3(b) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), the amount to which such agency shall be entitled with respect to a number of children determined under such section 3(b) for such fiscal year, shall not be less than 90 per centum of the amount to which such agency was entitled with respect to the number of children so determined during the preceding fiscal year, as computed under section 3 of such Act.

EXTENSION OF AUTHORITY TO RESTORE SCHOOL BUILDINGS FOLLOWING A NATIONAL DISASTER

SEC. 204. Section 16(a) of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), is amended by inserting before the last sentence thereof the following new sentence: "For the purpose of the preceding sentence, the phrase 'cost of construction incident to the restoration or replacement of the school facilities' includes such additional amounts as the Commissioner may approve in order to assure that the facilities, as restored or replaced, will afford maximum protection against personal injuries resulting from a disaster.".

DURATION OF PAYMENTS UNDER PUBLIC LAW 874, EIGHTY-FIRST CONGRESS, FOR THE EDUCATION OF INDIAN CHILDREN

SEC. 205. (a) Section 303(a)(1) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), as added by the Indian Education Act, is amended by striking out "July 1, 1975" and inserting in lieu thereof "July 1, 1978,".

(b) The amendments made by this section shall be effective on and after July 1, 1973.

ENTITLEMENT TO PAYMENTS WITH RESPECT TO HIGH CONCENTRATIONS OF CHILDREN WHO RESIDE ON OR WHOSE PARENTS ARE EMPLOYED ON FEDERAL PROPERTY

SEC. 206. (a) Section 3 of the Act of September 30, 1950, (Public Law 874, Eighty-first Congress) is amended by adding at the end thereof the following new subsection:

"(f) Notwithstanding any other provision of this Act (including the provisions of section 5(c), a local educational agency with respect to which the number of children determined for any fiscal year under subsection (a) amounts to at least 25 per centum of the total number of children who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education, shall be entitled to receive an amount equal to 100 per centum of the amounts to which such agency would be otherwise entitled under this Act. The provisions of section 5(c) shall not apply to any local educational agency to which this subsection applies.".

(b) The amendment made by this section shall be effective on and after July 1, 1974.

TITLE III—ADULT EDUCATION

DEFINITION OF "COMMUNITY SCHOOL PROGRAM"

SEC. 301. Section 303 of the Adult Education Act is amended by (1) redesignating subsections (e), (f), (g), (h), and (i), and all references thereto, as subsections (f), (g), (h), (i), and (j), respectively, and (2) inserting after subsection (d) the following new subsection:

"(e) The term 'community school program' is a program in which a public building, including but not limited to public elementary or secondary school, is used as a community center operated in conjunction with other groups in the community, community organizations, and local governmental agencies, to provide educational, recreational, cultural, and other community services for the community that center serves in accordance with the needs, interests, and concerns of that community.".

DECREASE IN MAXIMUM AMOUNT TO BE RESERVED FOR SPECIAL PROJECTS

SEC. 302. Section 304 of the Adult Education Act is amended by striking out "20 per centum" and inserting in lieu thereof "15 per centum".

NEW STATE PLAN REQUIREMENTS

SEC. 303. (a) Section 306 of the Adult Education Act is amended by redesignating clauses (6), (7), (8), and (9), and all references thereto, as clauses (8), (9), (10), and (11), respectively, and by inserting after clause (5) of such section the following new clauses:

"(6) provide for cooperation with manpower development and training programs and occupational education programs;

"(7) provide that such agency will make available not to exceed 25 per centum of the State's allotment for programs of equivalency for a certificate of graduation from a secondary school;".

(b) Section 306(a)(1) of the Adult Education Act is amended by inserting after "adult population" the following: ", including institutionalized persons".

SPECIAL PROJECTS

SEC. 304. Section 309(b) of the Adult Education Act is amended by—

(1) inserting immediately before "local" the following: "State educational agencies,";

(2) adding at the end thereof the following new sentence: "Whenever the Commissioner makes grants to local educational agencies or other public and private nonprofit agencies, he shall establish procedures under which the appropriate State educational agencies will be given reasonable opportunity to offer recommendations to the grant recipient and to submit comments to the Commissioner."; and

(3) inserting after the words "television stations" the following: "and agencies conducting community school programs".

NATIONAL CLEARINGHOUSE ON ADULT EDUCATION

SEC. 305. The Adult Education Act is amended by inserting immediately after section 309 thereof the following new subsection:

"NATIONAL CLEARINGHOUSE ON ADULT EDUCATION

"SEC. 309A. The Commissioner shall establish or designate an existing agency as a National Clearinghouse on Adult Education, which shall obtain and disseminate to the public information pertaining to the education of adults and adult education programs, together with ways of coordinating adult education programs with manpower and other education programs. The Commissioner is authorized to enter into contracts with public agencies or private organizations to operate the clearinghouse established or designated under this section.".

STATE ADVISORY COUNCILS

SEC. 306. The Adult Education Act is amended by inserting immediately after section 310 thereof the following new section:

"STATE ADVISORY COUNCILS

"SEC. 310A. (a) Any State which receives assistance under this title may establish and maintain a State advisory council which shall be appointed by the Governor or, in the case of a State in which members of the State board which governs the State education agencies are elected (including election by the State legislature), by such board.

"(b)(1) Such a State advisory council shall include as members persons who, by reason of experience or training, are knowledgeable in the field of adult education or who are officials of the State educational agency or local educational agencies of that State, persons who are or have received adult educational services, and persons who are representative of the general public.

"(2) Such a State advisory council, in accordance with regulations prescribed by the Commissioner, shall—

"(A) advise the State educational agency on the development of, and policy matters arising in, the administration of the State plan approved pursuant to section 306;

"(B) advise with respect to long-range planning and studies to evaluate adult educational programs, services, and activities assisted under this Act; and

"(C) prepare and submit to the State educational agency, and to the National Advisory Council for Adult Education established pursuant to section 310, an annual report of its recommendations, accompanied by such additional comments of the State educational agency as that agency deems appropriate.

"(c) Upon the appointment of any such advisory council the appointing authority under subsection (a) of this section shall inform the Commission of the establishment of, and membership of, its State advisory council. The Commissioner shall, upon receiving such information, certify that each such council is in compliance with the membership requirements set forth in subsection (b)(1) of this section.

"(d) Each such State advisory council shall meet within thirty days after certification has been accepted by the Commissioner under subsection (c) of this section and select from among its membership a chairman. The time, place, and manner of subsequent meetings shall be provided by the rules of the State advisory council, except that such rules shall provide that each such council meet at least four times each year, including at least one meeting at which the public is given the opportunity to express views concerning adult education.

"(e) Each such State advisory council is authorized to obtain the services of such professional, technical, and clerical personnel as may be necessary to enable them to carry out their functions under this section."

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS; TECHNICAL AMENDMENTS

SEC. 307. (a) Section 313(a) of the Adult Education Act is amended by—

(1) striking out "section 310" and inserting in lieu thereof "sections 310 and 314";

(2) by striking out the word "and" after "June 30, 1971."; and

(3) by inserting after "June 30, 1973," the following: "$150,000,000 for each of the fiscal years ending June 30, 1974, and June 30, 1975, $175,000,000 for the fiscal year ending June 30, 1976, and $200,000,000 for each of the fiscal years ending June 30, 1977, and June 30, 1978: *Provided*, That grants to each State for this program shall not be less than grants made to such State agencies in fiscal year 1973,".

(b) Section 314(d) of such Act, as added by section 431 of Public Law 92-318, is amended by striking out "two" and inserting after "years" the following: "ending prior to July 1, 1978".

AMENDMENTS RELATING TO BILINGUAL EDUCATION

SEC. 308. (a) Section 306(a) of the Adult Education Act is amended by striking out "and" at the end of clause (10) of such section, by redesignating clause (11), and all references thereto, as clause (12), and by adding after clause (10) the following clause:

"(11) provide that special emphasis be given to the needs of persons of limited English-speaking ability (as defined in section 703(a) of title VII of the Elementary and Secondary Education Act of 1965), by providing bilingual adult education programs in which instruction is given in both the

native language of such person and in English, carried out in coordination with programs of bilingual education assisted under such title VII and bilingual vocational education programs under the Vocational Education Act of 1963; and"

(b)(1) Section 309(b)(1) of such Act is amended by inserting a comma and "including methods for educating persons of limited English-speaking ability" immediately after "methods".

(2) Section 309(b)(2) of such Act is amended by inserting a comma and "including education for persons of limited English-speaking ability immediately after "education".

(3) Section 311(b) of such Act is amended by inserting a comma and "including education for persons of limited English-speaking ability in which instruction is given in both the native language of such person and in English" immediately after "adult education".

EFFECTIVE DATES

SEC. 309. The amendments made by this title shall be effective on the date of enactment of this Act, except that—

(1) the amendments made by section 307 shall be effective on and after July 1, 1973; and

(2) the amendments made by sections 302, 303, and 308 shall be effective on, and with respect to appropriations for fiscal years beginning after, June 30, 1974.

TITLE IV—CONSOLIDATION, SIMPLIFICATION, AND IMPROVEMENT OF THE ADMINISTRATION OF EDUCATION PROGRAMS

SIMPLIFIED STATE APPLICATION

SEC. 401. (a)(1) Section 421 of the General Education Provisions Act, and all references thereto, is redesignated as section 421A; and such Act is amended by inserting after the heading of part C of such Act the following new section:

"APPLICABILITY

"SEC. 421. The provisions of this part shall apply to any program for which the Commissioner has administrative responsibility, as specified by law or by delegation of authority pursuant to law.".

(2) Section 434 of such Act is amended by striking out subsection (b) thereof and inserting in lieu thereof the following:

"(b)(1)(A) In the case of any State which applies, contracts, or submits a plan, for participation in any applicable program in which Federal funds are made available for assistance to local educational agencies through, or under the supervision of, the State educational agency of that State, such State shall submit to, and maintain on file with, the Commissioner a general application meeting the requirements of this subsection. Such general application shall be in the form of a contractual agreement which (i) provides for the submission by the State and approval by the Commissioner of an annual program plan with respect to the particular programs in which the State desires to participate and (ii) provides assurances—

"(I) that the State will, through its State educational agency, provide for such methods of administration as are necessary for the proper and efficient administration of the programs to which the general application applies;

"(II) that the State will make provision for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the States under any applicable program;

"(III) that the State will make provision for making such reports as the Commissioner may require to carry out his functions;

"(IV) that the State will follow such policies and use such methods and practices of administration as will insure that non-Federal funds will not be supplanted by Federal funds; and

"(V) that the State will submit to, and have approved by, the Commissioner an annual program plan in accordance with subparagraph (B).

"(B) The annual program plan submitted by any State for any fiscal year with respect to any program to which this paragraph applies shall—

"(i) be prepared and administered in a manner consistent with specific State plan requirements of the appropriate applicable statutes affecting the program for which the annual program plan is applicable;

"(ii) set forth a long-range program plan for the use of Federal funds under such program;

"(iii) set forth a statement describing the purposes for which Federal funds will be expended during the fiscal year for which the annual program plan is submitted; and

"(iv) comply in all other respects with the specific requirements of the appropriate applicable statutes.

"(C) In carrying out the Commissioner's functions under clauses (ii)(III) and (ii)(V) of subparagraph (A), the Commissioner shall require, as part of each State's annual program plan submitted under subparagraph (B), that each State make a report on the uses of Federal funds in that State under the programs to which this subsection applies. Such report shall—

"(i) describe the manner in which, and the purposes for which, such Federal funds were expended in that State during the preceding two fiscal years;

"(ii) describe the policies and procedures used, during such fiscal years, by the State educational agency in making such Federal funds available to local educational agencies;

"(iii) include a statistical report on the children served or affected by programs, projects, or activities assisted with such Federal funds, during such second preceding fiscal year, and the manner in which such children were served or affected;

"(iv) with respect to such second preceding fiscal year, include a compilation of reports from the local educational agencies in that State which—

"(I) sets forth the amount of such Federal funds received by each such agency and the purposes for which such funds were expended, and

"(II) includes such data as may be necessary to make the report described in clause (iii); and

"(v) be made reasonably available to the public.

"(2) In accordance with determinations and regulations of the Commissioner, the requirements of paragraph (1) shall be in lieu of comparable requirements for State plans in applicable statutes authorizing appropriations for programs to which paragraph (1) applies.

"(3) In the case of any application for assistance under any applicable program to which paragraph (1) does not apply and with respect to which the Commissioner determines that this section would simplify the administration of applicable program, each such application shall be submitted to the Commissioner at such time, in such manner, and containing such information as the Commissioner shall prescribe by regulation and, as a precondition for approval, shall—

"(A) provide for such methods of administration as are necessary for the proper and efficient administration of the program or project for which application is made;

"(B) make provision for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under the application; and

"(C) provide for making such reports as the Commissioner may require to carry out his functions.

"(c)(1) Whenever the Commissioner, after reasonable notice and an opportunity for hearing, finds that there has been a failure, by any recipient of funds under any applicable program, to comply substantially with the terms to which such recipient has agreed in order to receive such funds, the Commissioner shall notify such recipient that further payments will not be made to such recipient under that program until he is satisfied that such recipient no longer fails to comply with such terms. Until the Commissioner is so satisfied, no further payments shall be made to such recipient.

"(2) The terms of any application for funds under any applicable program shall constitute a contractual agreement between the Commissioner and the applicant. Such agreement shall be specifically enforceable by the Commissioner in any court of the United States. Nothing in this paragraph shall be construed (A) to deprive either the Commissioner or any applicant of any remedy otherwise available to the Commissioner or to an applicant, or (B) to enlarge the authority of the Commissioner to make or enforce requirements or conditions for which provision is not otherwise made by law.

"(3) If the Commissioner finds that the enforcement of paragraph (1) would defeat the purposes of the program involved and that enforcement of the terms to which the applicant agreed under paragraph (2) would more nearly accomplish such purposes, he shall use the enforcement procedure in paragraph (2) in lieu of withholding payments under paragraph (1).

"(d)(1)(A) If any State has submitted an application for funds under any applicable program under which appropriations for such program are, by the applicable statute, allotted or apportioned among the States or under which the State (or local educational agencies in that State) is entitled to a portion of an appropriation therefor and the Commissioner disapproves such application, or if the Commissioner withholds payments to a State under paragraph (1) of subsection (c), that State shall be entitled to judicial review of the actions of the Commissioner in accordance with the provisions of this paragraph.

"(B)(i) If any State, under circumstances qualifying for judicial review under this paragraph, desires judicial review of the Commissioner's action, such State may, within sixty days of such action, file with the United States Court of Appeals for the circuit in which such State is located a petition for review of such 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 circuit court the record of the proceedings on which he based the action brought under this division, as provided in section 2112 of title 28, United States Code.

"(ii) 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.

"(iii) 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.

"(2)(A) In the case of any applicable program under which local educational agencies receive Federal funds through State educational agencies, actions of such State agencies with respect to the approval of applications of local educational agencies and with respect to State administration of such program shall be subject to administrative review by the Commissioner. The Commissioner shall, by regulation, establish procedures for administrative review of State educational agency actions to which the preceding sentence applies.

"(B) Any local educational agency which is dissatisfied with an administrative review under subparagraph (A) shall qualify for, and be entitled to, judicial review under subparagraph (B) of paragraph (1) in the same manner as if such agency were a State.

"(3) Any person or agency who is aggrieved by any action or failure of action by the Commissioner (or by any person or agency acting for the Commissioner) under any applicable program shall be entitled to an administrative review by the Commissioner of such action or failure of action. The Commissioner shall, by regulation, establish procedures for administrative review in order to carry out the terms of the preceding sentence.

"(e) For the purposes of this section, the term 'application' includes—

"(1) an application for a grant;

"(2) an offer to make a contract;

"(3) a State plan for the administration of an applicable program;

"(4) State assurances with respect to the administration of such a program; and

"(5) any other methods for seeking Federal funds from the Commissioner of Education;

under which an agency, institution, organization, or other organized entity may become the recipient of Federal funds."

(b)(1) The amendments made by subsection (a) shall be effective on and after July 1, 1974.

(2) Nothing in the amendment made by subsection (a) shall be construed to affect the applicability of chapter 5 of title 5, United States Code, to the Office of Education or actions by the Commissioner.

CONSOLIDATION AND SIMPLIFICATION OF STATE-ADMINISTERED EDUCATION PROGRAMS

SEC. 402. (a)(1) It is the purpose of this section to consolidate and simplify the administration of the programs authorized by—

(A) title II of the Elementary and Secondary Education Act of 1965;

(B) title III of such Act, except section 306 thereof;

(C) title V of such Act;

(D) title III of the National Defense Education Act of 1958;

(E) title V of such Act; and

(F) subpart 2 of part B of the Education Professions Development Act.

(2) The Elementary and Secondary Education Act of 1965 is amended by inserting after title V the following new title:

"TITLE VI—ASSISTANCE TO THE STATES FOR SUPPLEMENTAL, AUXILIARY, AND SUPPORTIVE EDUCATIONAL SERVICES

"STATEMENT OF PURPOSE

"SEC. 601. (a) It is the purpose of this title to make financial assistance available to the States in order to enable them with such assistance and with other resources available to the States to provide supplemental, auxiliary, and supportive educational services for children who are in attendance at the elementary and secondary schools in the States.

"(b) In order to achieve the purpose set forth in subsection (a), the Commissioner shall, during the period beginning July 1, 1974, and ending June 30, 1978, carry out a program of financial assistance to the States in accordance with the provisions of this title.

"GRANTS TO STATES

"SEC. 602. (a)(1) Each State shall be entitled, under this title for any fiscal year ending prior to July 1, 1978, to the sum of—

"(A) an amount which equals the amount expended in that State from appropriations for the fiscal year 1972 for title II of this Act;

"(B) an amount which equals the amount expended in that State from appropriations for the fiscal year 1969 for title III of this Act;

"(C) an amount which equals the amount expended in that state from appropriations for the fiscal year 1969 for title V of the National Defense Education Act of 1958; and

"(D) an amount which equals the amount expended in that State from appropriations for the fiscal year 1972 for part A of title III of the National Defense Education Act of 1958.

"(2)(A) In addition to the entitlements created under paragraph (1) and except as is provided otherwise in this title, the amount to which a State shall be entitled under this title and the General Education Provisions Act for any fiscal year shall, subject to subparagraph (C), be equal to the sum of amounts determined under the following divisions:

"(i) The Commissioner shall determine with respect to that State the product of $20 multiplied by the number of children who are in attendance at elementary and secondary schools in the State.

"(ii) The Commissioner shall determine with respect to that State the product of—

"(I) 10 per centum of the average per pupil expenditure in that State,

multiplied by—

"(II) the number of children in that State who are aged five to seventeen, inclusive, and are in families having an annual income which does not exceed $3,000.

(iii) The Commissioner shall determine with respect to that State an amount which bears the same ratio to $200,000,000 as the product of—

"(I) the number of children counted in that State under division (1),

multiplied by—

"(II) that State's allotment ratio,

bears to the corresponding products for all the States, which allotment ratio shall be 100 per centum less the product of—

"(α) 50 per centum,

multiplied by—

"(β) the quotient obtained by dividing the income per child in such State by the income per child for all the States,

except that the allotment ratio shall, in no case, be less than 40 per centum nor more than 60 per centum.

"(B)(i) The Commissioner shall make determinations under divisions (i) and subparagraph (A) on basis of the most recent satisfactory data available to him.

"(ii) The Commissioner shall make determinations under division (ii) of subparagraph (A), relating to the number of children from families having an annual income of less than $3,000, on the basis of the most recent satisfactory data available to him from the Department of Commerce.

"(iii)(I) For the purposes of division (iii) of subparagraph (A), the Commissioner shall promulgate allotment ratios between July 1 and August 31 of each even-numbered year beginning with calendar year 1974 on the basis of the average of the incomes per child for the States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce. Each such promulgation shall be conclusive for each of the two fiscal years beginning after such promulgation.

"(II) For the purposes of division (iii) of subparagraph (A) and subdivision (I) of this division, the term 'income per child' for any State means the total personal income for the State divided by the number of children counted under division (1) of subparagraph (A).

"(C) If the aggregate of the products determined with respect to all States for any fiscal year under either division (i) or (ii) of subparagraph (A) of paragraph (2) is in excess of $200,000,000 the products of all of the States determined under such division shall be reduced ratably until such aggregate does not exceed such amount.

"(b) In addition to the amount of the grant to which each State is entitled under subsection (a) for any fiscal year, each State shall be entitled to a grant for the purposes of section 604 for that fiscal year. The amount of such grant shall be equal to 10 per centum of the amount to which such State is entitled under subsection (a) or $1,000,000, whichever is greater.

"(c)(1) For the purposes of subsections (a) and (b), the term 'State' means the fifty States and the District of Columbia.

"(2) The Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall each be entitled for any fiscal year to a grant for the purposes of this title, the amount of which grant for any fiscal year shall be the amount which the Commissioner determines to be needed by the children and State educational agencies in such jurisdiction for that fiscal year. The aggregate of the amounts to which the jurisdictions subject to this subsection shall be entitled for any fiscal year shall not exceed 3 per centum of the aggregate of the amounts to which the States are entitled under subsections (a) and (b) for that fiscal year. Ninety per centum of the amount granted to each jurisdiction under this paragraph shall be deemed to be available to such jurisdiction on the basis of an entitlement established by subsection (a); and 10 per centum thereof shall be deemed to be available thereto on the basis of an entitlement created under subsection (b).

"USES OF FEDERAL FUNDS BY LOCAL EDUCATIONAL AGENCIES

"SEC. 603. (a) Funds appropriated for the purposes of this title for any fiscal year on the basis of entitlements established by section 602(a) shall be available to the States for grants to local educational agencies for the purposes set forth in subsection (b), and in the amounts for which provision is made in subsection (c), in accordance with agreements between the States and the Commissioner meeting the rquirements of section 605 and of section 434 of the General Education Provisions Act.

(b) Except as is provided in section 604, the purposes for which funds appropriated for the purposes of this title may be used are as follows:

(1) The provision of school library resources, textbooks, and other printed and published instructional materials for the use of children and teachers in elementary and secondary schools.

(2) The development, establishment, and operation of exemplary elementary and secondary school educational programs.

(3) The establishment and maintenance of programs of testing, guidance, and counseling for children in elementary and secondary schools.

(4) The provision of instructional equipment (including laboratory and other special equipment, including audiovisual materials and equipment suitable for use in providing education in academic subjects) for use by children and teachers in elementary and secondary schools.

(5) Programs conducted by local educational agencies to provide in-service training for persons for teaching in elementary and secondary schools.

(c)(1) Funds available to a State under this title based upon entitlements established under section 602(a)(1) shall be expended by that State in any fiscal year ending prior to July 1, 1978, so that—

(A) each State shall make available for expenditure for the purpose of clause (1) of subsection (b) an amount which at least equals the amount expended in that State from appropriations for the fiscal year 1972 for title II of this Act;

(B) each State shall make available for expenditure for the purpose of clause (2) of subsection (b) an amount which at least equals the amount expended in that State from appropriations for the fiscal year 1969 for title III of this Act, of which amount not less than 15 per centum shall be expended for special projects for handicapped children;

"(C) each State shall make available for expenditure for the purpose of clause (3) of subsection (b) an amount which at least equals the amount expended in that State from appropriations for the fiscal year 1969 for title V of the National Defense Education Act of 1958; and

"(D) each State shall make available for expenditure to pay not more than 50 per centum of the cost of projects for the purpose of clause (4) of subsection (b) an amount which at least equals the amount expended in that State from appropriations for the fiscal year 1972 for part A of title III (other than expenditures for section 303(a)(5)) of the National Defense Education

"(2) The funds available to a State under this title for any fiscal year, in excess of the amounts required for entitlements under section 602(a)(1), shall be expended by that State for the purposes set forth in subsection (b) in such amounts, determined by the State educational agency of that State, as will best meet the needs of the children of that State with respect to such purposes.

"USES OF FUNDS BY STATE EDUCATIONAL AGENCIES

"SEC. 604. (a) Funds appropriated for the purposes of this title for any fiscal year on the basis of entitlement established by section 602(b) shall be available to the States, in accordance with agreements between the States and the Commissioner meeting the requirements of section 605 and of section 434 of the General Education Provisions Act, for the following purposes:

"(1) Strengthening the leadership resources of State and local educational agencies and the establishment and improvement of programs and projects designed to identify the educational needs of children in elementary and secondary schools and to devise educational programs to meet those needs.

"(2) The expansion and improvement of supervisory and related services in academic subjects in elementary and secondary schools.

"(3) The proper and efficient administration of the activities conducted with such funds as may be available under this title for the purposes set forth in section 603.

"(b) Funds available to a State for the purposes set forth in subsection (a) shall be used by such State for such purposes in such amounts, determined by the State educational agency of such State, as will best achieve the purposes of this section, except that no State shall use an amount for the purpose set forth in clause (3) of subsection (a) which exceeds 5 per centum of the amount expended by that State from the funds available to that State under this title for the purposes set forth in section 603.

"AGREEMENTS WITH STATES

"SEC. 605. (a) Any State, having in effect for any fiscal year an application under section 434 of the General Education Provisions Act, which desires to receive a grant under this title shall come into an agreement with the Commissioner respecting the participation of that State in the program authorized by this title. Each such agreement shall provide that—

"(1) the State will insure that all children in the elementary and secondary schools in the State receive the materials and services described in clauses (1) through (5) of section 603(b) to the extent that such children have a need for such materials and services; and

"(2) the Commissioner will receive and review an annual program plan developed by the State which will carry out the provision to which the State has agreed pursuant to clause (1).

"(b) If, for any fiscal year, a State submits to the Commissioner an offer of an agreement meeting the appropriate requirements for such fiscal year of subsection (a), the Commissioner shall accept such offer and adhere to, and comply with, such Federal obligations as may arise out of such agreement, including obligations imposed by, or under the provisions of, this title and the General Education Provisions Act relevant to such agreement.

"(c)(1) The Commissioner shall make available and pay to each State with which he has come into an agreement under this section for each fiscal year an amount equal to the amount expended by that State in carrying out such an agreement except that, with respect to the requirement of clause (1) of subsection (a), such amount shall not exceed the amount to which that State is entitled, as determined under section 602(a).

"(2) The Commissioner shall pay to each such State the amount to which such State is entitled as determined under section 602(b).

"PARTICIPATION OF CHILDREN IN NONPUBLIC SCHOOLS

"SEC. 606. (a) Each local educational agency which receive funds under this title for the purposes set forth in section 603(a) shall insure that, to the extent consistent with the number of children in the school district of such agency who (1) are enrolled in private nonprofit elementary and secondary schools, which are free from discrimination on the basis of race, color, or national origin, and (2) are in need of the materials, equipment, or services for which such funds are expended, such agency will, after consultation with the appropriate private school officials, provide, on an equitable basis, for the benefit of such children, such materials, equipment, or services.

"(b) The control and supervision of, and title to, all materials, equipment, or services made available for the benefit of children in private nonprofit schools under this section shall be, and remain in, a public agency.

"(c)(1) In any State which has an agreement with the Commissioner under this title and in which no State agency is authorized by law to provide, or in which there is a substantial failure to provide, such materials, equipment, and services as are authorized by this title for children enrolled in any one or more private nonprofit elementary or secondary schools, described in clause (1) of subsection (a), of such State in the area or areas served pursuant to such agreement, the Commissioner shall arrange for the provision, on an equitable basis, of such materials, equipment, and services and shall pay the costs thereof for any fiscal year out of that State's entitlement. The Commissioner may arrange for making such materials, equipment, and services available through contracts with institutions of higher education, or other competent nonprofit institutions or organizations.

"(d) The Commissioner shall not take action under subsection (c) with respect to any State educational agency without first affording such agency and other interested parties notice and an opportunity for a hearing. Such notice shall be given not less than sixty days prior to any final action of the Commissioner under such subsection. If the Commissioner determines that the provisions of subsection (c) apply to a substantial number of children who are in attendance at private schools, he shall proceed as required under such subsection. If the State educational agency is dissatisfied with the action of the Commissioner under subsection (c), such agency shall qualify for judicial review of the Commissioner's action. If any State educational agency desires judicial review under subsection (c) or this subsection, such agency shall, within sixty days after such action, file with the United States Court of Appeals for the circuit in which such State is located a petition for review of such 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. 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.".

(3)(A) Unless the sums appropriated for title VI of the Elementary and Secondary Education Act of 1965 for any fiscal year ending after June 30, 1974, are made available for expenditure prior to the beginning of such fiscal year and exceed the aggregate of the amounts for which provision is made in subparagraph (B), the aggregate of the amounts appropriated under any authority for the purposes set forth in sections 603 and 604 of such Act for any such fiscal year shall be allotted among and used by the States as provided in subparagraph (B).

(B)(i)(I) Of the sums appropriated for any fiscal year to which subparagraph (A) applies, the following amounts shall be allotted among the States and used by the States in accordance with title II of the Elementary and Secondary Education Act of 1965:

State:	*Amount in dollars*
Alabama	$1,559,868
Alaska	146,845
Arizona	811,810
Arkansas	831,315
California	8,352,777
Colorado	983,010
Connecticut	1,284,204
Delaware	248,627
Florida	2,689,633
Georgia	2,045,131
Hawaii	340,947
Idaho	333,536
Illinois	4,781,990
Indiana	2,316,188
Iowa	1,240,758
Kansas	955,697
Kentucky	1,410,076
Louisiana	1,738,766
Maine	433,632
Maryland	1,735,071
Massachusetts	2,351,453
Michigan	4,093,188
Minnesota	1,755,966
Mississippi	1,060,825
Missouri	1,976,916
Montana	327,988

Nebraska	$647,824
Nevada	211,283
New Hampshire	315,917
New Jersey	3,003,713
New Mexico	517,827
New York	7,284,263
North Carolina	2,211,270
North Dakota	209,760
Ohio	4,712,726
Oklahoma	1,069,711
Oregon	892,645
Pennsylvania	4,887,781
Rhode Island	374,697
South Carolina	1,203,411
South Dakota	312,248
Tennessee	1,674,463
Texas	5,017,276
Utah	522,001
Vermont	195,898
Virginia	2,002,655
Washington	1,470,947
West Virginia	739,358
Wisconsin	2,009,729
Wyoming	153,316
District of Columbia	274,960

(II) In addition to the sums allocated pursuant to subdivision (I), the Commissioner shall allot an amount equal to 3 per centum of the amonut allotted under such subdivision to the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands in accordance with their respective needs for assistance under such title II.

(ii) (I) Of the sums appropriated for any fiscal year to which subparagraph (A) applies, the following amounts shall be allotted among the States and used by the States in accordance with title III of the Elementary and Secondary Education Act of 1965:

State:	*Amount in dollars*
Alabama	$2,450,833
Alaska	539,280
Arizona	1,426,527
Arkansas	1,484,304
California	12,666,220
Colorado	1,671,536
Connecticut	2,120,290
Delaware	681,242
Florida	4,339,859
Georgia	3,169,830
Hawaii	809,635
Idaho	787,801
Illinois	7,245,331
Indiana	3,560,128
Iowa	2,029,559
Kansas	1,665,216
Kentucky	2,269,689
Louisiana	2,645,135
Maine	938,850
Maryland	2,730,929
Massachusetts	3,743,053
Michigan	6,030,437
Minnesota	2,709,065
Mississippi	1,727,477
Missouri	3,147,632
Montana	778,530
Nebraska	1,299,514
Nevada	638,257
New Hampshire	783,053
New Jersey	4,690,277
New Mexico	1,002,884
New York	11,323,850
North Carolina	3,447,794
North Dakota	731,894
Ohio	7,048,099
Oklahoma	1,834,481
Oregon	1,575,712
Pennsylvania	7,538,447
Rhode Island	885,682
South Carolina	1,934,924
South Dakota	759,490
Tennessee	2,687,034
Texas	7,444,141
Utah	1,018,491
Vermont	614,785
Virginia	3,157,350
Washington	2,374,519
West Virginia	1,368,764
Wisconsin	$3,089,459
Wyoming	552,612
District of Columbia	760,659

(II) In addition to the sums allocated pursuant to subdivision (I) the Commissioner shall allot an amount equal to 3 per centum of the amount allotted under such subdivision to the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands in accordance with their respective needs for assistance under such title III.

(iii) (I) Of the sums appropriated for any fiscal year to which subparagraph (A) applies, the following amounts shall be allotted among the States and used by the States in accordance with part A of title V of the Elementary and Secondary Education Act of 1965:

State:	*Amount in dollars*
Alabama	$568,444
Alaska	271,793
Arizona	411,396
Arkansas	415,491
California	1,994,554
Colorado	447,338
Connecticut	510,571
Delaware	293,161
Florida	805,628
Georgia	670,321
Hawaii	312,543
Idaho	310,987
Illinois	1,244,899
Indiana	727,227
Iowa	501,450
Kansas	441,600
Kentucky	536,997
Louisiana	606,002
Maine	332,001
Maryland	605,226
Massachusetts	734,630
Michigan	1,100,292
Minnesota	609,613
Mississippi	463,675
Missouri	656,000
Montana	309,822
Nebraska	376,969
Nevada	285,321
New Hampshire	307,288
New Jersey	871,566
New Mexico	349,677
New York	1,770,229
North Carolina	705,200
North Dakota	302,426
Ohio	1,230,358
Oklahoma	465,540
Oregon	428,367
Pennsylvania	1,267,109
Rhode Island	319,628
South Carolina	493,609
South Dakota	306,518
Tennessee	592,502
Texas	1,294,296
Utah	350,553
Vermont	282,091
Virginia	661,403
Washington	549,776
West Virginia	396,185
Wisconsin	662,888
Wyoming	273,151
District of Columbia	298,689

(II) In addition to the sums allocated pursuant to subdivision (I), the Commissioner shall allot an amount equal to 3 per centum of the amount allotted under such subdivision to the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands in accordance with their respective needs for assistance under such title V.

(iv) (I) Of the sums appropriated for any fiscal year to which subparagraph (A) applies, the following amounts shall be allotted among the States and used by the States in accordance with part A of title III of the National Defense Education Act of 1958:

State:	*Amount in dollars*
Alabama	$1,101,809
Alaska	79,031
Arizona	$502,557
Arkansas	580,253
California	3,685,803
Colorado	556,321
Connecticut	495,980
Delaware	123,984
Florida	1,440,346
Georgia	1,306,359
Hawaii	179,881
Idaho	223,805
Illinois	2,143,425
Indiana	1,283,029
Iowa	701,525
Kansas	527,751
Kentucky	928,648
Louisiana	1,213,089
Maine	273,553
Maryland	860,960
Massachusetts	1,034,596
Michigan	2,147,259
Minnesota	1,015,956
Mississippi	757,492
Missouri	1,090,434
Montana	211,645
Nebraska	364,475
Nevada	95,336
New Hampshire	177,672
New Jersey	1,268,818
New Mexico	369,760
New York	2,707,972
North Carolina	1,439,956
North Dakota	199,767
Ohio	2,538,891
Oklahoma	646,748
Oregon	487,492
Pennsylvania	2,484,003
Rhode Island	178,224
South Carolina	859,307
South Dakota	208,617
Tennessee	1,094,698
Texas	3,087,180
Utah	362,341
Vermont	117,957
Virginia	1,171,767
Washington	750,381
West Virginia	491,519
Wisconsin	1,154,598
Wyoming	93,351
District of Columbia	98,154

(II) In addition to the sums allocated pursuant to subdivision (I), the Commissioner shall allot an amount equal to 3 per centum of the amount allotted under such subdivision to the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands in accordance with their respective needs for assistance under such title III.

(C) If the sums appropriated for title VI of the Elementary and Secondary Education Act of 1965 to any fiscal year exceed the aggregate of the amounts for which provision is made in subparagraph (B) and are available for expenditure prior to the beginning of any fiscal year no funds may be appropriated under any authority listed in paragraph (1) for that fiscal year.

(4) The allotment ratios promulgated pursuant to section 602(a)(2)(B)(iii) of the Elementary and Secondary Education Act of 1965 for the year 1974 shall apply to section 602(a)(2)(A)(iii) of such Act for the fiscal year ending June 30, 1974.

(b) The amendments made by, and the provisions of, subsection (a) shall be effective on and after the date of the enactment of this Act.

CONSOLIDATION OF CERTAIN FEDERALLY OPERATED EDUCATION PROGRAMS

SEC. 403. (a)(1) The Act of July 26, 1954 (Public Law 531), (Eighty-third Congress) is amended by striking out all after the enacting clause and inserting in lieu thereof the following: "That this Act may be cited as the 'Special Projects Act'.

"PURPOSE

"SEC. 2. It is the purpose of this Act to authorize the Commissioner of Education (hereinafter referred to as the 'Commissioner') to carry out special projects—

"(1) to experiment with new educational and administrative methods, techniques, and practices;

"(2) to meet special or unique education needs or problems; and

"(3) to place special emphasis on national education priorities.

"CONTRACTING AUTHORITY

"SEC. 3. (a) The Commissioner is authorized, during the period beginning July 1, 1975, and ending June 30, 1978, to make contracts with public and private agencies, organizations, associations, institutions, and with individuals in order to carry out the purposes of this Act as set forth in section 2.

"(b) In exercising his authority under this section, the Commissioner shall comply with such priorities and preferences as may be expressly provided by law, with respect to this section.

"APPROPRIATIONS

"SEC. 4. (a)(1) In order to enable the Commissioner to make contracts under section 3, there is authorized, subject to subsection (b), to be appropriated to the Office of Education $200,000,000 for the fiscal year ending June 30, 1976, and each of the two succeeding fiscal years.

"(2) Sums appropriated pursuant to paragraph (1) shall, notwithstanding any other provisions of law, unless enacted in express limitation of this paragraph, remain available until expended.

"(b)(1) Not later than February 1 of each year, the Commissioner shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Public Welfare of the Senate a plan in accordance with which the Commissioner has determined to expend funds to be appropriated for the fiscal year beginning July 1 of that year. Such plan shall be accompanied by a report describing each contract made or intended to be made during the current fiscal year under the authority of this Act involving an expenditure in excess of $100,000.

"(2)(A) The funds appropriated pursuant to subsection (a) for any fiscal year shall be expended in accordance with the plan submitted for that year pursuant to paragraph (1), unless prior to sixty days after the submission of such plan, either the Committee on Education and Labor of the House of Representatives or the Committee on Labor and Public Welfare of the Senate adopts a resolution disapproving such plan.

"(B) If either or both such committees adopts a resolution of disapproval as provided in subparagraph (A), the Commissioner shall, not later than fifteen days after the adoption of any such resolution, submit a new plan in accordance with paragraph (1) and subparagraph (A).".

(2) The title of such Act of July 24, 1954, is amended to read as follows: "An Act to authorize special projects, surveys, and studies by the Office of Education.".

(b)(1) In carrying out his functions under section 3 of the Special Projects Act, the Commissioner shall—

(A) give priority to applications proposing projects meeting the requirements of the provisions of law repealed by paragraph (3) of subsection (c); and

(B) reserve not less than 50 per centum of the sums appropriated pursuant to section 4 of such Act for the purposes preferred in paragraph (3) of this subsection and apportioned in accordance with paragraph (2) of this subsection.

With respect to the funds to which this paragraph applies, the Commissioner's authority under such section 3 shall include authority to make grants as well as contracts.

(2) Except as is otherwise provided with respect to section 410, the Commissioner shall apportion an amount for each of the purposes set forth in paragraph (3) which bears the same ratio to the sums reserved pursuant to clause (B) of paragraph (1) as the amount permitted to be expended for each such purpose bears to the aggregate of the amounts permitted to be expended for all such purposes.

(3) The sums reserved pursuant to clause (B) of paragraph (1) shall be expended for programs otherwise authorized by an applicable statute and described in the following subparagraphs:

Education for the Use of the Metric System of Measurement

(A) A program to encourage educational agencies and institutions to prepare students to use the metric system of measurement, as provided in section 404.

Gifted and Talented Children

(B) A program for the education of gifted and talented children through grants to the States for such purpose, as provided in section 405 (except subsection (f) thereof).

Community Schools

(C) A program of grants to local educational agencies to assist them in planning, establishing, expanding, and operating community education programs, as provided in section 406.

Career Education

(D) A program to assess, and to encourage establishment and operation of, career education programs, as provided in section 407.

Consumers' Education

(E) A program of grants and contracts designed to provide consumer education to the public, as provided in section 811 of the Elementary and Secondary Education Act of 1965.

Women's Equity in Education

(F) A program of grants and contracts designed to provide educational equity for women in the United States, as provided in section 409.

Arts in Education Programs

(G) A program of grants and contracts designed to assist and encourage the use of the arts in elementary and secondary school programs as provided in section 410.

(4) No appropriation may be made for any fiscal year for the purposes of section 811 of the Elementary and Secondary Education Act of 1965 or sections 404, 405, 406, 407, 409, and 410 of this Act during which funds are available for the purposes of such sections under the provisions of this subsection.

(c)(1) The amendments made by subsection (a) and the provisions of subsection (b) shall be effective on and after July 1, 1975.

(2) Effective July 1, 1975, title III of the Elementary and Secondary Education Act of 1965 is amended—

(i) by striking out section 305(d);

(ii) by striking out section 306;

(iii) by striking out section 307(c); and

(iv) in the first sentence of section 301 (b), by adding before the period at the end thereof the following: "and $508,250,000 for each of the succeeding fiscal years ending prior to July 1, 1978".

(3)(A) Effective July 1, 1975, the Higher Education Act of 1965 is amended by striking out all of title V except subpart 1 of part B and subsection (b) of section 501; and such subsection (b) is amended to read as follows:

"(b) For the purpose of carrying out subpart 1 of part B, there is authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1975.".

(B) Effective July 1, 1975, sections 807, 808, and 809, of the Elementary and Secondary Education Act of 1965, are repealed.

(4) If the Commissioner determines that a priority required by clause (A) of paragraph (1) would not be appropriate for any fiscal year, he shall submit a certification of such determination to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Public Welfare of the Senate. If, within ninety days after the submission of such a certification neither or such committees adopts a resolution disapproving of such determination, the provisions of such clause (A) shall not apply to the extent such determination is evidenced by certification.

EDUCATION FOR THE USE OF THE METRIC SYSTEM OF MEASUREMENT

SEC. 404. (a)(1) The Congress hereby finds that—

(A) the metric system of measurement is in general use in industrially developed nations and its use is increasing;

(B) increased use of such metric system in the United States is inevitable, and such a metric system will become the dominant system of weights and measures in the United States; and

(C) there is no existing program designed to teach children to use such metric system and such a program is necessary if the American people are to adapt to the use of the metric system of weights and measures.

(2) It is the policy of the United States to encourage educational agencies and institutions to prepare students to use the metric system of measurement with ease and facility as a part of the regular education program.

(3) For the purposes of this title, the term "metric system of measurement" means the International System of Units as established by the General Conference of Weights and Measures in 1960 and interpreted or modified for the United States by the Secretary of Commerce.

(b)(1) The Commissioner shall carry out a program of grants and contracts in order to encourage educational agencies and institutions to prepare students to use the metric system of measurement.

(2) The Commissioner is authorized to make grants to, and contracts with, institutions of higher education, State and local educational agencies, and other public and private nonprofit agencies, organizations and institutions to develop and carry out the policy set forth in subsection (a).

(c)(1) Financial assistance under this title may be made available only upon application to the Commissioner. Any such application shall be submitted at such time, in such form, and containing such information as the Commissioner shall prescribe by regulation and shall be approved only if it—

(A) provides that the activities and services for which assistance is sought will be administered by, or under the supervision of, the applicant;

(B) describes a program which holds promise of making a substantial contribution toward attaining the purposes of this section;

(C) sets forth such policies and procedures as will insure adequate evaluation of the activities intended to be carried out under the application; and

(D) contains such other provisions as the Commissioner determines necessary in order to accomplish the purpose of this title.

(2) An application from a local educational agency under this section may be approved only if the State educational agency of the State in which such local agency is located has been notified of the application and has been given a reasonable opportunity to offer recommendations with respect to the approval thereof.

(d) For the purpose of carrying out this section, the Commissioner is authorized to expend $10,000,000 for each of the fiscal years ending prior to July 1, 1978.

GIFTED AND TALENTED CHILDREN

SEC. 405. (a) The Commissioner shall designate an administrative unit within the Office of Education to administer the programs and projects authorized by this section and to coordinate all programs for gifted and talented children and youth administered by the Office.

(b) The Commissioner shall establish or designate a National Clearinghouse on Gifted and Talented Children and Youth (hereafter in this section referred to as the "clearinghouse"). The clearinghouse shall obtain and disseminate to the public information pertaining to the education of gifted and talented children and youth. The Commissioner is authorized to contract with public or private agencies or organizations to establish and operate the clearinghouse.

(c)(1) The Commissioner shall make grants to State educational agencies and local educational agencies, in accordance with the provisions of this subsection, in order to assist them in the planning, development, operation, and improvement of programs and projects designed to meet the special educational needs of gifted and talented children at the preschool and elementary and secondary schools levels.

(2)(A) Any State educational agency or local educational agency desiring to receive a grant under this subsection shall submit an application therefor to the Commissioner at such time, in such manner, and containing such information as the Commissioner determines to be necessary to carry out his functions under this section. Such application shall—

(i) provide satisfactory assurance that funds paid to the applicant will be expended solely to plan, establish, and operate programs and projects which—

(I) are designed to identify and to meet the special educational and related needs of gifted and talented children, and

(II) are of sufficient size, scope, and quality as to hold reasonable promise of making substantial progress toward meeting those needs;

(ii) set forth such policies and procedures as are necessary for (I) acquiring and disseminating information derived from educational research, demonstration and pilot projects, new educational practices and techniques, and (II) the evaluation of the effectiveness of the program or project in achieving its purpose; and

(iii) provide satisfactory assurance that, to the extent consistent with the number of gifted and talented children in the area to be served by the applicant who are enrolled in nonpublic elementary and secondary schools, provision will be made for the participation of such children.

(B) The Commissioner shall not approve an application under this subsection from a local educational agency unless such application has been submitted to the State educational agency of the State in which the applicant is located and such State agency has had an opportunity to make recommendations with respect to approval thereof.

(3) Funds available under an application under this subsection may be used for the acquisition of instructional equipment to the extent such equipment is necessary to enhance the quality or the effectiveness of the program or project for which application is made.

(4) A State educational agency receiving assistance may carry out its functions under an approved application under this subsection directly or through local educational agencies.

(d) The Commissioner is authorized to make grants to State educational agencies to assist them in establishing and maintaining, directly or through grants to institutions of higher education, a program for training personnel engaged or preparing to engage in educating gifted and talented children or as supervisors of such personnel.

(e) The Commissioner is authorized to make grants to institutions of higher education and other appropriate non-profit institutions or agencies to provide training to leadership personnel for the education of gifted and talented children and youth. Such leadership personnel may include, but are not limited to, teacher trainers, school administrators, supervisors, researchers, and State consultants. Grants under this section may be used for internships, with local, State, or Federal agencies or other public or private agencies or institutions.

(f) Notwithstanding the second sentence of section 405(b)(1) of the General Education Provisions Act, the National Institute of Education shall, in accordance with the terms and conditions of section 405 of such Act, carry out a program of research and related activities relating to the education of gifted and talented children. As used in the preceding sentence the term "research and related activities" means research, research training, surveys, or demonstrations in the field of education of gifted and talented children and youth, or the dissemination of information derived therefrom, or all of such activities, including (but without limitation) experimental and model schools.

(g) In addition to the other authority of the Commissioner under this section, the Commissioner is authorized to make contracts with public and private agencies and organizations for the establishment and operation of model projects for the identification and education of gifted and talented children, including such activities as career education, bilingual education, and programs of education for handicapped children and for educationally disadvantaged children. The total of the amounts expended for projects authorized under this subsection shall not exceed 15 per centum of the total of the amounts expended under this section for any fiscal year.

(h) For the purpose of carving out the provisions of this section (except subsection (f)), the Commissioner is authorized to expend not to exceed $12,250,000 for each fiscal year ending prior to July 1, 1978.

COMMUNITY SCHOOLS

SEC. 406. (a) This section may be cited as the "Community Schools Act".

(b) In recognition of the fact that the school, as the prime educational institution of the community, is most effective when the school involves the people of that community in a program designed to fulfill their education needs, and that community education promotes a more efficient use of public education facilities through an extension of school buildings and equipment, it is the purpose of this section to provide educational, recreational, cultural, and other community services, in accordance with the needs, interests, and concerns of the community, through the establishment of the community education program as a center for such activities in cooperation with other community groups.

(c) For purposes of this section and subparagraph (C) of section 403(b)(3), a "community education program" is a program in which a public building, including but not limited to a public elementary or secondary school, is used as a community center operated in conjunction with other groups in the community, community organizations, and local governmental agencies, to provide educational, recreational, cultural, and other community services for the community that center serves in accordance with the needs, interests, and concerns of that community. Nothing in this section shall be construed to prohibit any applicant under this section from carrying out any activity with funds derived from other sources than those from this section.

(d)(1) In order to carry out the purposes and provisions of this section, the Commissioner is authorized to make grants to local educational agencies to assist them in planning, establishing, expanding, and operating community education programs.

(2) Any local educational agency desiring to receive a grant under this section for any fiscal year shall make application therefor to the Commissioner at such times, in such manner, and in such form as the Commissioner shall prescribe by regulation. Each such application shall contain provisions assuring consultation with local community colleges, social, recreational, and health groups with respect to programs to be offered and facilities to be used for the purpose of this section. The Commissioner shall not approve any such application unless the State educational agency of the State in which the applicant is located has been given an opportunity to review, and make comment on, such application.

(e) The Commissioner is authorized to make grants to institutions of higher education to develop and establish, or to expand, programs which will train persons to plan and operate community education programs.

(f)(1) The Commissioner shall establish or designate a National Clearinghouse on Community Education Programs (hereinafter in this section referred to as the "clearinghouse"). The purpose of the clearinghouse shall be the gathering and dissemination of information received from community education programs, including but not limited to information regarding new programs, methods to encourage community participation, and ways of coordinating community education programs with other community services. The Commissioner is authorized to contract with public or private agencies or organizations to establish and operate the clearinghouse.

(2) The Commissioner shall make available to each community education program such technical assistance and information as the program may require, and such technical assistance shall be coordinated with the national clearinghouse.

(g)(1) There is established, subject to part D of the General Education Provisions Act, in the Office of the Commissioner, a Community Education Advisory Council (referred to in this section as the "Advisory Council") to be composed of eleven members. The members of the Advisory Council shall be appointed by the Secretary.

(2) A substantial number of the members of the Advisory Council shall be persons experienced in the operation of community education programs and the training of such persons. Further, the Council shall include representatives from various disciplines involved in providing services in community school programs.

(3) Appointments to the Advisory Council shall be completed within three months after enactment of this section.

(4) The Commissioner shall make available to the Advisory Council such staff, information, and other assistance as it may require to carry out its activities.

(5) The Advisory Council shall advise the Commissioner on policy matters relating to the interests of community schools.

(6) In the fiscal year ending June 30, 1975, the Advisory Council shall be responsible for advising the Commissioner regarding the establishment of policy guidelines and regulations for the operation and administration of this section. In addition, the Council shall create a system for evaluation of the programs. The Council shall present to Congress a complete and thorough evaluation of the programs and operation of this section for each fiscal year ending after June 30, 1975.

(h) In approving applications under this section the Commissioner shall insure that there is an equitable geographical distribu-

tion of community education programs throughout the United States in both urban and rural areas.

(i) The Commissioner is authorized to expend (1) for the purpose of subsection (d), $15,000,000 for each fiscal year ending prior to July 1, 1978; and (2) for the purposes of subsection (e), $2,000,000 for each fiscal year ending prior to July 1, 1978.

CAREER EDUCATION

SEC. 407. (a) It is the sense of Congress that—

(1) every child should, by the time he has completed secondary school, be prepared for gainful or maximum employment and for full participation in our society according to his or her ability;

(2) it is the obligation of each local educational agency to provide that preparation for all children (including its handicapped children and all other children who are educationally disadvantaged) within its school district; and

(3) each State and local educational agency should carry out a program of career education which provides every child the widest variety of career education options which are designed to prepare each child for maximum employment and participation in our society according to his or her ability.

(b) It is the purpose of this section to assist in achieving the policies set forth in subsection (a) by—

(1) developing information on the needs for career education for all children;

(2) promoting a national dialogue on career education designed to encourage each State and local educational agency to determine and adopt the approach to career education best suited to the needs of the children served by them;

(3) assessing the status of career education programs and practices;

(4) providing for the demonstration of the best of the current career education programs and practices by the development and testing of exemplary programs and practices using various theories, concepts, and approaches with respect to career education;

(5) providing for the training and retraining of persons for conducting career education programs; and

(6) developing State and local plans for implementing career education programs designed to insure that every child has the opportunity to gain the knowledge and skills necessary for gainful or maximum employment and for full participation in our society according to his or her ability.

(c)(1) In order to carry out the policies, purposes, and provisions of this section, there is established in the Office of Education an Office of Career Education (hereafter in this section referred to as the "Office"). The Office shall be headed by a Director who shall be placed in, and compensated at the rate prescribed for, grade 17 of the General Schedule set forth in section 5332 of title 5, United States Code. The position created by this paragraph shall be in addition (A) to the number of positions placed in grade 17 under section 5108 of title 5, United States Code or (B) otherwise placed in the Office of Education.

(2) The Commissioner shall delegate his functions under this section to the Director of the Office.

(d) For the purposes of this section, the term "career education" means an education process designed—

(1) to increase the relationship between schools and society as a whole;

(2) to provide opportunities for counseling, guidance and career development for all children;

(3) to relate the subject matter of the curricula of schools to the needs of persons to function in society;

(4) to extend the concept of the education process beyond the school into the area of employment and the community;

(5) to foster flexibility in attitudes, skills, and knowledge in order to enable persons to cope with accelerating change and obsolescence;

(6) to make education more relevant to employment and functioning in society; and

(7) to eliminate any distinction between education for vocational purposes and general or academic education.

(e) The Commissioner shall conduct a survey and assessment of the current status of career education programs, projects, curriculums, and materials in the United States and submit to the Congress, not later than November 1, 1975, a report on such survey and assessment. Such report shall include recommendations of the advisory council created under subsection (g) for new legislation designed to accomplish the policies and purposes set forth in subsections (a) and (b). In exercising his authority under clauses (ii)(III) and (ii)(V) of section 434 (b)(1)(A) of the General Education Provisions Act, for any fiscal year, the Commissioner shall require State educational agencies and local educational agencies to report on their efforts to prepare students for gainful or maximum employment.

(f)(1) During the period beginning with the enactment of this section and ending June 30, 1978, the Commissioner is authorized to make grants to State and local educational agencies, institutions of higher education, and other nonprofit agencies and organizations to support projects to demonstrate the most effective methods and techniques in career education and to develop exemplary career education models (including models in which handicapped children receive appropriate career education either by participation in regular or modified programs with nonhandicapped children or where necessary in specially designed programs for handicapped children whose handicaps are of such severity that they cannot benefit from regular or modified programs). Grants made under this subsection shall be consistent with the policies set forth in subsection (a) of this subsection.

(2) During the period beginning one year after the enactment of this section and ending June 30, 1977, the Commissioner is authorized to make grants to State educational agencies to enable them to develop State plans for the development and implementation of career education programs in the local educational agencies of the States. Such plans shall be designed to carry out the policies and purposes set forth in subsections (a) and (b).

(g)(1) Subject to part D of the General Education Provisions Act and within ninety days after the enactment of this section, there is established a National Advisory Council for Career Education which shall be composed of—

(A) the Assistant Secretary of Education, the Commissioner of Education, the Director of the Office of Career Education, the Director of the National Institute of Education, the Director of the National Center for Education Statistics, the Director of the National Science Foundation, the Chairman of the National Foundation for the Arts, the Chairman of the National Foundation for the Humanities, the Chairman of the National Advisory Council for Vocational Education, all of whom shall serve in a nonvoting ex officio capacity; and

(B) not less than twelve public members broadly representative of the fields of education, the arts, the humanities, the sciences, community services, business and industry, and the general public, a majority of whom shall be engaged in education or education-related professions.

(2) The public members shall be appointed by the Secretary. The Secretary shall select the Chairman from among the public members. The members shall serve for terms of three years with not more than four seats rotating in any one year. The Commissioner shall provide such staff and funds for the Council as deemed necessary and such staff and funds shall be in addition to those provided elsewhere in this title.

(3) The duties of the Council shall be to advise the Commissioner on the implementation of this section and carry out such advisory functions as it deems appropriate, including reviewing the operation of this section and all other programs of the Division of Education pertaining to the development and implementation of career education, evaluating their effectiveness in meeting the needs of career education throughout the United States, and in determining the need for further legislative remedy in order that all citizens may benefit from the purposes of career education as prescribed in this section.

(4) The Council with the assistance of the Commissioner shall conduct a survey and assessment of the current status of career education programs, projects, curricula, and materials in the United States and submit to Congress, not later than November 1, 1975, a report on such survey and assessment. Such report shall include recommendations of the advisory council for new legislation designed to accomplish the policies and purposes set forth in subsections (a) and (b).

(h) For the purpose of carrying out the provisions of this section, the Commissioner is authorized to expend not to exceed $15,000,000 for each fiscal year ending prior to July 1, 1978.

CONSUMER'S EDUCATION

SEC. 408. (a)(1) Section 811(a) of the Elementary and Secondary Education Act of 1965 is amended to read as follows:

"SEC. 811. (a)(1) There shall be within the Office of Education an Office of Consumers' Education (hereafter in this section referred to as the 'Office') which shall be headed by a Director of Consumers' Education (hereinafter in this section referred to as the 'Director') who, subject to the management of the Commissioner, shall have responsibility for carrying out the provisions of this section.

"(2) The Director shall be placed in, and compensated at, the rate provided for grade 17 of the General Schedule set forth in section 5332 of title 5, United States Code, and shall be in addition to the number of positions assigned to grade 17 under section 5108 of such title 5.

"(3) The Director shall be appointed by the Commissioner in accordance with the provisions of title 5 of the United States Code relating to appointments to the competitive service.".

(2) Such section 811(b) of such Act is amended, in clause (ii) in the second sentence of paragraph (1)(C), by striking out "paragraph (2)" and inserting in lieu thereof "subparagraph (B)".

(3) Section 811(d) of such Act is amended to read as follows:

"(d) For the purpose of carrying out this section, the Commissioner is authorized to expend not to exceed $15,000,000 for each fiscal year ending prior to July 1, 1978.".

(b) The amendments made by this section shall be effective on and after July 1, 1973.

WOMEN'S EDUCATIONAL EQUITY

SEC. 409. (a) This section may be cited as the "Women's Educational Equity Act of 1974".

(b)(1) The Congress hereby finds and declares that educational programs in the United States (including its possessions), as presently conducted, are frequently inequitable as such programs relate to women and limit the full participation of all individuals in American society.

(2) It is the purpose of this section to provide educational equity for women in the United States.

(c) As used in this section, the term "Council" means the Advisory Council on Women's Educational Programs.

(d)(1) The Commissioner is authorized to make grants to, and enter into contracts with, public agencies and private nonprofit organizations and with individuals for activities designed to carry out the purposes of this section at all levels of education, including preschool, elementary and secondary education, higher education, and adult education. These activities shall include—

(A) the development, evaluation, and dissemination of curricula, textbooks, and other educational materials related to educational equity;

(B) preservice and inservice training for educational personnel with special emphasis on programs and activities designed to provide educational equity;

(C) research, development, and educational activities designed to advance educational equity;

(D) guidance and counseling activities, including the development of nondiscriminatory tests, designed to assure educational equity;

(E) educational activities to increase opportunities for adult women, including continuing educational activities and programs for underemployed and unemployed women;

(F) the expansion and improvement of educational programs and activities for women in vocational education, career education, physical education and educational administration.

(2) A grant may be made and a contract may be entered into under this section only upon application to the Commissioner, at such time, in such form, and containing or accompanied by such information as the Commissioner may prescribe. Each such application shall—

(A) provide that the program or activity for which assistance is sought will be administered by or under the supervision of the applicant;

(B) describe a program for carrying out one of the purposes set forth in subsection (a) which holds promise of making a substantial contribution toward attaining such purposes; and

(C) set forth policies and procedures which insure adequate evaluation of the activities intended to be carried out under the application.

(3) The Commissioner shall approve applicants and amendments thereto which meet the requirements of paragraph (2).

(4) Nothing in this section shall be construed as prohibiting men from participating in any programs or activities assisted under this section.

(e) In addition to the authority of the Commissioner under subsection (d), the Commissioner shall carry out a program of small grants, not to exceed $15,000 each, in order to support innovative approaches to achieving the purpose of this section; and for that purpose the Commissioner is authorized to make grants to public and private nonprofit agencies and to individuals.

(f)(1) There is established in the Office of Education an Advisory Council on Women's Educational Programs. The Council shall be composed of—

(A) seventeen individuals, some of whom shall be students, who shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals broadly representative of the general public who, by virtue of their knowledge or experience, are versed in the role and status of women in American society;

(B) the Chairman of the Civil Rights Commission;

(C) the Director of the Women's Bureau of the Department of Labor;

(D) the Director of the Women's Action Program of the Department of Health, Education, and Welfare; and

(E) the Chairman of the National Citizens Advisory Council on the Status of Women.

The Council shall elect its own Chairman.

(2) The term of office of each member of the Council appointed under clause (A) of paragraph (1) shall be three years, except that—

(A) the members first appointed under such clause shall serve as designated by the President, six for a term of one year, five for a term of two years, and six for a term of three years; and

(B) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

(3) The Council shall—

(A) advise the Commissioner with respect to general policy matters relating to the administration of this section;

(B) advise and make recommendations to the Assistant Secretary concerning the improvement of educational equity for women;

(C) make recommendations to the Commissioner with respect to the allocation of any funds pursuant to this section, including criteria developed to insure an appropriate geographical distribution of approved programs and projects throughout the Nation; and

(D) develop criteria for the establishment of program priorities.

(4) From the sums available for the purposes of this section, the Commissioner is authorized and directed to conduct a national, comprehensive review of sex discrimination in education, to be submitted to the Council not later than a year after the date of enactment of this section. The Council shall review the report of the Commissioner and shall make such recommendations, including recommendations for additional legislation, as it deems advisable.

(5) The provisions of part D of the General Education Provisions Act shall apply with respect to the Council established under this subsection.

(f) The Commissioner is directed, at the end of each fiscal year, to submit to the President and the Congress and to the Council a report setting forth the programs and activities assisted under this section, and to provide for the distribution of this report to all interested groups and individuals, including the Congress, from funds authorized under this section. After receiving the report from the Commissioner, the Council shall evaluate the programs and projects assisted under this section and include such evaluation in its annual report.

(h) For the purpose of carrying out this section, the Commissioner is authorized to expend not to exceed $30,000,000 for each fiscal year prior to July 1, 1978.

ELEMENTARY AND SECONDARY SCHOOL EDUCATION IN THE ARTS

SEC. 410. The Commissioner shall, during the period beginning on June 30, 1973 and ending on June 30, 1978, through arrangements made with the John F. Kennedy Center for the Performing Arts, carry out a program of grants and contracts to encourage and assist State and local educational agencies to establish and conduct programs in which the arts are an integral part of elementary and secondary school programs. Not less than $750,000 shall be available for the purposes of this section during any fiscal year during the period for which provision is made in the preceding sentence.

EFFECTIVE DATE

SEC. 411. Except where otherwise specified in this title, the amendments made by, and the provisions of, this title shall be effective on and after the date of enactment of this Act.

TITLE V—MISCELLANEOUS

PART A—MISCELLANEOUS AMENDMENTS RELATING TO THE IMPROVEMENT OF THE ADMINISTRATION OF EDUCATION PROGRAMS

NATIONAL CENTER FOR EDUCATION STATISTICS

SEC. 501. (a)(1) Part A of the General Education Provisions Act is amended by adding at the end thereof the following new section:

"NATIONAL CENTER FOR EDUCATION STATISTICS

"SEC. 406. (a) There is established a National Center for Education Statistics (hereafter in this section referred to as the 'Center') which shall consist of a National Board for Education Statistics (hereafter in this section referred to as the 'Board') and a Director of the Center.

"(b) The purpose of the Center shall be to collect and disseminate statistics and other data related to education in the United States and in other nations. The Center shall—

"(1) collect, collate, and, from time to time, report full and complete statistics on the conditions of education in the United States;

"(2) conduct and publish reports on specialized analyses of the meaning and significance of such statistics;

"(3) assist State and local educational agencies in improving and automating their statistical and data collection activities; and

"(4) review and report on educational activities in foreign countries.

"(c)(1)(A) The National Board for Education Statistics shall be composed of six members appointed by the President, by and with the advice and consent of the Senate, and such ex officio members as are listed in subparagraph (B). Not more than three of the appointed members may be members of the same political party.

"(B) The ex officio members of the Board shall be the following officials, or their delegates:

"(i) The Assistant Secretary, as provided in subparagraph (D).

"(ii) The Director of the National Center for Educational Statistics.

"(iii) The Commissioner of Education.

"(iv) The Director of the National Institute of Education.

"(v) The Librarian of Congress.

"(vi) The Comptroller General of the United States.

"(vii) The Director of the Census.

"(viii) The Commissioner of Labor Statistics.

"(ix) The Director of the National Science Foundation.

"(x) The Chairman of the National Foundation on the Humanities.

"(xi) The Chairman of the National Foundation on the Arts.

"(C) Appointed members of the Board shall serve for terms of three years, as determined by the President, except that in the case of the initial appointed members of the Board, they shall serve for shorter terms to the extent necessary that the terms of office of no more than two members expire in the same calendar year.

"(D) The Assistant Secretary shall serve as the nonvoting presiding officer of the Board.

"(2)(A) The Board shall meet at the call of the presiding officer, except that it shall meet—

"(i) at least four times during each calendar year; and

"(ii) in addition, whenever three voting members request in writing that the presiding officer call a meeting.

"(B) Nine voting members of the Board shall constitute a quorum of the Board.

"(3)(A) The Board shall establish general policies for the operation of the Center and shall be responsible for establishing standards to insure that statistics and analyses

disseminated by the Center are of high quality and are not subject to political influence.

"(B) The Board shall, not later than November 1 of each year, submit to the Congress an annual report which—

"(i) contains a description of the activities of the Center during the then current fiscal year and a projection of its activities during the succeeding fiscal year;

"(ii) sets forth estimates of the cost of the projected activities for such succeeding fiscal year; and

"(iii) includes a statistical report on the condition of education in the United States during the two preceding fiscal years and a projection, for the three succeeding fiscal years, of estimated statistics related to education in the United States.

"(C) The Board shall develop and enforce standards designed to protect the confidentiality of persons in the collection, reporting, and publication of data under this section. This subparagraph shall not be construed to protect the confidentiality of information about institutions, organizations, and agencies receiving grants from or having contracts with the Federal Government.

"(d)(1) The Director of the Center shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate specified for level V of the Executive Schedule under section 5316 of title 5, United States Code. The Director shall perform such duties and exercise such powers and authorities as the Board may prescribe.

"(2) There shall be a Deputy Director of the Center who shall be appointed by the Director of the Center in accordance with the provisions of title 5, United States Code, relating to appointments in the competitive service. The Deputy Director shall be placed in, and compensated at the date specified for, grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code. The Deputy Director shall act for the Director during the absence or disability of the Director and exercise such powers and authorities as the Director may prescribe. The position created by this paragraph shall be in addition to the number of positions placed in grade 18 of such General Schedule under section 5108 of the United States Code.

"(e) In order to carry out the objectives of the Center, the Director, subject to policies established by the Board, is authorized, either directly or by grant or contract, to carry out the purposes set forth in subsection (b); and for that purpose the Director is authorized to make grants to, and contracts with public and private institutions, agencies, organizations and individuals, except that no grant may be made to an institution, agency, or organization other than a nonprofit institution, agency, or organization.

"(f)(1)(A) The Center is authorized to furnish transcripts or copies of tables and other records of the Office of Education, the Center, and the National Institute of Education to, and to make special statistical compilations and surveys for, State or local officials, public and private organizations, or individuals. The Center shall furnish such special statistical compilations and surveys as the Committees on Labor and Public Welfare and on Appropriations of the Senate and the Committees on Education and Labor and on Appropriations of the House of Representatives may request. Such statistical compilations and surveys, other than those carried out pursuant to the preceding sentence, shall be made subject to the payment of the actual or estimated cost of such work. In the case of nonprofit organizations or agencies, the Director may engage in joint statistical projects, the cost of which shall be shared equitably as determined by the Director, provided that the purposes are otherwise authorized by law.

"(B) All moneys received in payment for work or services enumerated under subparagraph (A) shall be deposited in a separate account which may be used to pay directly the costs of such work or services, to repay appropriations which initially bore all or part of such costs, or to refund excess sums when necessary.

"(2)(A) The Center shall, in accordance with regulations published for the purposes of this paragraph, conduct at least one time every three years, a survey of school-aged children of the United States. Such survey shall be designed—

"(i) to determine the number of children of such ages in the States and the status of their education;

"(ii) to determine the general characteristics of such children which affect their educational achievement and their educational needs; and

"(iii) to provide information to the Congress to enable the Congress to assess the financial needs of elementary and secondary school ssytems.

"(B) The Center shall publish, at least annually, a report on the survey conducted pursuant to subparagraph (A). Such report shall be submitted to the Congress not later than July 1 of each year, and shall contain those statistics necessary to determine impact and effectiveness of Federal education programs for purposes of program and legislative planning.

"(C) The Center shall participate with other Federal agencies having a need for educational data in forming a consortium for the purpose of providing direct joint access with such agencies to all educational data received by the Center through automated data processing. The Library of Congress, General Accounting Office, and the Committees on Labor and Public Welfare and Appropriations of the Senate and the Committees on Education and Labor and Appropriations of the House of Representatives shall, for the purposes of this subparagraph be considered Federal agencies.

"(D) The Center shall, in accordance with regulations published for the purpose of this paragraph, provide all interested parties including public and private agencies and individuals direct access to data collected by the Center for purposes of research and acquiring statistical information.

"(3) The Commissioner and the National Institute of Education are directed to cooperate with the Center and make such records and data available to the Center as may be necessary to enable the Center to carry out its functions under this subsection.

"(g)(1) The amount available for grants and contracts by the Director under subsection (e) shall not exceed $20,000,000 for the fiscal year ending June 30, 1974, $31,600,000 for the fiscal year ending June 30, 1975, $44,600,000 for the fiscal year ending June 30, 1976, and $71,800,000 for the fiscal year ending June 30, 1977.

"(2) Sums appropriated for activities and expenses of the Center which are not limited by paragraph (1) of this subsection shall be appropriated apart from appropriations which are not so limited, as separate line items.".

(2) Section 401 of the General Education Provisions Act is amended to read as follows:

"THE EDUCATION DIVISION

"SEC. 401. (a) There shall be, within the Department of Health, Education, and Welfare, an Education Division, composed of the agencies listed in subsection (b), which shall be headed by the Assistant Secretary.

"(b) The Education Division shall be composed of the following agencies:

"(1) The Office of Education.

"(2) The National Institute of Education.

"(3) The National Center for Education Statistics.".

(3) Subsection (a) of section 403 of the General Education Provisions Act is amended to read as follows:

"SEC. 403. (a) There shall be an Office of Education (hereinafter in this section referred to as the 'Office') which shall be the primary agency of the Federal Government responsible for the administration of programs of financial assistance to educational agencies, institutions, and organizations. The Office shall have such responsibilities and authorities as may be vested in the Commissioner by law or delegated to the Commissioner in accordance with law.".

(4) The General Education Provisions Act is amended by striking out section 427.

(5) The National Center for Education Statistics shall conduct the survey required by section 731(c)(1)(A) of title VII of the Elementary and Secondary Education Act of 1965.

(b)(1) The amendments made by subsection (a) shall be effective on the tenth day after the enactment of this Act.

(2)(A) All functions and authority vested in the Commissioner of Education which, immediately prior to the date upon which the amendments made by subsection (a) become effective, are related to the collection, analysis, and dissemination of statistics about, and reports on the conditions of, education in the Nation as determined by the Assistant Secretary are transferred, on such date to the National Center for Education Statistics established under section 406 of the General Education Provisions Act.

(B) The functions and authority of the Commissioner of Education under section 427 prior to the date upon which the amendments made by subsection (a) become effective, together with all funds deposited in any account under such section, are transferred, on such date to the National Center for Education Statistics.

(c) The National Center for Education Statistics is authorized and directed to furnish not later than one year after the date of enactment of this Act to the Committee on Labor and Public Welfare of the Senate and to the Committee on Education and Labor of the House of Representatives the following data:

(1) the kind of Federal property for which the Commissioner makes determinations under sections 3(a) and 3(b) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress);

(2) the location of such property and the residence for school purposes of children who are counted under such sections 3(a) and 3(b);

(3) the number of parents who are counted under such sections 3(a) and 3(b) who are civilians and the number of such parents who are on active duty in the uniformed services;

(4) the number of children who reside on, or reside with parents on property which is part of a low-rent housing project assisted under the United States Housing Act of 1937, section 516 of the Housing Act of 1949, or part B of title III of the Economic Opportunity Act of 1964;

(5) an estimate of the economic impact to the area served by the local educational agency by the presence of Federal property the basis of which is an entitlement for financial assistance under such sections 3(a) and 3(b); and

(6) an estimate of the per capita income for the area served by each local educational agency which is entitled to financial assistance under such sections 3(a) and 3(b) for the second preceding fiscal year, such estimate to be based on the Bureau of the Census 1970 decennial census or other suitable data as may be available and to include a listing of the specific procedures and assumptions used in derving such estimate and an analysis of any data or other procedural limitations.

Each category of data required under this section shall be prepared for each school district of a local educational agency which received payments under the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) for the fiscal year ending June 30, 1973.

(d) (1) The National Center for Education Statistics is authorized and directed to conduct a thorough study of the manner in which the relative measure of poverty for use in the financial assistance program authorized by title I of the Elementary and Secondary Education Act of 1965 may be more accurately and currently developed. The study of the relative measure of poverty required by this subsection shall be adjusted for regional, climatic, metropolitan, urban, suburban, and rural differences and for family size and head of household differences. The study required by this subsection shall consider—

(A) the availability of data more current than the decennial census including data collected by any agency of the Federal Government which are relevant except that data so collected shall not disclose the name of any individual or any other information customarily held confidential by that agency, but shall include aggregate information to the extent possible;

(B) the availability and usefulness of cost of living data;

(C) the availability and usefulness of cost of housing data;

(D) the availability and usefulness of labor market and job availability data;

(E) the availability and usefulness of data with respect to prevailing wage rates, unemployment rates, and income distribution; and

(F) the availability of data with respect to eligibility criteria for aid to families with dependent children under a State plan approved under title IV of the Social Security Act.

(2) The National Center for Education Statistics as authorized and directed to prepare and submit to the Congress not later than one year after the effective date of this Act a report of the study conducted under this subsection including recommendations with respect to the availability of data designed to improve the relative measure of poverty for the program of financial assistance authorized by title I of the Elementary and Secondary Education Act of 1965. Whenever the Center determines that data specified in paragraph (1) of this subsection are not available or that it is impractical to obtain data for each relevant area or category, the report shall contain an explanation of the reasons therefor.

(e) Section 731(c)(1)(A) of title VII of the Elementary and Secondary Education Act of 1965, as amended by section 105 of this Act, is amended by inserting "conducted by the National Center for Education Statistics" after "a survey".

AMENDMENTS TO PART B OF THE GENERAL EDUCATION PROVISIONS ACT, RELATING TO APPROPRIATIONS AND EVALUATIONS

SEC. 502. (a) (1) Part B of the General Education Provisions Act is amended—

(A) by striking out sections 411 and 413;

(B) by redesignating sections 412, 414, and 415, and all references thereto, as sections 411, 412, and 413, respectively;

(C) by redesignating section 417 as section 419;

(D) by inserting after the heading thereof the following:

"Subpart 1—Appropriations"; and

(E) by inserting after section 413, as so redesignated in clause (B), the following:

"CONTINGENT EXTENSION OF PROGRAMS

"SEC. 414. (a) Unless the Congress in the regular session which ends prior to the beginning of the terminal fiscal year—

"(1) of the authorization of appropriations for an applicable program; or

"(2) of the duration of an applicable program; either—

"(A) has passed or has formally rejected legislation which would have the effect of extending the authorization or duration (as the case may be) of that program; or

"(B) by action of either the House of Representatives or the Senate, approves a resolution stating that the provisions of this section shall no longer apply to such program;

such authorization or duration is hereby automatically extended for one additional fiscal year. The amount appropriated for such additional year shall not exceed the amount which the Congress could, under the terms of the law for which the appropriation is made, have appropriated for such program during such terminal year.

"(b) (1) For the purposes of clause (A) of subsection (a), the Congress shall not have been deemed to have passed legislation unless such legislation becomes law.

"(2) In any case where the Commissioner is required under an applicable statute to carry out certain acts or make certain determinations which are necessary for the continuation of an applicable program, if such acts or determinations are required during the terminal year of such program, such acts and determinations shall be required during any fiscal year in which that part of subsection (a) which follows clause (B) thereof is in operation.

"Subpart 2—Planning and Evaluation of Federal Education Activities

"PROGRAM PLANNING AND EVALUATIONS BY THE ASSISTANT SECRETARY

"SEC. 416. The Assistant Secretary is authorized, by grant or contract or directly—

"(1) to carry out planning activities for, and evaluations of, applicable programs, and

"(2) with funds appropriated expressly for such purpose, to conduct analyses of related educational issues. The amount appropriated for the purposes of this subsection for any fiscal year shall not exceed $25,000,000.

"ANNUAL EVALUATION REPORTS

"SEC. 417. (a) (1) Not later than November 1 of each year, the Secretary shall transmit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Public Welfare of the Senate an annual evaluation report which evaluates the effectiveness of applicable programs in achieving their legislated purposes together with recommendations relating to such programs for the improvement of such programs which will result in greater effectiveness in achieving such purposes.

"In the case of any evaluation report evaluating specific programs and projects, such report shall—

"(1) set forth goals and specific objectives in qualitative and quantitative terms for all programs and projects assisted under the applicable program concerned and relate those goals and objectives to the purposes of such program;

"(2) contain information on the progress being made during the previous fiscal year toward the achievement of such goals and objectives;

"(3) describe the cost and benefits of the applicable program being evaluated during the previous fiscal year and identify which sectors of the public receive the benefits of such program and bear the costs of such program;

"(4) contain plans for implementing corrective action and recommendations for new or amended legislation where warranted;

"(5) contain a listing identifying the principal analyses and studies supporting the major conclusions and recommendations in the report; and

"(6) be prepared in concise summary form with necessary detailed data and appendices.

"(b) Each evaluation report submitted pursuant to subsection (a) shall contain: (1) a brief description of each contract or grant for evaluation of any program conducted under section 416, any part of the performance of which occurred during the preceding year, (2) the name of the firm or individual who is to carry out the evaluation, and (3) the amount to be paid under the contract or grant.

"RENEWAL EVALUATION REPORTS

"SEC. 418. (a) In the case of any applicable program for which—

"(1) the authorization of appropriations expires; or

"(2) the time during which payments or grants are to be made expires;

not later than one year prior to the date of such expiration, the Assistant Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Public Welfare of the Senate a comprehensive evaluation report on such program.

"(b) Any comprehensive evaluation report submitted pursuant to subsection (a) shall contain—

"(1) a history of the program concerned including—

"(A) a history of authorizations of appropriations, budget requests, appropriations, and expenditures for such programs;

"(B) a history of legislative recommendations with respect to such program made by the President and the disposition of such recommendations, and

"(C) a history of legislative changes made in applicable statutes with respect to such program;

"(2) assuming a continuation of such program, recommendations for improvements (including legislative changes and funding levels) in such program with a view toward achieving the legislative purposes of such program;

"(3) a compilation and summary of all evaluations of such program; and

"(4) a recommendation with respect to whether such program should be continued, and the date of its expiration, and the reasons for such recommendation.".

(2) Any reference in any law, regulation, guideline, or other document, however styled, to sections 411, 413, and 417 of the General Education Provisions Act on the date of the enactment of this Act shall be deemed to be a reference to the appropriae section of subpart 2 of part B of the General Education Provisions Act which contains the comparable provision.

(b) The amendments made by, and provisions of, subsection (a) shall be effective on the date of the enactment of this Act.

FEDERAL INTERAGENCY COMMITTEE ON EDUCATION

SEC. 503. (a) (1) The General Education Provisions Act is amended by adding after section 406 the following new section:

"FEDERAL INTERAGENCY COMMITTEE ON EDUCATION

"SEC. 407. (a) There shall be, in the Education Division, a Federal Interagency Committee on Education (hereafter in this section referred to as the 'Committee') which shall be composed of—

"(1) the Assistant Secretary, who shall be Chairman of the Committee;

"(2) the Commissioner;

"(3) the Director of the National Institute of Education;

"(4) the Director of the National Center for Education Statistics;

"(5) such other officers of the Department of Health, Education, and Welfare as the Secretary may designate; and

"(6) one representative of each of the following departments and agencies:

"(A) the Department of State,
"(B) the Department of Defense,
"(C) the Department of Agriculture,
"(D) the Department of Labor,
"(E) the Department of Housing and Urban Development,
"(F) the Department of Commerce,
"(G) the Department of the Interior,
"(H) the Department of Justice,
"(I) the National Science Foundation,
"(J) the Atomic Energy Commission,
"(K) the National Endowment for the Arts,
"(L) the National Endowment for the Humanities,
"(M) the National Aeronautics and Space Administration.

In addition, the President may, by Executive order, appoint or designate the heads of such other departments or agencies as he deems appropriate to be members of the Committee.

"(b) The Director of the Office of Management and Budget and the Chairman of the Council of Economic Advisors to the President are authorized to appoint nonparticipating observers to the Committee.

"(c)(1) The Committee shall advise the heads of departments and agencies with respect to their functions which relate to, or affect, education and encourage them to coordinate such functions.

"(2) The Committee shall collect education-related data and other information from the departments and agencies of the Federal Government and make such data and other information available to the National Center for Education Statistics.

"(c) The Assistant Secretary shall provide the Committee with such professional, technical, and clerical staff as may be necessary to enable the Committee to carry out its functions under this section.".

(2) Executive Orders Numbered 1118 (October 16, 1964, 29 F.R. 14399) and 11761 (January 17, 1974) relating to the coordination of Federal education activities and all orders amendatory thereto, having been superseded by section 407 of the General Educational Provisions Act, shall have no effect after the enactment of this Act.

(b) Except as otherwise provided in this section, the amendments made by subsection (a) shall be effective on the tenth day after the enactment of this Act.

GENERAL PROVISIONS RELATING TO OFFICERS IN THE EDUCATION DIVISION

SEC. 504. (a)(1) The General Education Provisions Act is amended by adding after section 407 the following new sections:

"RULES FOR EDUCATION OFFICERS OF THE UNITED STATES

"SEC. 408. (a) For the purposes of this section, the term 'education officer of the United States' means any person appointed by the President pursuant to this part, except members of commissions, councils, and boards.

"(b) Each education officer of the United States shall serve at the pleasure of the President.

"(c) No education officer of the United States shall engage in any other business, vocation, or employment while serving in the position to which he is appointed; nor may he, except with the express approval of the President in writing, hold any office in, or act in any capacity for, or have any financial interest in, any organization, agency, or institution to which an agency in the Education Division makes a grant or with any such agency makes a contract or any other financial arrangement.

"(d) No person shall hold, or act for, more than one position as an education officer of the United States at any one time.

"GENERAL AUTHORITY OF ADMINISTRATIVE HEADS OF EDUCATION AGENCIES

"SEC. 409. (a) Each administrative head of an education agency, in order to carry out functions otherwise vested in him by law, is, subject to limitations as may be otherwise imposed by law, authorized—

"(1) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of operation of the agency of which he is head;

"(2) in accordance with those provisions of title 5, United States Code, relating to the appointment and compensation of personnel and subject to such limitations as are imposed in this part, to appoint and compensate such personnel as may be necessary to enable such agency to carry out its functions;

"(3) to accept unconditional gifts or donations of services, money, or property (real, personal, or mixed; tangible or intangible);

"(4) without regard for section 3648 of the Revised Statutes of the United States (31 U.S.C. 529), to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary for the conduct of such agency;

"(5) with funds expressly appropriated for such purpose, to construct such facilities as may be necessary to carry out functions vested in him or in the agency of which he is head, and to acquire and dispose of property; and

"(6) to use the services of other Federal agencies and reimburse such agencies for such services.

"(b) Any administrative head of an education agency is, subject to any other limitations on delegations of authority by law, authorized to delegate any of his functions under this section to an officer or employee of that agency.

"(c) For the purposes of this section, the term 'administrative head of an education agency' means the Commissioner, the Director of the National Institute of Education, and the Director of the National Center for Education Statistics. To the extent that the Assistant Secretary is directly responsible for the administration of a program, he shall, for such purposes be considered within the meaning of such term."

(2)(A) The General Education Provisions Act is amended—

(i) in section 402(b), by striking out the second sentence thereof;

(ii) in section 403, by striking out subsection (b) and inserting in lieu thereof the following:

"(b) The Office shall be headed by the Commissioner of Education who shall be appointed by the President, by and with the advice and consent of the Senate.

"(c)(1) There shall be in the Office of Executive Deputy Commissioner of Education (in this subsection referred to as the 'Executive Deputy Commissioner') who shall be appointed by the President and shall, subject to the direction of the Commissioner, be responsible for broad delegated responsibility to act for the Commissioner on major aspects of the Office. The Executive Deputy Commissioner shall act for the Commissioner during the absence or disability of the Commissioner.

"(3) The Executive Deputy Commissioner shall be placed in, and compensated at the rate specified for, grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code."; and

(iii) in section 405—

(I) by striking out that part of the first sentence of subsection (d)(1) which follows "Senate" and inserting in lieu thereof a period, and

(II) by striking out subsection (f).

(B) Section 416 of such Act, as amended by section 502 of this Act, is amended by inserting "(a)" after "SEC. 416." and by adding at the end thereof the following:

"(b) In order to enable the Assistant Secretary to carry out his functions under subsection (a), the Assistant Secretary shall for such purpose be deemed to be an administrative head of an education agency with respect to the authority vested therein by clauses (1), (2), (4), and (6) of section 409.".

(b) The amendments made by this section shall be effective on the tenth day after the date of enactment of this Act.

REGIONAL OFFICES; ORGANIZATION; DELEGATIONS OF AUTHORITY

SEC. 505. (a)(1) Section 403 of the General Education Provisions Act is amended by adding at the end thereof the following:

"(d)(1) The Office shall, consistent with such organization thereof which is provided in law, be divided into bureaus, and such bureaus shall be divided into divisions, as the Commissioner determines appropriate.

"(2) Except as is otherwise provided by law, bureaus of the Office shall be headed by Deputy Commissioners, and divisions of such bureaus shall be headed by Directors. Deputy Commissioners, subject to this subsection, shall be placed in, and compensated at the rate specified for, grade 18 of the General Schedule as set forth in section 5332 of title 5, United States Code, and Directors, subject to this subsection, shall be placed in, and compensated at the rate specified for, grade 17 of such General Schedule.

"(A) There shall be regional offices of the Office of Education established in such places as the Commissioner, after consultation with the Assistant Secretary, shall determine. Such regional offices shall carry out such functions as are specified in subparagraph (B).

"(B) The regional offices shall serve as centers for the dissemination of information about the activities of the agencies in the Education Division and provide technical assistance to State and local educational agencies, institutions of higher education, and other educational agencies, institutions, and organizations and to individuals and other groups having an interest in Federal education activities.

"(C) The Commissioner shall not delegate to any employee in any regional office any function which was not carried out, in accordance with regulations effective prior to June 1, 1973, by employees in such offices unless the delegation of such function to employees in regional offices is expressly authorized by law enacted after the enactment of the Education Amendments of 1974.

"(3) The Commissioner shall submit to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives not later than November 1 of each year a report on the personnel needs and assignments of the Office. Such report shall include a description (A) of the manner in which the Office is organized and the personnel of the Office are assigned to the various functions of that agency and (B) of personnel needs of that agency in order to enable it to carry out its functions, as authorized by law.".

(2) The Secretary of Health, Education, and Welfare shall delegate his functions respecting the administration of programs administered in the Office of Education to the Assistant Secretary of Health, Education, and Welfare for Education.

(b) The provisions of the amendments made by subsection (a) shall be effective on the tenth day after the date of enactment of this Act, except that the provisions of limitation set forth in section 403(d)(2)(C) of such Act shall have effect on the date of such enactment, and shall be retroactive to June 1, 1973.

AMENDMENTS TO SECTION 431 OF THE GENERAL EDUCATION PROVISIONS ACT RELATING TO RULES, REGULATIONS, AND OTHER REQUIREMENTS OF GENERAL APPLICABILITY

SEC. 506. Section 431(b) of the General Education Provisions Act is amended by inserting "(1)" after "(b)" and by adding at the end thereof the following:

"(2)(A) During the thirty-day period prior to the date upon which such standard, rule, regulation, or general requirement is to be effective, the Commissioner shall offer any interested party an opportunity to make comment upon, and take exception to, such standard, rule, regulation, or general requirement and shall reconsider any such standard, rule, regulation, or general requirement upon which comment is made or to which exception is taken.

"(B) If the Commissioner determines that the thirty-day requirement in paragraph (1) will cause undue delay in the implementation of a regulation, thereby causing extreme hardship for the intended beneficiaries of an applicable program, he shall notify the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Public Welfare of the Senate. If both such committees agree with the determination of the Commissioner, the Commissioner may waive such requirement with respect to such regulation.".

AMENDMENTS TO SECTION 400 OF THE GENERAL EDUCATION PROVISIONS ACT: CONFORMING AND CLARIFYING AMENDMENTS; UNIFORM DEFINITIONS; LIMITATIONS ON AUTHORIZATIONS OF APPROPRIATIONS

SEC. 507.(a)(1) Section 400 of the General Education Provisions Act is amended to read as follows:

"GENERAL PROVISIONS

"SEC. 400. (a) This title may be cited as the 'General Education Provisions Act'.

"(b) Unless otherwise specified, the following definitions shall apply to the terms used in any applicable statute:

"(1) The term 'Secretary' means the Secretary of Health, Education, and Welfare.

"(2) The term 'Assistant Secretary' means the Assistant Secretary of Health, Education, and Welfare created under section 402.

"(3) The term 'Commissioner' means the Commissioner of Education for which provision is made under section 403.

"(4) The term 'Education Division' means the Education Division established under section 401.

"(5) The term 'Office of Education' means the agency established under section 403.

"(6) The term 'National Institute of Education' means the agency established under section 405.

"(7) The term 'National Center for Education Statistics' means the agency established under section 406.

"(8) The term 'construction' means (A) erection of new or expansion of existing structures and the acquisition and installation of necessary equipment therefor; or (B) acquisition of existing structures; or (C) remodeling or alteration of existing structures; or (D) any combination of any two or more of the activities described in clauses (A), (B), and (C).

"(9) The term 'elementary school' means a day or residential school which provides elementary education, as determined under State law.

"(10) The term 'equipment' includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility, as a facility for the provision of educational service, including such items as instructional equipment and necessary furniture; printed, published, and audiovisual instructional materials; and books, periodicals, documents; and other related materials.

"(11) The term 'free public education' means education which is provided at public expense, under public supervision, direction, and control, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State.

"(12) The term 'gifted and talented children' means children who, in accordance with objective criteria established by the Commissioner by regulation, have outstanding intellectual ability or creative talent, the development of which requires special educational activities or services not ordinarily provided by local educational agencies.

"(13) The term 'handicapped' when applied to a person means a person who is mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, or crippled; and the term 'handicapped children' means children who are mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or have other health impairments, who by reason thereof require special education and services.

"(14) The term 'institution of higher education' means an educational institution in a State which—

"(A) admits, as regular students, only individuals having a certificate of graduation (or the recognized equivalent thereof) from a secondary school;

"(B) is legally authorized within such State to provide a program of postsecondary education;

"(C) provides an educational program for which it awards a bachelor's degree, or provides not less than a two-year program which is acceptable for full credit toward such a degree;

"(D) is a public or other nonprofit institution; and

"(E) is accredited by a nationally recognized accrediting agency or association, as determined by the Commissioner.

For the purposes of clause (E), the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authorities as to the quality of education or training offered in institutions of higher education.

"(15) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction, or to perform a service function for free public education in elementary or secondary schools in a school district or other local political subdivision of a State, or such combination of school districts or other local political subdivisions of a State as are recognized in a State as an administrative agency for the provision of free public education in elementary or secondary schools.

"(16) The term 'nonprofit' as applied to a school, agency, organization, or institution means an educational school, agency organization, or institution owned and operated by one or more nonprofit corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(17) The term 'parent' includes a legal guardian of, or other person standing in loco parentis with, a child.

"(18) The term 'school or department of divinity' means an institution or department or a branch of an institution, the educational program of which is designed or intended for the education of students—

"(A) to prepare them to become ministers of religion or to enter upon some other religious vocation (or to provide continuing training for any such vocation); or

"(B) to prepare them to teach theological subjects.

"(19) The term 'secondary school' means a school which provides secondary education as determined under State law, except that such term shall not include instruction beyond grade 12.

"(20) The term 'State' includes the several States of the Union, and the District of Columbia.

"(21) The term 'State educational agency' means the State board of education or other agency or officer primarily responsible for the State supervision of free public education in elementary and secondary schools, or, if there is no such officer or agency, an office or agency designated by the Governor or by State law.

"(c)(1) Except where otherwise specified, the provisions of this title shall apply to any program for which an administrative head of an education agency (as defined in section 409) has administrative responsibility, as provided by law or by delegation of authority, pursuant to law.

"(2)(A) For the purposes of this title—

"(i) the term 'applicable program' means any program to which this title is, under the terms of paragraph (1) applicable; and

"(ii) the term 'applicable statute' means (I) the Act, or the title, part, or section of an Act, as the case may be which authorizes the appropriation for an applicable program, (II) this title, and (III) any other statute which, under its terms, expressly controls the administration of an applicable program.

"(B) The Civil Rights Act of 1964 (A) shall not be considered, for the purposes of this title, an applicable statute, but (B) shall have full force and effect on the basis of the terms of that Act with respect to the administration of any applicable program.

"(C) No Act making appropriations to carry out an applicable program shall be considered an applicable statute.

"(D) Nothing in this Act shall be construed to affect the applicability of section 3679 of the Revised Statutes or the Budget and Accounting Act, 1921, unless a provision of that section or Act is inconsistent with this Act.

"(3) In the case of any provision in this title which limits the applicability of other provisions of law to the contrary unless such other provision of law is enacted in express and specific limitation therof, the form of an enactment expressly and specifically limiting any such provision shall be as follows: 'This ——— is enacted as a limitation on ——— of the General Education Provisions Act'; the first blank is to be filled with the section, part, title, or Act, as the case may be, which creates the limitation; and the second blank is to be filled with the section number on which the limitation is imposed.

"(d) No authority vested in the Assistant Secretary or in any agency or officer, council, commission, or board in the Education Division shall be transferred to any other agency or any official in any other agency except by a statute which expressly limits the effect of this section.

"(e)(1) Subject to paragraph (2) of this subsection and subsection (f), there are authorized to be appropriated for any fiscal year ending prior to July 1, 1977, such sums as may be necessary to carry out the provisions of this title. Except as may be otherwise authorized in this title, there shall be no expenditure of funds for any activity authorized by this title except from appropriations pursuant to the preceding sentence.

"(2) Of the sums appropriated pursuant to paragraph (1)—

"(i) not to exceed $1,500,000 for the fiscal year ending June 30, 1974, $3,600,000 for the fiscal year ending June 30, 1975, $4,500,000 for the fiscal year ending June 30, 1976, and $5,500,000 for the fiscal year ending June 30, 1977, shall be for salaries and expenses for the operation of the office of the Assistant Secretary;

"(ii) not to exceed $90,000,000 for the fiscal year ending June 30, 1974, $127,300,000 for the fiscal year ending June 30, 1975, $156,400,000 for the fiscal year ending June 30, 1976, and $195,500,000 for the fiscal year ending June 30, 1977, shall be for salaries and

expenses for the administration of the Office of Education;

"(iii) not to exceed $7,500,000 for the fiscal year ending June 30, 1974, $13,000,000 for the fiscal year ending June 30, 1975, $16,000,000 for the fiscal year ending June 30, 1976, and $21,000,000 for the fiscal year ending June 30, 1977, shall be for salaries and expenses for the National Institute of Education; and

"(iv) not to exceed $5,000,000 for the fiscal year ending June 30, 1974, $10,000,000 for the fiscal year ending June 30, 1975, and $14,000,000 for the fiscal year ending June 30, 1976 and for the succeeding fiscal year, shall be for salaries and expenses for the National Center for Education Statistics.

"(f)(1)(A) The aggregate of the appropriations to the agencies in the Education Division and to the office of the Assistant Secretary for any fiscal year shall not exceed the limitations set forth for that fiscal year in subparagraph (B).

"(B)(i) Except as is provided in division (ii), the appropriations to which subparagraph (A) applies—

"(I) shall not exceed $7,500,000,000 for the fiscal year ending June 30, 1975, $8,000,000,000 for the fiscal year ending June 30, 1976, and $9,000,000,000 for the fiscal year ending June 30, 1977; and

"(ii) except as is provided in division (iii), shall not exceed such amount as may be authorized by the law and limited by this division.

"(ii) The limitations set forth in division (i) shall not apply—

"(I) to uncontrollable expenditures under obligations created under part B of title IV of the Higher Education Act of 1965, parts C and D of title VII of such Act, and the Emergency Insured Student Loan Act of 1969;

"(II) to any other expenditure under an obligation determined by the Commissioner pursuant to, or in accordance with, law to be an uncontrollable expenditure of the Office of Education.

"(iii) For the purpose of section 414, the limitations set forth in clause (I) of division (i) and in paragraph (2) shall, with respect to the fiscal year ending June 30, 1977, be deemed to be authorizations of appropriations.

"(2)(A) The sums appropriated to which paragraph (1) applies for any fiscal year ending prior to July 1, 1978, shall be subject to the following limitations:

"(i) In the case of the title I of the Elementary and Secondary Education Act of 1965, the limitation shall be $2,500,000,000 for the fiscal year ending June 30, 1974 and for the succeeding fiscal year, $3,000,000,000 for the fiscal year ending June 30, 1976, $3,500,000,000 for the fiscal year ending June 30, 1977, and $4,000,000,000 for the fiscal year ending June 30, 1978.

"(ii) In the case of title VI of such Act, the limitation shall be $400,000,000 for the fiscal year ending June 30, 1975, $500,000,000 for the fiscal year ending June 30, 1976, $750,000,000 for the fiscal year ending June 30, 1977, and $1,000,000,000 for the fiscal year ending June 30, 1978; but in no event shall the appropriation for such title VI be less than the aggregate of—

"(I) the amounts to which each State is entitled under the provisions of paragraph (3) of section 402(a) of the Education Amendments of 1974; or

"(II) the amounts to which each State is entitled under section 602(a)(1) and section 602(b) of the Elementary and Secondary Education Act of 1965;

whichever is greater, when determined with respect to each State.

"(iii) In the case of title I of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), the limitation shall be $750,000,000 for the fiscal year ending June 30, 1974, and for the succeeding fiscal year, $800,000,000 for the fiscal year ending June 30, 1976, $900,000,000 for the fiscal year ending June 30, 1977, and $1,000,000,000 for the fiscal year ending June 30, 1978.

"(B) If the aggregate of the entitlements created under title VI of the Elementary and Secondary Education Act of 1965 exceeds the appropriation for such title VI for any fiscal year ending prior to July 1, 1978, each of the entitlements created thereunder shall be reduced ratably until such aggregate does not exceed such appropriation, except that the amount to which the entitlement of any State for any such fiscal year is reduced—

"(i) with respect to entitlements created under section 602(a), shall not be less than $1,000,000;

"(ii) with respect to entitlements created under section 602(b), shall not be less than—

"(I) $1,000,000, or

"(II) 10 per centum of the amount to which such State is entitled under section 602(a) (after any reductions necessitated by operation of this paragraph),

whichever is greater; and

"(ii) with respect to entitlements created under both sections 602(a) and 602(b) shall not be less than the minimum amount for which provision is made for such State in clause (ii) of subparagraph (A).".

(2) The limitation set forth in clause (iii) of section 400(f)(2)(A) of the General Education Provisions Act shall not apply for any fiscal year to entitlements created under the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) which are increased by reason of section 203(b)(2)(A)(i) of this Act, to the extent of such increases.

(3) Section 605(c)(1) of the Elementary and Secondary Education Act of 1965, as added by section 402(a)(2) of this Act, is amended in clause (A) thereof by striking out "section 602(a)," and inserting in lieu thereof the following: "section 602(a), but shall not be less than the minimum amounts for which provision is made with respect to such State is section 400(f)(2)(B) of the General Education Provisions Act".

(4) Section 406(g) of the Act as added by section 501 of this Act is amended by striking out "paragraph (1)" and inserting in lieu thereof "section 400(e)(2) or paragraph (1)".

(b) The amendment made by subsection (a) and the provisions thereof shall be effective on and after the tenth day after the enactment of this Act.

BUREAU OF LIBRARIES AND LEARNING RESOURCES

SEC. 508. (a) There is established, in the Office of Education, a Bureau of Libraries and Learning Resources (hereafter in this section referred to as the "Bureau"), through which the Commissioner administers all programs in the Office of Education related to assistance for, and encouragement of, libraries and information centers and education technology.

(b)(1) The Bureau shall be headed by a Deputy Commissioner, to whom the Commissioner shall delegate his delegable functions with respect to the programs administered through the Bureau, and who shall be placed in, and compensated at the rate provided for, grade 17 of the General Schedule set forth in section 5332 of title 5, United States Code.

(2) In addition to the position created in paragraph (1), there shall be two positions in the Bureau which shall be placed in, and compensated at the rate provided for, grade 16 of such General Schedule.

(3) The positions created by paragraphs (1) and (2) shall be in addition to the number of positions placed in such grades of the General Schedule under section 5108 of title 5, United States Code, and shall be without prejudice against the Office of Education with respect to the number of positions, subject to such section 5108 assigned to the Office of Education.

(4) The number of positions placed in grades 15 and below of such General Schedule assigned to the Bureau and solely under the direction and supervision of the person holding the position created by paragraph (1) shall not be less than sixty.

AUDITS AND RECORDKEEPING

SEC. 509. (a) Section 434(a) of the General Education Provisions Act is amended to read as follows:

"SEC. 434. (a)(1) Each recipient of Federal funds under any applicable program through any grant, subgrant, contract, subcontract, loan, or other arrangement entered into (other than by formal advertising) shall keep such records as the Assistant Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such funds are given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(2) The Assistant Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the expiration of three years after the completion of the project or undertaking to which reference is made in paragraph (1), have access, for the purpose of audit and examination, to any books, documents, papers, and records of such recipients which, in the opinion of the Comptroller General, after consultation with the Assistant Secretary, may be related, or pertinent to, the grants, subgrants, contracts, subcontracts, loans, or other arrangements to which reference is made in paragraph (1)."

AMENDMENTS RELATING TO ADVISORY COUNCILS

SEC. 510. (a)(1) Section 447(b) of the General Education Provisions Act is amended by striking out "each statutory advisory council" and inserting in lieu thereof "each advisory council which is subject to the operation of this part".

(b) Section 445 of such Act is amended by adding at the end thereof the following new subsection:

"(d) No employee of an advisory council, appointed and compensated pursuant to this section, shall be compensated at a rate in excess of that which such employee would receive if such employee were appointed subject to the appropriate provisions of title 5, United States Code, regarding appointments to, and compensation with respect to, the competitive service, except that—

"(1) executive directors of Presidential advisory councils shall be compensated at the rate specified for employees placed in grade 18 of the General Schedule set forth in section 5332 of such title 5;

"(2) executive directors of all other statutory advisory councils shall be compensated at the rate provided for employees in grade 15 of such General Schedule; and

"(3) in accordance with regulations promulgated by the Assistant Secretary, other employees of advisory councils shall be compensated at such rates as may be necessary to enable such advisory councils to accomplish their purposes.".

(2) Such section 445 is amended by striking out "Commissioner" where it appears and inserting in lieu thereof "Assistant Secretary."

(3) No provision of any law establishing, authorizing the establishment of, or controlling the operation of, an advisory council which is not consistent with the provisions of part D of the General Education Provisions Act shall apply to any advisory council to which such part D applies.

AVAILABILITY AND APPORTIONMENTS OF APPROPRIATIONS

SEC. 511. (a) Section 412(b) of the General Education Provisions Act, as redesignated by section 502 of this Act, is amended striking out "July 1, 1973" and inserting in lieu thereof "July 1, 1978".

(b) Section 412 of such Act is amended by

adding at the end thereof the following new subsections:

"(c) The Commissioner shall not later than fifteen days after the enactment of any law making an appropriation for any applicable program, submit, in accordance with section 3679(d)(2) of the Revised Statutes, such information as is required pursuant to the second sentence of such section 3679(d)(2), including a spending plan which apportions such appropriation as provided therein. If after the period allowed for action by the Director of the Office of Management and Budget under the fourth sentence of such section 3679(d)(2), the Commissioner has not received notice of the apportionment required under such fourth sentence, the Commissioner shall consider such appropriation apportioned in the manner provided in such spending plan and proceed to obligate such appropriation as so apportioned. Not later than thirty days after the enactment of a law to which reference is made in the first sentence of this subsection, the Commissioner shall submit to the Committees on Education and Labor and Appropriations of the House of Representatives and the Committees on Labor and Public Welfare and Appropriations of the Senate copies of the spending plan in effect with respect to such law.

"(d) If any funds appropriated to carry out any applicable program are not obligated pursuant to a spending plan submitted as provided in subsection (c) and become available for obligation after the institution of a judicial proceeding seeking the release of such funds, then such funds shall be available for obligation and expenditure until the end of the fiscal year which begins after the termination of such judicial proceeding.".

SCHEDULE FOR PROMULGATION OF REGULATIONS

SEC. 512. (a) Section 431 of the General Education Provisions Act is amended by adding at the end thereof the following new subsection:

"(d) Not later than thirty days after the enactment of any Act affecting the administration of any applicable program, the Commissioner shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Public Welfare of the Senate a schedule in accordance with which the Commissioner has planned to promulgate rules, regulations, and guidelines implementing such Act. Such schedule shall provide that all such rules, regulations, and guidelines shall be promulgated within one hundred and eighty days after the submission of such schedule to such committee. Except as is provided in the following sentence, all such rules, regulations, and guidelines shall be promulgated in accordance with such schedule. If the Commissioner finds that, due to circumstances unforeseen at the time of the submission of any such schedule, he cannot comply with a schedule submitted pursuant to this subsection, he shall notify such committees of such finding and submit a new schedule. If both such committees notify the Commissioner of their approval of such new schedule, such rules, regulations, and guidelines shall be promulgated in accordance with such new schedule.".

(b) The amendment made by subsection (a) shall be effective on the date of enactment of this Act and shall be effective with respect to the provisions of this Act.

PROTECTION OF THE RIGHTS AND PRIVACY OF PARENTS AND STUDENTS

SEC. 513. Part C of the General Education Provisions Act is amended by adding at the end thereof the following new section:

"PROTECTION OF THE RIGHTS AND PRIVACY OF PARENTS AND STUDENTS

"SEC. 437. (a) RIGHT OF ACCESS AND OF A HEARING.—(1) No funds shall be made available under any applicable program to any State or local educational agency, any institution of higher education, any community college, any school, preschool, or any other educational institution which has a policy of denying, or which effectively prevents the parents of students under eighteen years of age attending any school of such agency, or attending such institution of higher education, community college, school, preschool, or other educational institution, the right to inspect and review any and all official records, files, and data directly related to their children, including all material that is incorporated into each student's cumulative record folder, and intended for school use or to be available to parties outside the school or school system, and specifically including, but not necessarily limited to, identifying data, academic work completed, level of achievement (grades, standardized achievement test scores), attendance data, scores on standardized intelligence, aptitude, and psychological tests, interest inventory results, health data, family background information, teacher or counselor ratings and observations, and verified reports of serious or recurrent behavior patterns. Where such records or data include information on more than one student, the parents of any student shall be entitled to receive, or be informed of, that part of such record or data as pertains to their child. Each recipient shall establish appropriate procedures for the granting of a request by parents for access to their child's school records within a reasonable period of time, but in no case more than forty-five days after the request has been made.

"(2) Parents shall have an opportunity for a hearing to challenge the content of their child's school records, to insure that the records are not inaccurate, misleading, or otherwise in violation of the privacy or other rights of students, and to provide an opportunity for the correction or deletion of any such inaccurate, misleading, or otherwise inappropriate data contained therein.

"(b) CONDITIONS FOR THE RELEASE OF PERSONAL DATA.—(1) No funds shall be made available under any applicable program to any State or local education agency, any institution of higher education, any community college, any school, preschool, or any other educational institution which has a policy of permitting the release of records or files (or personal information contained therein) of students without the written consent of their parents to any individual, agency, or organization, other than the following—

"(A) other local school officials, including teachers within the educational institution or local educational agency who have legitimate educational interests;

"(B) to officials of other schools or school systems in which the student intends to enroll, upon condition that the student's parents be notified of the transfer, receive a copy of the record if desired, and have an opportunity for a hearing to challenge the content of the record.

"(2) No funds shall be made available under any applicable program to any State or local educational agency, any institution of higher education, any community college, any school, preschool, or any other education institution which has a policy or practice of furnishing, in any form, any information contained in personal school records, to any persons other than those listed in subsection (b)(1) unless—

"(A) there is written consent from the student's parents specifying records to be released, the reasons for such release, and to whom, and with a copy of the records to be released to the student's parents and the student if desired by the parents, or

"(B) such information is furnished in compliance with judicial order, or pursuant to any lawfully issued subpena, upon condition that parents and the students are notified of all such orders or subpenas in advance of the compliance therewith by the education institution or agency.

"(3) In any case in which the Secretary or an administrative head of an education agency is authorized under any applicable program to request or require any State or local educational agency, any institution of higher education, any community college, any school, preschool, or any other educational institution to submit to a third party (or to the Secretary or an administrative head of an education agency, as defined in section 409 of this Act) any data from personal statistics or records of students, such data shall not include the names of students or their parents (in code or otherwise) without the written consent of the student's parents, except—

"(A) in connection with a student's application for financial aid;

"(B) in compliance with any court order, or pursuant to any lawfully issued subpena, if the parents and students are notified of any such order in advance of the compliance therewith by the State or local educational agency, the institution of higher education, the community college, the school, preschool, or other educational institution.

"(4)(A) With respect to subsections (b)(1) and (b)(2) and (b)(3), all persons, agencies, or organizations desiring access to the records of a student shall be required to sign a written form which shall be kept permanently with the file of the student, but only for inspection by the parents or student, indicating specifically the legitimate educational or other interest that each person, agency, or organization has in seeking this information. Such form shall be available to parents and to the school official responsible for record maintenance as a means of auditing the operation of the system.

"(4)(B) With respect to this subsection, personal information shall only be transferred to a third party on the condition that such party will not permit any other party to have access to such information without the written consent of the parents of the student.

"(c) PROTECTION OF PERSONAL DATA.—The Secretary shall adopt appropriate regulations to protect the rights of privacy of students and their families in connection with any surveys or data-gathering activities conducted, assisted, or authorized by the Secretary or an administrative head of an education agency (as defined in section 409 of this Act). Regulations established under this subsection shall include provisions controlling the use, dissemination, and protection of such data. No survey or data-gathering activites shall be conducted by the Secretary, or an administrative head of an education agency having responsibilities under an applicable program unless such activities are authorized by the Act establishing such a program.

"(d) For the purposes of this section, whenever a student has attained eighteen years of age, the permission or consent required of and the rights accorded to the parents of the student shall thereafter only be required of and accorded to the student.

"(e) No funds shall be made available under any applicable program unless the recipient of such funds informs the parents of students, or the students, if they are eighteen years of age or older, of the rights accorded them by this section.

"(f) The Secretary, or an administrative head of an education agency, shall take appropriate actions to enforce provisions of this section and to deal with violations of this section, according to the provisions of this Act.

"(g) The Secretary shall establish or designate an office and review board within the Department of Health, Education, and Welfare for the purpose of investigating, processing, reviewing, and adjudicating violations of the provisions of this section and

complaints which may be filed concerning alleged violations of this section, according to the procedures contained in subsections (c) and (d) of section 421 of this Act.

"(h) With respect to any funds obligated prior to the effective date of this section to any State or local educational agency, any institution of higher education, any community college, any school, preschool, or any other educational institution, continued furnishing of such funds shall cease January 1, 1975, if the recipient has failed to meet the conditions for funding established by this section.

"(i) The provisions of this section shall become effective ninety days after the date of enactment of this Act.

"(j) This section may be cited as the 'Family Educational Rights and Privacy Act of 1974'."

LIMITATION ON WITHHOLDING OF FEDERAL FUNDS

SEC. 514. Part C of the General Education Provisions Act (as amended by section 513) is further amended by adding at the end thereof the following new section:

"LIMITATION ON WITHHOLDING OF FEDERAL FUNDS

"SEC. 438. The refusal of a State or local education agency and institution of higher education, community college, a school, preschool, or any other educational institution, to administer a test or project or to provide personally identifiable data on students or their families, as a part of an applicable program, to any Federal office, agency, department, or other third party, on the grounds that it constitutes a violation of the right to privacy and confidentiality of students, their parents, or is an unaccepable research or experimentation project, or is for the purpose of altering the personal behavior or values of a student, or is potentially psychologically or otherwise harmful to students or their families, shall not constitute sufficient grounds for the suspension or termination of Federal assistance. Further, such a refusal shall not constitute sufficient grounds for a denial of, a refusal to consider, or a delay in the consideration of funding in succeeding fiscal years for such a recipient."

PART B—AMENDMENTS TO THE HIGHER EDUCATION ACT OF 1965

COMMUNITY SERVICE AND CONTINUING EDUCATION AMENDMENTS

SEC. 521. (a) Section 101 of the Higher Education Act of 1965 is amended by adding after the word "health" a comma and the following: "labor management".

(c) Section 111 of such Act is amended by adding at the end thereof the following new sentence: "Subject to section 448(b) of the General Education Provisions Act, the Advisory Council shall continue to exist through June 1975.".

DEVELOPING INSTITUTIONS AMENDMENT

SEC. 522. Section 302(a)(2) of the Higher Education Act of 1965 is amended by adding at the end thereof the following new sentence: "The Commissioner is authorized to waive three years of the requirements set forth in clause (C) of paragraph (1) in the case of applications for grants under this title by institutions located in or near communities with large numbers of Spanish-speaking people if the Commissioner determines such action will increase higher education for Spanish-speaking people.".

BILINGUAL EDUCATION AMENDMENTS

SEC. 523. (a)(1) Clause (B) of section 417 B(b)(3) of the Higher Education Act of 1965 is amended by inserting "(i)" after the word "who" and by inserting before the semicolon at the end thereof a comma and the following: "or (ii) by reason of limited English-speaking ability, are in need of bilingual educational teaching, guidance, and counseling in order to enable them to pursue a post-secondary education".

(2) Section 417B of such Act is amended by adding at the end thereof the following new subsection:

(d) Funds appropriated for the purposes of clause (3) of subsection (b) shall be available for training persons to provide the services described in clause (3)(ii) of such subsection.".

(b) The amendments made by this subsection shall be effective upon the enactment of this Act.

VETERANS COST OF INSTRUCTION PAYMENTS AMENDMENTS

SEC. 524. (a)(1) Paragraph (1) of section 420(a) of the Higher Education Act of 1965 is amended to read as follows:

"(1) During the period beginning July 1, 1972, and ending June 30, 1975, each institution of higher education shall be entitled to a payment under, and in accordance with, this section during any fiscal year if—

"(A) the number of persons who are veterans receiving vocational rehabilitation under chapter 31 of title 38, United States Code, or veterans receiving edueational assistance under chapter 34 of such title, and who are in attendance as undergraduate students at such institution during any academic year, equals at least—

"(i) 110 per centum of the number of such recipients who were in attendance at such institution during the preceding academic year, or

"(ii) 10 per centum of the total number of undergraduate students in attendance at such institution during such academic year; and

"(B) the number of such persons is at least 25.".

(2) The first sentence of paragraph (2) of section 420(a) of such Act is amended by inserting before the period a comma and the following: "or equals at least the minimum number of such persons necessary to establish eligibility to entitlement under paragraph (1) during the preceding academic year, whichever is lower".

(3) Section 420(d) of such Act is amended by inserting "(1)" after "(d)" and by adding at the end thereof the following new paragraph:

"(2) The maximum amount of payments to any institution of higher education, or any branch thereof which is located in a community which is different from that in which the parent institution thereof is located, in any fiscal year, shall be $135,000. In making payments under this section for any fiscal year, the Commissioner shall apportion the appropriation for making such payments, from funds which become available as a result of the limitation on payments set forth in the preceding sentence, in such a manner as will result in the receipt by each institution which is eligible for a payment under this section of first $9,000 (or the amount of its entitlement for that fiscal year, whichever is less) and then additional amounts up to the limitation set forth in the preceding sentence.".

(4) Section 420(e) of such Act is amended by striking out the matter preceding the word "except" and inserting in lieu thereof the following: "No less than 75 per centum of the amounts paid to any institution under subsection (d) in any fiscal year shall be used to implement the requirement of clause (B)(i) of paragraph (1) of subsection (c), and, to the extent that such funds remain after implementing such requirement, funds limited by such 75 per centum requirement shall be used for implementing the requirements of clauses (B) (ii), (iii), and (iv) of such paragraph (1).".

(b) The amendments made by this section shall be effective with respect to payments made on and after October 1, 1973.

TEACHER CORPS AMENDMENTS

SEC. 525. (a)(1) Section 511 of the Higher Education Act of 1965 is amended—

(A) by inserting after "teacher preparation" in the matter preceding paragraph (1) the following: "and to encourage institutions of higher education and local educational agencies to improve programs of training and retraining for education personnel";

(B) by striking out the word "and" at the end of paragraph (3);

(C) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a comma and the word "and";

(D) by inserting after paragraph (4) the following new paragraph:

"(5) supporting demonstration projects for retraining experienced educational personnel serving in local educational agencies.".

(2) Section 513(a) of such Act is amended—

(A) by striking out the word "two" the first time it appears in paragraph (1) of such section and by inserting in lieu thereof "five";

(B) by inserting in paragraph (1) after "experienced teachers" a comma and the following: "supportive and auxiliary personnel including non-professional personnel";

(C) by inserting in paragraph (3) the word "primarily" before "in areas";

(D) by striking out "teaching teams, each of which shall consist of an experienced teacher and a number of teacher-interns who, in addition to teaching duties, shall be afforded time by the local educational agency for a teacher-intern training program carried out under the guidance of an experienced teacher" and inserting in lieu thereof the following: "Teacher Corps programs each of which shall include teacher-intern teams led by experienced teachers and may include other school personnel including non-professional personnel, who shall be afforded time by the local educational agency for a training program carried out";

(E) by striking out in paragraph (7) the words "clause (1)" and inserting in lieu thereof the following: "this subpart".

(3) Section 513(b) of such Act is amended by striking out "for teacher-interns while teaching" and inserting in lieu thereof "for Teacher Corps members while serving".

(4) Section 513(c) of such Act is amended—

(A) by striking out "3 per centum" in paragraph (2) and inserting in lieu thereof "5 per centum";

(B) by inserting in paragraph (2) "the Virgin Islands and" the following: "Guam, American Samoa, and the Trust Territory of the Pacific Islands".

(5) Section 513 of such Act is amended by adding at the end thereof the following new subsections:

"(e) The Commissioner is authorized to expend a sum not in excess of 10 per centum of the amount appropriated pursuant to the provisions of section 511(b) of this subpart in any fiscal year, for the purpose of planning the Teacher Corps program, monitoring, and evaluating Teacher Corps projects, disseminating information relating to Teacher Corps projects, and furnishing technical assistance to Teacher Corps projects. Such purposes may be carried out directly by personnel of the Teacher Corps, or through contracts or other arrangements with qualified persons or organizations.

"(f) Notwithstanding any other provision of law, the Commissioner shall develop and promulgate specific funding criteria based on the provisions of this subpart to assist potential grantees and contractors in developing proposals for Teacher Corps projects, and to assist the Commissioner in selecting proposals to be supported under this subpart.".

(6) Section 514(a)(2) of such Act is amended to read as follows:

"(2) Teacher-interns, experienced teachers, administrators, and other school personnel including non-professional personnel shall be compensated at such rates as the Commissioner may determine to be consistent with prevailing practices under comparable federally supported programs or local projects.".

(b) The amendments made by subsection (a) shall be effective on and after July 1, 1974.

AMENDMENT TO TITLE IX RESPECTING TRAINING IN THE LEGAL PROFESSION

SEC. 526. (a) Part D of title IX of the Higher Education Act of 1965 is amended by adding at the end thereof the following new section:

"ASSISTANCE FOR TRAINING IN THE LEGAL PROFESSION

"SEC. 966. (a) The Commissioner is authorized to make grants to, or enter into contracts with, public and private agencies and organizations other than institutions of higher education for the purpose of assisting individuals from disadvantaged backgrounds, as determined in accordance with criteria prescribed by the Commissioner, to undertake training for the legal profession.

"(b) Grants made, and contracts entered into under subsection (a) may cover, in accordance with regulations of the Commissioner, all or part of the cost of—

"(1) selecting individuals from disadvantaged backgrounds for training for the legal profession,

"(2) facilitating the entry of such individuals into institutions of higher education for the purpose of pursuing such training,

"(3) providing counseling or other services designed to assist such individuals to complete successfully such training,

"(4) providing, for not more than three months prior to the entry of such individuals upon their courses of training for the legal profession, preliminary training for such individuals designed to assist them to complete successfully such training for the legal profession,

"(5) paying such stipends (including allowances for travel and for dependents) as the Commissioner may determine for such individuals for any such period of preliminary training or for any period of training for the legal profession during which such individuals maintain satisfactory academic proficiency, as determined by the Commissioner, and

"(6) paying for administrative activities of the agencies and organizations which receive such grants, or with which such contracts are entered into, to the extent such activities are for the purpose of furthering activities described in clauses (1) through (5).

"(c) The activities authorized under this section may be carried out without regard to the requirements and limitations set forth in sections 962 and 963 of this part.".

(b) Funds appropriated pursuant to part D of title IX of the Higher Education Act of 1965 by the Departments of Labor and Health, Education, and Welfare, and Related Agencies Appropriations Act for the fiscal year ending June 30, 1974 (Public Law 93-192) shall be available for activities authorized by the amendment made by subsection (a).

(c) The amendment made by subsection (a) shall be deemed to have been enacted prior to July 1, 1974.

COMMUNITY COLLEGE AND OCCUPATIONAL EDUCATION AMENDMENT

SEC. 527. Section 1001(b)(1) is amended by striking out "1974" and inserting in lieu thereof "1975".

(b) The amendments made by subsection (a) shall be effective with respect to payments made after September 1, 1973.

POLITICAL LEADERSHIP INTERN PROGRAM

SEC. 528. (a) The Higher Education Act of 1965 is amended by redesignating title XII and all references thereto as title XIII and sections 1201 through 1206 and all references thereto as 1301 through 1306 and by inserting immediately after title XI the following new title:

"TITLE XII—POLITICAL LEADERSHIP INTERN PROGRAM

"PROGRAM AUTHORIZED

"SEC. 1201. The Commissioner is authorized to make grants, in accordance with the provisions of this title, to institutions of higher education for the planning, development, administration, and operation of an internship program under which students will be provided practical political involvement with elected officials in the performance of their duties at the local and State levels of government through interships in their offices. Such internship program shall be carried out through arrangements administered by institutions of higher education, and with the cooperation of State and local governments. Under such program the interns, who are students at any institution of higher education which is a grant recipient, will be assigned duties in offices of State and local elected officials, which will give them an insight into the problems and operations of the different levels of government, as well as an opportunity for research and for involvement in the policymaking process. Arrangements for such grants shall provide for coordination between the on-campus educational programs of the persons selected and their activities as interns, with commensurate credit given for their work and achievement as interns.

"SELECTION OF STUDENTS FOR PARTICIPATION AND DISTRIBUTION OF GRANTS

"SEC. 1202. (a) The students who are to participate in the internship program provided for in this title shall be selected by the institutions of higher education receiving grants under this title.

"(b) The Commissioner shall assure that grants under this title are distributed among the States in the same ratio, to the extent practicable, as the number of Members of Congress of a State bears to the total number of Members of Congress in all States.

"(c)(1) In order to assist the Commissioner to select institutions of higher education within a State to receive grants under this title, he shall appoint a National Advisory Council for Political Leadership Interns. Such Council shall be composed of twelve members appointed from among individuals especially qualified to serve on the Council.

"(2) The Council shall advise the Commissioner with respect to the distribution of grants under this title within each State and with respect to such other matters of policy as may be appropriate in carrying out the objectives of this program as authorized under this title.

"(3) The Commissioner shall make available to the Council such staff, information, and other assistance as it may require to carry out its duties under this title.

"(4) The provisions of part D of the General Educations Provisions Act shall apply to any Council established under this title.

"(d) Whenever the Commissioner determines in the third quarter in any fiscal year that grant funds will not be needed in any State he may redistribute such funds to institutions of higher education in other States which he determines have a need for them.

"FEDERAL SHARE

"SEC. 1203. (a) The Federal share of the cost of planning, developing, and administering of any program assisted under this title shall not exceed 100 per centum of such cost.

"(b) The Federal share of the cost of operating an internship program under this title shall not exceed 50 per centum of such cost.

"ADMINISTRATION

"SEC. 1204. The Commissioner shall by regulation prescribe the stipends to be paid by institutions of higher education to the interns participating in the program assisted under this title and the duration and other terms and conditions of such internships.

"DEFINITIONS

"SEC. 1205. For the purpose of this title—

"(1) the term 'Members of Congress' includes the Resident Commissioner for the Commonwealth of Puerto Rico and the delegate for the District of Columbia; and

"(2) the term 'State' means the fifty States, the Commonwealth of Puerto Rico, and the District of Columbia.

"APPROPRIATIONS AUTHORIZED

"SEC. 1206. There is authorized to be appropriated to carry out this title the sum of $5,000,000 for the fiscal year 1975 and the same amount in each of the two succeeding years. Funds appropriated pursuant to this section shall remain available for the succeeding fiscal year after the fiscal year for which they were appropriated.

"SHORT TITLE

"SEC. 1207. This title may be cited as the 'Political Leadership Intern Program Act of 1947'."

(b) The amendment made by subsection (a) shall be effective after June 30, 1974.

PART C—OTHER MISCELLANEOUS PROVISIONS

AMENDMENTS TO THE LIBRARY SERVICES AND CONSTRUCTION ACT AND THE VOCATIONAL EDUCATION ACT OF 1963 RELATING TO BILINGUAL EDUCATION AND VOCATIONAL TRAINING

SEC. 531. (a)(1) Section 102 of the Vocational Education Act of 1963 is amended by redesignating subsection (c), and all references thereto, as subsection (d), and by adding after subsection (b) thereof the following new subsection:

"(c) There are authorized to be appropriated $40,000,000 each for the fiscal years ending June 30, 1975, and June 30, 1976, for the purpose of carrying out section 122(a)(4)(C). Nothing in this subsection shall be construed to affect the availability for such purpose of appropriations made pursuant to subsection (a).".

(2) Clause (D) of section 104(a)(1) of such Act is amended by inserting before the comma at the end thereof the following: "and of persons of limited English-speaking ability (as defined in section 703(a) of title VII of the Elementary and Secondary Education Act fo 1965)".

(3) Clause (A)(vii) of section 104(b)(1) of such Act is amended by inserting before the comma at the end thereof the following: "(including students who are persons of limited English-speaking ability (as defined in section 703(a) of title VII of the Elementary and Secondary Education Act of 1965))".

(4) Section 108 of such Act is amended by adding at the end thereof the following new paragraphs:

"(14) The term 'vocational training' means training or retraining which is conducted as part of a program designed to prepare individuals for gainful employment as semiskilled or skilled workers or technicians or subprofessionals in recognized occupations and in new and emerging occupations, but excluding any program to prepare individuals for employment in occupations which the Commissioner determines, and specifies by regulation, to be generally considered professional which requires a baccalaureate or higher degree; such term includes guidance and counseling (either individually or through group instruction) in connection with such training or for the purpose of facilitating occupational choices; instruction related to the occupation or occupations to which the students are in training or instruction necessary for students to benefit from such training; the training of persons engaged as, or preparing to become, instructors in a vocational training program; travel of students and vocational training personnel while engaged in a training program; and the acquisition, maintenance, and

repair of instructional supplies, aids, and equipment, but such term does not include the construction, acquisition, or initial equipment of buildings or the acquisition or rental of land.

"(15) The term 'postsecondary educational institution' means an institution legally authorized to provide postsecondary education within a State for persons sixteen years of age or older, who have graduated from or left elementary or secondary school.".

(5)(A) Clause (4) of section 122(a) of such Act is amended by adding at the end thereof the following:

"(C) vocational education for students of limited English-speaking ability (as defined in section 703(a) of title VII of the Elementary and Secondary Education Act of 1965) carried out in coordination with bilingual education programs under such title VII and bilingual adult education programs under section 306(a)(11) of the Adult Education Act;".

(b) Section 122(c) of such Act is amended, in paragraph (3), by inserting "(A)" after "(3)" and by adding at the end thereof the following new subparagraph:

"(B) At least 5 per centum of the allotment of funds appropriated under section 102(a) for any fiscal year beginning after June 30, 1974, to each State which the Commissioner finds has areas of high concentration of persons of limited English-speaking ability shall be used only for the purpose set forth in paragraph (4)(C) of subsection (a).".

(6) Section 123(a) of such Act is amended by redesignating clauses (17) and (18) thereof, and all references thereto, as clauses (18) and (19), respectively, and by inserting after clause (16) thereof the following new clause:

"(17) provides that grants made from sums appropriated under section 102(c) shall be allocated within the State among local educational agencies serving areas with high concentrations of persons of limited English-speaking ability (as defined in section 703(a) of title VII of the Elementary and Secondary Education Act of 1965);".

(7) Section 191 of such Act, and all references thereto, is redesignated as section 189.

(8) Title I of such Act is amended by adding at the end thereof the following new part:

"PART J—BILINGUAL VOCATIONAL TRAINING

"SUBPART 1—GENERAL PROVISIONS

"STATEMENT OF FINDINGS

"SEC. 191. The Congress hereby finds that one of the most acute problems in the United States is that which involves millions of citizens, both children and adults, whose efforts to profit from vocational training is severely restricted by their limited English-speaking ability because they come from environments where the dominant language is other than English; that such persons are therefore unable to help to fill the critical need for more and better trained personnel in vital occupational categories; and that such persons are unable to make their maximum contribution to the Nation's economy and must, in fact, suffer the hardships of unemployment or underemployment. The Congress further finds that there is a critical shortage of instructors possessing both the job knowledge and skills and the dual language capabilities required for adequate vocational instruction of such language-handicapped persons, and a corresponding shortage of instructional materials and of instructional methods and techniques suitable for such instruction.

"GENERAL RESPONSIBILITIES OF THE COMMISSIONER

"SEC. 192. (a) The Commissioner and the Secretary of Labor together shall—

"(1) develop and disseminate accurate information on the status of bilingual vocational training in all parts of the United States;

"(2) evaluate the impact of such bilingual vocational training on the shortages of well-trained personnel, the unemployment or underemployment of persons with limited English-speaking ability, and the ability of such persons to contribute fully to the economy of the United States; and

"(3) report their findings annually to the President and the Congress.

"(b) The Commissioner shall consult with the Secretary of Labor with respect to the administration of this part. Regulations and guidelines promulgated by the Commissioner to carry out subpart 2 of this part shall be consistent with those promulgated by the Secretary of Labor pursuant to section 301(b) of the Comprehensive Employment and Training Act of 1973 and shall be approved by the Secretary of Labor before issuance.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 193. There are authorized to be appropriated $40,000,000 for the fiscal year ending June 30, 1975; $60,000,000 for the fiscal year ending June 30, 1976; and $80,000,000 for the fiscal year ending June 30, 1977, to carry out the provisions of subparts 2, 3, and 4, of this part, except that 65 per centum of such amounts shall be available only for grants and contracts under subpart 2 of this part, 25 per centum shall be available only for grants and contracts under subpart 3 of this part, and 10 per centum shall be available only for grants and contracts under subpart 4 of this part.

"Subpart 2—Bilingual Vocational Training Programs

"AUTHORIZATION OF GRANTS

"SEC. 194. (a) From the sums made available for grants under this part pursuant to section 193, the Commissioner is authorized to make grants to and enter into contracts with appropriate State agencies, local educational agencies, postsecondary educational institutions, private nonprofit vocational training institutions, and to other nonprofit organizations especially created to serve a group whose language as normally used in other than English in supplying training in recognized occupations and new and emerging occupations, and to enter into contracts with private for-profit agencies and organizations, to assist them in conducting bilingual vocational training programs for persons of all ages in all communities of the United States which are designed to insure that vocational training programs are available to all individuals who desire and need such bilingual vocational training.

"(b) The Secretary shall pay to each applicant which has an application approved under this part an amount equal to the total sums expended by the applicant for the purposes set forth in that application.

"USE OF FEDERAL FUNDS

"SEC. 195. Grants and contracts under this part may be used, in accordance with applications approved under section 199B, for—

"(1) bilingual vocational training programs for persons who have completed or left elementary or secondary school and who are available for training by a postsecondary educational institution;

"(2) bilingual vocational training programs for persons who have already entered the labor market and who desire or need training or retraining to achieve year-round employment, adjust to changing manpower needs, expand their range of skills, or advance in employment; and

"(3) training allowances for participants in bilingual vocational training programs subject to the same conditions and limitations as are set forth in section 111 of the Comprehensive Employment and Training Act of 1973.

"Subpart 3—Instructor Training Programs

"AUTHORIZATION OF GRANTS

"SEC. 196. (a) From the sums made available for grants and contracts under this part pursuant to section 193, the Commissioner is authorized to make grants to and enter into contracts with States, or educational institutions, either public or private, to assist them in conducting training for instructors of bilingual vocational training programs, and whenever the Commission determines that it will contribute to carrying out the purposes of this part, to make grants to, and enter into contracts with, States or educational institutions, either public or private, to assist them in conducting training for instructors in bilingual vocational training programs.

"(b) The Commissioner shall pay to each applicant which has an application approved under this part an amount equal to the total sums expended by the applicant for purposes set forth in that application.

"USE OF FEDERAL FUNDS

"SEC. 197. Grants and contracts under this subpart may be used, in accordance with applications approved under section 199B, for—

"(1) providing preservice training designed to prepare persons to participate in bilingual vocational training or vocational education programs as instructors, aides, or other ancillary personnel such as counselors, and inservice and development programs designed to enable such personnel to continue to improve their qualifications while participating in such programs; and

"(2) fellowships or traineeships for persons engaged in such preservice or inservice training.

"Subpart 4—Development of Instructional Materials, Methods, and Techniques

"AUTHORIZATION OF GRANTS

"SEC. 198. (a) From the sums made available for grants and contracts under this part pursuant to section 193, the Commissioner is authorized to make grants and enter into contracts with States, public and private educational institutions, and to other appropriate non-profit organizations, and to enter into contracts with private for-profit individuals and organizations, to assist them in developing instructional material, methods, or techniques for bilingual vocational training.

"(b) The Commissioner shall pay to each applicant which has an application approved under this part an amount equal to the total sums expended by the applicant for the purposes set forth in that application.

"USE OF FEDERAL FUNDS

"SEC. 199. Grants and contracts under this part may be used, in accordance with applications approved under section 199B, for—

"(1) research in bilingual vocational training;

"(2) training programs designed to familiarize State agencies and training institutions with research findings and successful pilot and demonstration projects in bilingual vocational training;

"(3) experimental, developmental, and pilot programs and projects designed to test the effectiveness of research findings; and

"(4) other demonstration and dissemination projects.

"Subpart 5—Applications for Assistance

"APPLICATIONS

"SEC. 199A. (a) A grant or contract for assistance under this part may be made only upon application to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary deems necessary. Each such application shall—

"(1) provide that the activities and services for which assistance under this part is sought will be administered by or under the supervision of the applicant;

"(2)(A) in the case of assistance under subpart 2, set forth a program for carrying out the purposes described in section 195,

"(B) in the case of assistance under sub-

part 3, set forth a program for carrying out the purposes described in section 197, and

"(C) in the case of assistance under subpart 4, set forth a program for carrying out the purposes described in section 199;

"(3)(A) in the case of assistance under subpart 2, set forth a program of such size, scope, and design as will make a substantial contribution toward carrying out the purposes of this part;

"(4) in the case of assistance under subpart 3—

"(A) describe the capabilities of the applicant institution, including a listing of the vocational training or vocational education courses offered by that institution, together with appropriate accreditation by regional or national associations, if any, and approval by appropriate State agencies of the courses offered,

"(B) set forth the qualifications of the principal staff who will be responsible for the training program, and

"(C) contain a statement of the minimum qualifications of the persons to be enrolled in the training program, a description of the selection process for such persons, and the amounts of the fellowships or traineeships, if any, to be granted to persons so enrolled; and

"(5) in the case of assistance under subpart 4, set forth the qualifications of the staff who will be responsible for the program for which assistance is sought.

"(b) No grant or contract may be made under subpart 2 directly to a local educational agency or a postsecondary educational institution or a private vocational training institution or any other eligible agency or organization unless that agency, institution, or organization has submitted the application to the State board established under part B of this title, or in the case of a State that does not have such a board, the similar State agency, for comment and includes the comment of that board or agency with the application.

"APPLICATION APPROVAL BY THE COMMISSIONER

"SEC. 199B. (a) The Commissioner may approve an application for assistance under this part only if—

"(1) the application meets the requirements set forth in subsection (a) of the previous section;

"(2) in the case of an application submitted for assistance under subpart 2 to an agency, institution, or organization other than the State board established under part B of this title, the requirement of subsection (b) of the previous section is met;

"(3) in the case of an application submitted for assistance under subpart 3—

"(A) the Commissioner determines that bilingual vocational training or vocational education programs requiring the services of the persons to be trained have been or will be actually conducted in any State being served and that enrollees will be selected from or for such programs;

"(B) the Commissioner determines that the applicant institution actually has an ongoing vocational training program in the field for which persons are being trained; and that the applicant institution can provide instructors with adequate language capabilities in the language other than English to be used in the bilingual vocational training program for which the persons are being trained; and

"(4) in the case of an application submitted for assistance under subpart 2 or subpart 3, the Commissioner determines that the program is consistent with criteria established by him, where feasible, after consultation with the State board established under part B of this title, for achieving equitable distribution of assistance under the appropriate subpart within that State.

"(b) An amendment to an application shall, except as the Secretary may otherwise provide, be subject to approval in the same manner as the original application.".

(b) Clause (4) of section 6(b) of the Library Services and Construction Act is amended by inserting before the period at the end thereof a comma and the following: "and to programs and projects which serve areas with high concentrations of persons of limited English-speaking ability (as defined in section 703(a) of title VII of the Elementary and Secondary Education Act of 1965, as amended)".

(c) The amendments made by this section shall be effective on and after July 1, 1974.

AMENDMENTS TO THE EMERGENCY SCHOOL AID ACT

SEC. 532. (a)(1) Section 704(a) of the Emergency School Aid Act (title VII of Public Law 92-318) is amended by striking out "for the fiscal year ending June 30, 1974" and inserting in lieu thereof "for the period ending June 30, 1976".

(2) With respect to the fiscal year ending June 30, 1976, the authorization level for the Emergency School Aid Act shall, for the purposes of section 414 of the General Education Provisions Act be equal to the amount appropriated for the purposes of the Emergency School Aid Act for the fiscal year ending June 30, 1976.

(b)(1)(A) Section 704(b)(1) of the Emergency School Aid Act is amended by striking out "5 per centum" and inserting in lieu thereof "4 per centum".

(B) Section 704(b)(2) of such Act is amended by striking out "13 per centum" and inserting in lieu thereof "15 per centum."

(C) Section 705(a)(3) of such Act is amended by striking out "8 per centum" and inserting in lieu thereof "10 per centum".

(D) Section 713 of such Act is amended by striking out "1 per centum" and inserting in lieu thereof "2 per centum".

(2) The amendments made by this subsection shall be effective with respect to appropriations made for the purpose of the Emergency School Aid Act for fiscal years beginning after the enactment of this Act.

(c) Section 708(a) of such Act is hereby amended by the addition of the following subparagraph (3):

"(3) The Assistant Secretary is authorized to make grants to, and contracts with one or more private, nonprofit agencies, institutions, or organizations, for the conduct, in cooperation with one or more local education agencies, of special programs for the teaching of standard mathematics to children eligible for services under this Act through instruction in advanced mathematics by qualified instructors with bachelors degrees in mathematics, or the mathematical sciences from colleges or other institutions of higher education, or equivalent experience."

(d) Section 708(b) of such Act is amended by striking out "706(a)" both times it appears and inserting in lieu thereof "706" in each instance.

(e) Section 709(a)(3) of such Act is repealed.

AMENDMENTS RELATING TO INDIAN EDUCATION

SEC. 533. (a) Section 810(f) of the Elementary and Secondary Education Act of 1965 is amended by inserting after the third sentence the following new sentence: "The Commissioner shall not approve an application for a grant under subsection (b), (c), or (d) unless he is satisfied that such an application, to the extent consistent with the number of eligible children in the area to be served who are enrolled or employed in private nonprofit elementary and secondary schools whose needs are of the type which the program is intended to meet, makes provision for the participation of such children on an equitable basis.".

(b) Section 303(b) of the Act of September 30, 1950 (Public Law 874, Eighty first Congress), is amended by striking out "5 per centum" and inserting in lieu thereof "10 per centum".

(c) Part B of the Indian Education Act is amended by adding at the end thereof the following new sections:

"SPECIAL EDUCATIONAL TRAINING PROGRAMS FOR TEACHERS OF INDIAN CHILDREN

"SEC. 422. (a) The Commissioner is authorized to make grants to and enter into contracts with institutions of higher education, Indian organizations and Indian tribes for the purpose of preparing individuals for teaching or administering special programs and projects designed to meet the special educational needs of Indian children and to provide in-service training for persons teaching in such programs. Priority shall be given to Indian institutions and organizations. In carrying out his responsibilities under this section, the Commissioner is authorized to award fellowships and traineeships to individuals and to make grants to and to enter into contracts with institutions of higher education, Indian organizations and Indian tribes for cost of education allowances. In awarding fellowships and traineeships under this section, the Commissioner shall give preference to Indians.

"(b) In the case of traineeships and fellowships, the Commissioner is authorized to grant stipends to, and allowances for dependents of, persons receiving traineeships and fellowships.

"(c) There is authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1975, and for each of the three succeeding fiscal years to carry out the provisions of this section.

"FELLOWSHIPS FOR INDIAN STUDENTS

"SEC. 423. (a) During the fiscal year ending June 30, 1975, and each of the four succeeding fiscal years, the Commissioner is authorized to award not to exceed two hundred fellowships to be used for study in graduate and professional programs at institutions of higher learning. Such fellowships shall be awarded to Indian students in order to enable them to pursue a course of study of not less than three, nor more than four, academic years leading toward a professional or graduate degree in engineering, medicine, law, business, forestry and related fields. In addition to the fellowships authorized to be awarded in the first sentence of this subsection, the Commissioner is authorized to award a number of fellowships equal to the number previously awarded during any fiscal year under this subsection but vacated prior to the end of the period during which they were awarded, except that each fellowship so awarded shall be only for a period of study not in excess of the remainder of the period of time for which the fellowship it replaces was awarded, as the Commissioner may determine.

"(b) The Commissioner shall pay to persons awarded fellowships under this subsection such stipends (including such allowances for subsistence of such persons and their dependents as he may determine to be consistent with prevailing practices under comparable federally supported programs.

"(c) The Commissioner shall pay to the institution of higher education at which the holder of a fellowship under this subsection is pursuing a course of study, in lieu of tuition charged such holder, such amounts as the Commissioner may determine to cover the cost of education for the holder of such a fellowship.".

(d) The amendments made by this section shall be effective on and after July 1, 1974.

ASSISTANCE TO STATES FOR STATE EQUALIZATION PLANS

SEC. 534. (a)(1) Any State desiring to develop a plan for a program of financial assistance to local educational agencies in that State to assist such agencies in the provision

of free public education may, upon application therefor, be reimbursed for the development of such a plan in accordance with the provisions of this section. Each plan developed pursuant to, or which meets the requirements of, this section shall be submitted to the Commissioner not later than July 1, 1977, and shall, subject to the provisions of this section, be consistent with the guidelines developed pursuant to paragraph (3). Such plan shall be designated to implement a program of State aid for free public education—

(A) which is consistent with such standards as may be required by the fourteenth article of amendment to the Constitution;

(B) which takes into consideration the extent to which local educational agencies serve areas of high concentrations of children from low-income families and heavily urbanized areas; and

(C) the primary purpose of which is to achieve equality of educational opportunity for all children in attendance at the schools of the local educational agencies of the State.

(2) The Commissioner shall develop guidelines defining the principles set forth in clauses (A), (B), and (C) of paragraph (1). Not later than April 1, 1975, the Commissioner shall publish such guidelines in the Federal Register and submit such guidelines to the President of the Senate and the Speaker of the House of Representatives.

(3) During the sixty-day period following such publication, the Commissioner shall provide interested parties with an opportunity to present views and make recommendations with respect to such guidelines. Not later than July 1, 1975, the Commissioner shall (A) republish such guidelines in the Federal Register, together with any amendments thereto as may be merited and (B) publish in the Federal Register a summary of the views and recommendations presented by interested parties under the preceding sentence, together with the comments of the Commissioner respecting such views and recommendations.

(4)(A) The guidelines published in accordance with paragraph (3), together with any amendments, shall, not later than July 1, 1975, be submitted to the President of the Senate and the Speaker of the House of Representatives. If either the Senate or the House of Representatives adopts, prior to December 1, 1975, a resolution of disapproval of such guidelines, the Commissioner shall, within fifteen days after the adoption of such resolution, publish new guidelines. Such new guidelines shall take into consideration such views and policies as may be made in connection with such resolution and shall become effective on December 1, 1975.

(B) A resolution of disapproval under this paragraph may be in the form of a resolution of either the Senate or the House of Representatives or such resolution may be in the form of a concurrent resolution of both Houses. If such a resolution of disapproval is in the form of a concurrent resolution, the new guidelines published in accordance with the second sentence of subparagraph (A) of this paragraph shall be consistent with such policies as may be established by such concurrent resolution.

(C) If each of the Houses adopts a separate resolution with respect to guidelines submitted in accordance with this paragraph for any year and in connection therewith makes policy statements which differ substantially, then such differences may be resolved by the adoption of a concurrent resolution by both Houses. Any such concurrent resolution shall be deemed to be adopted in accordance with subparagraph (B).

(b) Any State developing a plan pursuant to this section may reject any guidelines developed and published under subsection (a) of this section if such State, as a provision of its plan, states the reasons for each such rejection.

(c)(1) Each State that develops a plan under this section shall be reimbursed for the reasonable amounts expended by the State in the development of such a plan based upon the ratio of the population of that State to the population of all States except that no State shall receive less than $100,000 and no State shall receive more than $1,000,000.

(2) For the purposes of this section the term "State" means the fifty States.

EQUALIZATION INCENTIVE GRANTS TO STATES

SEC. 535. (a) The Congress finds that the Federal Government has an obligation to provide incentives for each State to assist them in equalizing the resources available within that State so that an opportunity to obtain an education appropriate to individual need will be available to all children regardless of their place of residence within the State. It is, therefore, the purpose of this section to provide financial assistance in the form of incentives to the States to encourage them to equalize educational opportunity.

(b) The Commissioner is authorized to make grants to States in accordance with the provisions of this section. Incentive grants received under this section may be used to improve the quality of elementary and secondary education among the local educational agencies within each State, in such areas as the State deems vital.

(c)(1) A State is eligible to receive a grant under this section only if the State educational agency provides assurance that—

(A) the quality of education provided to a child within that State is not the result of the wealth of the school district of the local educational agency in which the child attends school, but reflects the wealth of the State as a whole;

(B) amounts commensurate with their needs are expended on children with greater educational needs, including, but not limited to, educationally disadvantaged, gifted, talented, handicapped, and vocational education students; and

(C) amounts commensurate with the education costs are expended in local educational agencies within the State with greater costs, including costs attributable to sparsity of population, high density of population, and high living costs.

(2) The Commissioner is authorized to establish general guidelines for defining the principles set forth in clauses (A), (B), and (C) of section 534(a)(1) and in this subsection. No guidelines established under this paragraph shall be based upon a formula requiring a mathematical equality of educational expenditures among school districts.

(d) Any State desiring to receive a grant under this section shall submit an application to the Commissioner at such time, in such manner, and accompanied by such information as the Commissioner may reasonably require. Each such application shall—

(1)(A) describe the State equalization program that meets the requirements of subsection (c);

(B) describe, in the case of a State equalization program already in effect, a description of that program which meets the requirements of subsection (c);

(2) provide assurances that the State will make substantial progress to carry out the State equalization program;

(3) provide for making periodic reports to the Commissioner evaluating the effectiveness of the State equalization program assisted under this section and such other reports as the Commissioner may reasonably require to perform his functions under this section.

(e) The Commissioner shall approve an application which meets the requirements of subsection (d). The Commissioner shall not finally disapprove an application of a State except after reasonable notice and opportunity for a hearing to a State.

(f) Whenever the Commissioner, after reasonable notice and opportunity for a hearing to any State, finds that there is a failure to meet the requirements of this section, the Commissioner shall notify the State that further payments will not be made to the State until he is satisfied that the requirements have been met.

(g) Unless inconsistent with the purposes of this section, the General Education Provisions Act shall apply to the equalization incentive grant program authorized by this section.

(h)(1) There are authorized to be appropriated to carry out the provisions of this section $50,000,000 for the fiscal year ending June 30, 1976, $75,000,000 for the fiscal year ending June 30, 1977, and $100,000,000 for the fiscal year ending June 30, 1978.

(2)(A) No State may receive more than 10 per centum of the funds available for making grants under this section for any fiscal year. Funds appropriated to carry out the provisions of this section shall remain available for the succeeding fiscal year after the year in which they were appropriated.

(B) In making distributions under this section the Commissioner shall consider an equitable geographical distribution.

PROVISION RELATING TO SEX DISCRIMINATION

SEC. 536. (a) Section 901(a) of the Education Amendments of 1972 is amended by—

(1) striking out the word "and" at the end of paragraph (4) of such section;

(2) striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon and the word "and"; and

(3) adding at the end thereof the following new paragraph:

"(6) this section shall not apply to an intercollegiate athletic activity to the extent that such activity does or may provide gross receipts or donations to the institution necessary to support that activity."

(b) The Commissioner shall prepare and publish, not later than 30 days after the date of enactment of this Act, proposed regulations implementing the provisions of title IX of the Education Amendments of 1972 relating to the prohibition of sex discrimination in federally assisted education programs.

STUDY OF ATHLETIC INJURIES

SEC. 537. (a) The Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") shall make a full and complete investigation and study to determine—

(1) the number of athletic injuries to, and deaths of, male and female students occurring in athletic competition between schools, in any practice session for such competition, and in any other school-related athletic activities for the twelve-month period beginning sixty days after the date of enactment of this Act;

(2) the number of athletic injuries and deaths occurring (for the twelve-month period under clause (1)) at each school with an athletic trainer or other medical or health professional personnel trained to prevent or treat such injuries and at each school without such personnel.

(b) Within fifty days after the date of enactment of this Act, the Secretary shall request each school to maintain appropriate records to enable it to compile information under subsection (a) and shall request such school to submit such information to the Secretary immediately after the twelve-month period beginning sixty days after the date of enactment of this Act. Not later than eighteen months after the date of enactment of this Act, the Secretary shall make a report to the Congress on the study required by subsection (a), together with such recommendations as he may deem appropriate. In such report, all information required under each paragraph of subsection

(a) shall be stated separately for the two groups of schools under clauses (1) and (2) of subsection (c), except that the information shall also be stated separately (and shall be excluded from the group under clause (2)) for institutions of higher education which provide either of the two-year programs described in section 801(E)(3) of the Elementary and Secondary Education Act of 1965.

(c) For the purposes of this section, the term "school" means (1) any secondary school or (2) any institution of higher education, as defined in section 801 of the Elementary and Secondary Education Act of 1965.

(d) There is authorized to be appropriated the sum of $75,000 to carry out the provisions of this section.

STUDY AND PILOT PROJECTS REGARDING SCHOOL SAFETY

SEC. 538. (a) The Commissioner shall carry out a continuing study during the period beginning upon the date of enactment of this Act and ending June 30, 1976, to determine—

(1) the frequency, seriousness, and incidence of crime in elementary and secondary schools in the States;

(2) the number and location of schools affected by crime;

(3) the per-pupil average incidence of crimes in elementary and secondary schools in urban, suburban, and rural schools located in all regions of the United States;

(4) the cost of replacement and repair of facilities, books, supplies, equipment, and other tangible objects seriously damaged or destroyed as the result of crime in such schools;

(5) the causes of crime in such schools; and

(6) the means by which crimes are attempted to be prevented in such schools and the means by which crimes may more effectively be prevented in such schools.

(b) The heads of all Federal agencies are directed to cooperate with the Commissioner in assisting the Commissioner in carrying out his responsibilities under this section.

(c) In order to enable the Commissioner to carry out his responsibilities under subsection (a), the Commissioner is authorized to make grants to, and contracts with, nonprofit public and private institutions, agencies, and organizations in order to conduct such surveys, research, and pilot projects as he determines necessary.

(d)(1) Not later than 120 days after the enactment of this Act the Commissioner shall submit an interim report on the progress of his activities under this section.

(2) Such interim report shall be followed by such succeeding interim reports to the Congress (not less often than every 180 days) on the progress of his activities under this section.

(3) Not later than December 31, 1976, the Commissioner shall submit to the Congress a final report on his studies, surveys, research, and pilot projects carried out under this section. Such final report shall include such recommendations as the Commissioner may deem appropriate to prevent crimes in elementary and secondary schools.

(e) Funds available to the Commissioner under section 400 of the General Education Provisions Act shall be available to enable the Commissioner to carry out his functions under this section. In addition, not to exceed $375,000 is authorized to be appropriated, without fiscal year limitation, for grants and contracts under subsection (c).

TITLE VI—EDUCATION OF THE HANDICAPPED

SHORT TITLE

SEC. 601. This title may be cited as the "Education of the Handicapped Amendments of 1973".

BUREAU FOR THE EDUCATION AND TRAINING OF THE HANDICAPPED

SEC. 602. (a) Section 603 of the Education of the Handicapped Act is amended by inserting "(a)" after "SEC. 603." and by adding at the end thereof the following new subsection:

"(b)(1) The Bureau established under subsection (a) shall be headed by a Deputy Commissioner of Education who shall be appointed by the Commissioner in the competitive service and who shall report directly to the Commissioner, be compensated at the rate specified for, and placed in, grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code.

"(2) In addition to such Deputy Commissioner, there shall be placed in such Bureau five positions for persons to assist the Deputy Commissioner in carrying out his duties, and such positions shall be placed in grade 16 of the General Schedule set forth in section 5332 of title 5, United States Code."

(b)(1) The positions created by subsection (b) of section 603 of the Education of the Handicapped Act shall be in addition to the number of positions placed in the appropriate grades under section 5108 of title 5, United States Code, and such positions shall be in addition to, and without prejudice against, the number of positions otherwise placed in the Office of Education under such section 5108 or under other law.

(2) The amendments made by subsection (a) shall become effective upon the enactment of this Act.

ADVISORY COMMITTEE

SEC. 603. (a) Section 604(b) of the Education of the Handicapped Act is amended by adding at the end thereof the following new sentence: "The Advisory Committee shall continue to exist until July 1, 1978.".

(b) Section 604 of such Act is amended by adding at the end thereof the following new subsection:

"(c) There are authorized to be appropriated for the purposes of this section $100,000 for the fiscal year ending June 30, 1974, and for each of the four succeeding fiscal years.".

STATE ENTITLEMENTS

SEC. 604. (a) Effective for fiscal year 1975 only, section 611 of the Education of the Handicapped Act is amended to read as follows:

"GRANTS TO STATES FOR EDUCATION OF HANDICAPPED CHILDREN

"(a) The Commissioner shall, in accordance with the provisions of this part, make payments to States for the purpose of assisting the States in the initiation, expansion, and improvement of programs and projects for the education of handicapped children at the preschool, elementary school, and secondary school levels in order to provide full educational opportunities to all handicapped children.

"(b)(1) Subject to the provisions of section 612, the maximum amount of the grant to which a State shall be entitled under this part shall be equal to—

"(A) the number of children in average daily attendance as determined by the Commissioner in the public elementary and secondary schools in that State in the most recent fiscal year for which satisfactory data are available;

multiplied by—

"(B) $15.

"(2) For the purpose of this subsection, the term 'State' does not include the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

"(c)(1) The jurisdictions to which this subsection applies are the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

"(2) Each jurisdiction to which this subsection applies shall, for each fiscal year ending prior to July 1, 1978, be entitled to a grant in an amount equal to an amount determined by the Commissioner, in accordance with criteria established by regulations, needed to initiate, expand, or improve programs and projects for the education of handicapped children at the preschool, elementary school, and secondary school levels, in that jurisdiction, except that the aggregate of the amount to which such jurisdictions are so entitled for any fiscal year shall not exceed and amount equal to 2 per centum of the aggregate of the amounts to which all States are entitled under subsection (b) of this section for that fiscal year. If the aggregate of the amounts, determined by the Commissioner pursuant to the preceding sentence, to be so needed for any fiscal year exceeds an amount equal to such 2 per centum limitation, entitlement of each such jurisdiction shall be reduced proportionately until such aggregate does not exceed such 2 per centum limitation.

"(d) The Commissioner is authorized for each fiscal year ending prior to July 1, 1978, to make payments to the Secretary of the Interior according to the need for such assistance for the education of handicapped children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior and the terms upon which payments for such purposes shall be made to the Secretary of the Interior shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this part. The amount of such payment for any fiscal year shall not exceed 1 per centum of the aggregate amounts to which States are entitled under subsection (b) of this section for that fiscal year.".

(b) Effective for fiscal year 1975 only, section 612 of such Act is amended to read as follows:

"ALLOCATIONS OF APPROPRIATIONS

"SEC. 612. (a) Sums appropriated for any fiscal year ending prior to July 1, 1978, shall be made available to States and allocated to each State, on the basis of unsatisfied entitlements under section 611, in an amount equal to the amount it received from the appropriation for this part for the fiscal year 1974.

"(b) Any sums appropriated to carry out this part for any fiscal year which remain after allocations under subsection (a) of this section shall be made to States in accordance with entitlements created under section 611 (to the extent that such entitlements are unsatisfied) ratably reduced.

"(c) In the event that funds become available for making payments under this part for any fiscal year after allocations have been made under subsections (a) and (b) for that year the amounts reduced under subsection (b) shall be increased on the same basis as they were reduced.".

(c) Effective for fiscal year 1975 only, section 613(a) of such Act is amended by striking out "desires to receive grants" in the first sentence of such subsection and inserting in lieu thereof "is entitled to receive payments".

(d) Section 613(a) of such Act is further amended by (1) striking out the word "and" at the end of paragraph (10), (2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof a semicolon, and (3) by adding at the end thereof the following two paragraphs:

"(12)(A) establish a goal of providing the opportunity to free appropriate public education to all handicapped children, and (B) provide for a procedure to assure that funds expended under this part are used to accomplish the goal set forth in (A) of this paragraph and priority in the utilization of funds under this part will be given to

handicapped children who are not receiving an education; and

"(13) provide procedures for insuring that handicapped children and their parents or guardians are guaranteed procedural safeguards in decisions regarding identification, evaluation and educational placement of handicapped children including, but not limited to (A)(i) prior notice to parents or guardian of the child when the local or State educational agency proposes to change the educational placement of the child, (ii) an opportunity for the parents or guardian to obtain an impartial due process hearing, examine all relevant records with respect to the classification or educational placement of the child, and obtain an independent educational evaluation of the child, (iii) procedures to protect the rights of the child when the parents or guardian are not known, unavailable or the child is a ward of the State, including the assignment of an individual (not to be an employee of the State or local educational agency involved in the education or care of children), to act as a surrogate for the parents or guardian, and (iv) provision to insure that the decisions rendered in the impartial due process hearing required by this paragraph shall be binding on all parties subject only to appropriate administrative or judicial appeal; and (B) procedures to insure that, to the maximum extent appropriate, handicapped children, including children in public or private institutions or other care facilities, are educated with children who are not handicapped, and that special classes, separate schooling, or other removal of handicapped children from the regular education environment occurs only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily; and (C) procedures to insure that testing and evaluation materials and procedures utilized for the purposes of classification and placement of handicapped children will be selected and administered so as not to be racially or culturally discriminatory.".

(e)(1) Section 611(a) of the Education of the Handicapped Act is amended by inserting before the period the following: "in order to provide full educational opportunity to all handicapped children".

(2) Subsection (b) of section 611 of the Education of the Handicapped Act is amended to read as follows:

"(b) For the purpose of making grants under this part, there are authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1976, $110,000,000 for the fiscal year ending June 30, 1977, and $120,000,000 for the fiscal year ending June 30, 1978.".

(3) The amendment made by subsection (e) shall become effective and shall be deemed to have been enacted on July 1, 1975.

ADDITIONAL STATE PLAN REQUIREMENT

SEC. 605. (a)(1) Section 612(a)(2) of the Education of the Handicapped Act is amended by striking out "$200,000" and inserting in lieu thereof "$300,000".

(2) Section 612(a) of such Act is amended by inserting at the end thereof the following new paragraph:

"(3) Effective after June 30, 1973, no State shall, in any fiscal year, be required to expend amounts allotted pursuant to this section to carry out the provisions of paragraph (1) of section 613(b) unless that State receives an amount greater than the amount allotted to that State for the fiscal year ending June 30, 1973.".

(b) Section 613(a)(1) of such Act is amended by striking out "$100,000" and inserting in lieu thereof "$200,000".

(c)(1) Section 613 of such Act is amended by redesignating subsections (b), (c), and (d) of such section, and all references thereto, as subsections (c), (d), and (e), respectively, and by inserting after subsection (a) the following:

"(b)(1) Any State which desires to receive a grant under this part for any fiscal year beginning after June 30, 1975, shall submit to the Commissioner for approval by December 31, 1974, through its State educational agency an amendment to the State plan required under subsection (a), setting forth in detail the policies and procedures which the State will undertake in order to assure that—

"(A) all children residing in the State who are handicapped regardless of the severity of their handicap and who are in need of special education and related services are identified, located, and evaluated, including a practical method of determining which children are currently receiving needed special education and related services and which children are not currently receiving needed special education and related services;

"(B) the policies and procedures will be established in accordance with detailed criteria prescribed by the Commisisoner to protect the confidentiality of such data and information by the State;

"(C) there is established (i) a goal of providing full educational opportunity to all handicapped children, (ii) a detailed timetable for accomplishing such a goal, and (iii) a description of the kind and number of facilities, personnel, and services necessary throughout the State to meet such a goal; and

"(D) the amendment submitted by the State pursuant to this subsection shall be available to parents and other members of the general public at least thirty days prior to the date of submission of the amendment to the Commissioner.

For the purpose of this part, any amendment to the State plan required by this subsection and approved by the Commissioner shall be considered, after June 30, 1975, as a required portion of the State plan.

"(2) The requirement of paragraph (1) of this subsection shall not be effective with respect to any fiscal year in which the aggregate of the amounts allotted to the States for this part for that fiscal year is less than $45,000,000."

(2) Section 613(e)(1) of such Act (as redesignated by this section) is amended by striking out "subsection (c)" and inserting in lieu thereof "subsection (d)".

(d) The amendment made by subsections (a)(1) and (b) of this section shall be effective in any fiscal year for which the aggregate of the amounts allotted to the States for that fiscal year for carrying out part B of the Education of the Handicapped Act is $45,000,000 or more.

CENTERS AND SERVICES

SEC. 606. (a) Section 626 of the Education of the Handicapped Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 626. For the purpose of carrying out this part, there are authorized to be appropriated $37,000,000 for the fiscal year ending June 30, 1974, $53,000,000 for the fiscal year ending June 30, 1975, $70,000,000 for the fiscal year ending June 30, 1976, $77,000,000 for the fiscal year ending June 30, 1977, and $85,000,000 for the fiscal year ending June 30, 1978.".

(b) The amendment made by subsection (a) shall become effective and shall be deemed to have been enacted on July 1, 1973.

PERSONNEL TRAINING

SEC. 607. (a) Section 636 of the Education of the Handicapped Act is amended by striking out that part thereof which follows "this part", and inserting in lieu thereof "$40,500,000 for the fiscal year ending June 30, 1974, $45,500,000 for the fiscal year ending June 30, 1975, $50,500,000 for the fiscal year ending June 30, 1976, and $55,000,000 for the fiscal year ending June 30, 1977, and $60,000,000 for the fiscal year ending June 30, 1978.".

(b) The amendment made by subsection (a) shall become effective, and shall be deemed to have been enacted July 1, 1973.

RESEARCH

SEC. 608. (a) Section 644 of the Education of the Handicapped Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 644. For the purpose of carrying out this part, there are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1974, $14,000,000 for the fiscal year ending June 30, 1975, $18,000,000 for the fiscal year ending June 30, 1976, $20,000,000 for the fiscal year ending June 30, 1977, and $25,000,000 for the fiscal year ending June 30, 1978.".

(b) The amendment made by subsection (a) shall become effective, and shall be deemed to have been enacted on July 1, 1973.

INSTRUCTIONAL MEDIA

SEC. 609. (a)(1) That part of section 652 (b) of the Education of the Handicapped Act which precedes clause (1) is amended by inserting "(either directly or by grants or contracts)" after "authorized".

(2) Section 654 of such Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 654. For the purposes of carrying out this part there are hereby authorized to be appropriated not to exceed $15,000,000 for the fiscal year ending June 30, 1974, $18,000,000 for the fiscal year ending June 30, 1975, and $22,000,000 for the fiscal year ending June 30, 1976, and for each succeeding fiscal year thereafter.".

(b) The amendments made by subsection (a) shall become effective, and shall be deemed to have been enacted on July 1, 1973.

SPECIFIC LEARNING DISABILITIES

SEC. 610. (a) Section 661(c) of the Education of the Handicapped Act is amended by striking out "$12,000,000" and all that follows down to but not including the period at the end of such section and inserting in lieu thereof the following: "$5,000,000 for the fiscal year ending June 30, 1974, $7,500,000 for the fiscal year ending June 30, 1975, $15,000,000 for the fiscal year ending June 30, 1976, $20,000,000 for the fiscal year ending June 30, 1977, and $25,000,000 for the fiscal year ending June 30, 1978.".

(b) The amendments made by subsection (a) shall become effective, and be deemed to have been enacted on July 1, 1973.

TITLE VII—NATIONAL READING IMPROVEMENT PROGRAM

STATEMENT OF PURPOSE

SEC. 701. It is the purpose of this title—

(1) to provide financial assistance to encourage State and local educational agencies to undertake demonstration projects to strengthen reading instruction programs in the elementary grades;

(2) to provide financial assistance for the development and enhancement of necessary skills of instructional and other educational staff for reading demonstration programs;

(3) to develop a means by which measurable objectives for reading demonstration programs can be established and progress toward such objectives assessed;

(4) to develop the capacity of preelementary school children for reading, and to establish and improve preelementary school programs in language arts and reading; and

(5) to provide financial assistance to promote literacy among youth and adults.

READING IMPROVEMENT DEMONSTRATION PROJECTS

SEC. 702. (a) (1) The Commissioner is authorized to contract with either State educa-

tional agencies or local educational agencies, or both, for the carrying out such agencies, in schools, having large numbers or a high percentage of children with reading deficiencies, of demonstration projects involving the use of innovative methods, systems, materials or programs which show promise of overcoming such reading deficiencies.

(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 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.

(b) No contract may be entered into under this section, unless upon an application made to the Commissioner at such time, in such manner, and including or accompanied by such information as he may reasonably require. Each such application shall set forth a reading program which provides to—

(1) diagnostic testing designed to indentify preelementary and elementary school children with reading deficiencies, including the identification of conditions which, without appropriate other treatment, can be expected to impede or prevent children from learning to read;

(2) planning for and establishing comprehensive reading programs;

(3) reading instruction for elementary school pupils whose reading achievement is less than which would normally be expected for pupils of comparable ages and in comparable grades of school;

(4) preservice training programs for teaching personnel including teacher-aides and other ancillary educational personnel, and inservice training and development programs, where feasible, designed to enable such personnel to improve their ability to teach students to read;

(5) participation of the school faculty, school board members, administration, and student body in reading-related activities which stimulate an interest in reading and are conducive to the improvement of reading skills;

(6) parent participation in development and implementation of the program for which assistance is sought;

(7) school board participation in the development of State programs;

(8) periodic testing in programs for elementary school children on a sufficiently frequent basis to measure accurately reading achievement, and for programs for preelementary 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;

(9) publication of test results on reading achievement by grade level, and where appropriate, by school, without identification of achievement of individual children;

(10) availability of test results on reading achievement on an individual basis to parents or guardians of any child being so tested;

(11) participation on an equitable basis by children enrolled in nonprofit private elementary schools in the area to be served (after consultation with the appropriate private school officials) to an extent consistent with the number of such children whose educational needs are of the kind the program is intended to meet;

(12) the use of bilingual education methods and techniques to the extent consistent with the number of elementary school-age children in the area served by a reading program who are of limited English-speaking ability;

(13) appropriate involvement of leaders of the cultural and educational resources of the area to be served, including institutions of higher education, nonprofit private schools, public and private nonprofit agencies such as libraries, museums, educational radio and television, and other cultural and education resources of the community;

(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 kindergarden 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 preelementary program, to be made available for teachers in the subsequent year, in order that continuity for the individual child not be lost.

(c) Each such applicant, in addition to meeting the requirements of subsection (b), shall provide assurances that—

(1) appropriate measures have been taken by the agency to analyze the reasons why elementary school children are not reading at the appropriate grade level;

(2) the agency will develop a plan setting forth specific objectives which shall include the goals of having the children in project schools reading at the appropriate grade level at the end of grade three;

(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 preelementary school children will be next in attendance; and

(4) the preelementary reading and language arts program will be carried out as part of a general learning environment.

(d) An application from a local educational agency under this section or other agency or institution making an application under paragraph (2) of section 702(a) may be approved only if the State educational agency of the State in which such local agency is located has been notified of the application and has been given a reasonable opportunity to offer recommendations with respect to the approval thereof.

(e) The Commissioner, in selecting projects under this section shall, to the extent feasible, attempt to secure an equitable distribution among urban and rural areas.

(f) (1) The Commissioner shall reserve not to exceed 3 per centum of the sums appropriated pursuant to section 712(a) for carrying out the provisions of this section for each fiscal year. From the sums reserved pursuant to this subsection, the Commissioner is authorized to make grants, on such terms and conditions as he deems necessary (exclusive of the requirement of subsection (d)), to State and local educational agencies to pay the Federal share of the cost of establishing and maintaining programs for the purchase of inexpensive books for distribution to individual elementary school children by gift, loan, or sale at a nominal price.

(2) For the purpose of this subsection the Federal share shall not exceed 50 per centum in any fiscal year except that, whenever the Commissioner determines that a State or local educational agency desiring to participate in the program under this subsection or an applicant under paragraph (2) of section 702(a) has insufficient resources and is unlikely to obtain sufficient resources to participate in such a program he may increase such Federal share to not to exceed 90 per centum of the cost of any such program.

SPECIAL EMPHASIS PROJECTS

SEC. 703. (a) The Commissioner is authorized to contract with local educational agencies for special emphasis projects to determine the effectiveness of intensive instruction by reading specialists and reading teachers. Each such project should provide for—

(1) the teaching of reading by a reading specialist for all children in the first and second grades of an elementary school and the teaching of reading by a reading specialist for elementary school children in grades three through six who have reading problems; and

(2) an intensive vacation reading program for elementary school children who are found to be reading below the appropriate grade level or who are experiencing problems in learning to read.

(b) No contract may be entered into under this section unless upon an application made to the Commissioner at such time, in such manner, and including or accompanied by such information as he may reasonably require. Each such application shall provide assurances that—

(1) the provisions of section 702(b) are met; and

(2) the State educational agency has certified that individuals employed as reading specialists and reading teachers meet the requirements of section 703 (e) and (f).

(c) No contract may be entered into under this section unless the project has been approved by the State educational agency.

(d) The Commissioner is authorized to enter into at least one arrangement with a local eduactional agency for a districtwide project conducted in all schools of such agencies. In selecting the districtwide project, the Commissioner shall give priority to an application from a local educational agency if the Commissioner finds that—

(1) the local educational agency will give credit for any course to be developed for reading teachers or reading specialists under section 704 and will encourage participation by the teachers of such agency in the training;

(2) the local public educational television station will present or distribute, in the event supplementary noncommercial telecommunication is utilized, any course to be developed under section 704 at an hour convenient for the viewing by elementary school teachers and, if possible, at a time convenient for such teachers to take the course, as a group, at the elementary school where they teach; and

(3) the local educational agency will make arrangements with the appropriate officials of institutions of higher education to obtain academic credit for the completion of such a course.

(e) In any project assisted under this section a reading teacher may be used in lieu of a reading specialist, if the Commissioner finds that the local educational agency participating in a reading emphasis project is unable to secure individuals who meet the requirements of a reading specialist and if such reading teacher is enrolled or will enroll in a program to become a reading specialist. A regular elementary teacher may be used in lieu of a reading teacher if the Commissioner finds that the local educational agency participating in a reading emphasis project is unable to secure individuals who meet the requirements of the reading teacher, and if such regular elementary teacher is enrolled or will enroll in a program to become a reading teacher.

(f) For the purpose of this section and section 704 the term—

(1) "reading specialist" means an individual who has a master's degree, with a major or specialty in reading, from an accredited institution of higher education and has successfully completed three years of

teaching experience, which includes reading instruction, and

(2) "reading teacher" means an individual, with a bachelor's degree, who has successfully completed a minimum of twelve credit hours, or its equivalent, in courses of the teaching of reading at an accredited institution of higher education, and has successfully completed two years of teaching experience, which includes reading instruction.

READING TRAINING ON PUBLIC TELEVISION

SEC. 704. (a) The Commissioner is authorized, through grants or contracts, to enter into contractual arrangements with institutions of higher education, public or private agencies or organizations, and individuals for—

(1) the preparation, production, evaluation, and distribution for use on public educational television stations of courses for elementary school teachers who are or intend to become reading teachers or reading specialists; and

(2) the preparation and distribution of informational and study course material to be used in conjunction with any such course.

(b) In carrying out the provisions of this section the Commissioner shall consult with recognized authorities in the field of reading, specialists in the utilization of the communications media for educational purposes, and with the State and local educational agencies participating in demonstration projects under this title.

GRANTS FOR INSTITUTIONS OF HIGHER EDUCATION

SEC. 705. The Commissioner is authorized to make grants to institutions of higher education, or combinations of such institutions, upon application therefor, to assist such institution or institutions—

(1) in planning and implementing programs to strengthen and improve graduate and undergraduate instruction in the teaching of reading, including inservice training programs; and

(2) in planning, developing, and implementing cooperative programs with State and local educational agencies which show promise as effective measures for solving reading problems.

ESTABLISHMENT OF THE OFFICE FOR THE IMPROVEMENT OF READING PROGRAMS

SEC. 706. (a) There is established, in the Office of Education, an Office for the Improvement of Reading Programs which shall be responsible for—

(1) the administration of the programs authorized by this title;

(2) those programs presently administered under other provisions of law as the Commission determines to be appropriate; and

(3) the coordination of education programs provided in the following subsection.

(b) The Commissioner is authorized in accordance with the criteria and procedures established by regulation, to facilitate, at the State and local levels, coordination of the furnishing of services under—

(1) titles I, II, III, V, and VI of the Elementary and Secondary Education Act of 1965;

(2) section 222(a)(1) and (2) of the Economic Opportunity Act of 1964;

(3) the Adult Education Act;

(4) the Emergency School Aid Act;

(5) the Higher Education Act of 1965; and

(6) section 405 of the General Education Provisions Act;

which are related to the purposes of this title.

(c)(1) The Office shall be headed by a Director who shall be placed in grade 17 of the General Schedule set forth in section 5332 of title 5, United States Code.

(2) The position created by this subsection shall be in addition to the number of positions placed in the appropriate grade under section 5108 of title 5, United States Code.

ESTABLISHMENT OF THE READING IMPROVEMENT LABORATORY

SEC. 707. (a) Notwithstanding the second sentence of section 405(b)(1) of the General Education Provisions Act, the Director of the National Institute of Education is authorized and directed to designate an existing facility or establish a new facility to be known as the Reading Improvement Laboratory.

(b) The Director of the National Institute of Education, through the Institute and the Laboratory shall conduct or support research, demonstrations, and pilot projects in the field of reading and language development, including, but not limited to, the following—

(1) basic research in the reading, language, and communication process;

(2) the most effective methods for the teaching of reading;

(3) methods for the measuring of reading ability and achievement;

(4) the development of model undergraduate and graduate courses in reading for personnel preparing to engage in elementary teaching or for elementary teachers who are or intend to become reading teachers or reading specialists;

(5) the development of techniques for the diagnosis and correction of reading disabilities;

(6) the development of model reading programs for elementary school children generally and special model reading programs for elementary school children who are educationally disadvantaged or handicapped;

(7) the use and evaluation of educational technology in reading; and

(8) the evaluation of educational materials prepared for the teaching of reading.

STATE CERTIFICATION AGENCIES

SEC. 708. (a) The Commissioner shall carry out a program for making grants to State agencies responsible for certifying elementary and secondary education teachers to institute or upgrade reading certification requirements in the State to assure better preparation of teachers in the field of reading instruction.

(b) For the purpose of carrying out the provisions of this section more effectively, the Commissioner is authorized, upon request, to provide advice, counsel, and technical assistance to State accrediting agencies.

EVALUATION

SEC. 709. The Commissioner shall submit an evaluation report to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives not later than March 31, in each fiscal year ending prior to July 1, 1978. Each such report shall—

(1) contain a statement of specific and detailed objectives for the program assisted under the provisions of this title, and relate such objectives to the objectives of the Elementary and Secondary Education Act of 1965;

(2) include a statement of the effectiveness of the program in meeting the stated objectives, measured through the end of the preceding fiscal year;

(3) make recommendations with respect to any changes or additional legislation deemed necessary or desirable in carrying out the program;

(4) contain a list identifying the principal analyses and studies supporting the major conclusions and recommendations contained in the report; and

(5) contain an annual evaluation plan for the program through the ensuing fiscal year for which the budget was transmitted to Congress by the President, in accordance with section 201(a) of the Budget and Accounting Act, 1921.

ESTABLISHMENT OF THE PRESIDENTIAL AWARD FOR READING ACHIEVEMENT

SEC. 710. (a) In order to motivate and encourage elementary school children to improve their reading skills and to foster competence for excellence in reading among elementary schools, there is hereby established the Presidential Reading Achievement Award. Each such award shall consist of—

(1) an emblem to be presented to elementary school children for achievement in reading as determined pursuant to regulations established by the Commissioner, and

(2) a pennant, flag, or other appropriate recognition for elementary schools achieving reading excellence as determined pursuant to regulations established by the Commissioner.

(b) The reading awards authorized by this section shall be of such design and material and bear such description as the President may prescribe.

READING ACADEMIES

SEC. 711. (a) The Commissioner is authorized to make grants to and to enter into contracts with State and local educational agencies, institutions of higher education, community organizations and other nonprofit organizations, having the capacity to furnish reading assistance and instruction to youths and adults who do not otherwise receive such assistance and instruction.

(b) Grants made and contracts entered into under this section shall contain provisions to assure that such reading assistance and instruction will be provided in appropriate facilities to be known as "reading academies".

DEFINITIONS

SEC. 712. As used in this title—

(1) "Laboratory" means the Reading Improvement Laboratory established under this title; and

(2) "Institute" means the National Institute of Education.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 713. (a) There are authorized to be appropriated to carry out the provisions of section 702, relating to reading improvement demonstration projects, $2,000,000 for the fiscal year ending June 30, 1975, $88,000,000 for the fiscal year ending June 30, 1976, and $93,000,000 each for the fiscal years ending June 30, 1977, and June 30, 1978. 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).

(b) There are authorized to be appropriated to carry out the provisions of section 703, relating to reading special emphasis projects, $25,000,000 for the fiscal year ending June 30, 1975, $30,000,000 for the fiscal year ending June 30, 1976, and $40,000,000 each for the fiscal years ending June 30, 1977, and June 30, 1978.

(c) There are authorized to be appropriated for the purpose of carrying out section 704, relating to reading training on public television, $3,000,000 for the fiscal year ending June 30, 1975, sums appropriated pursuant to this section shall remain available for obligation and expenditure through the succeeding fiscal year.

(d) There are authorized to be appropriated to carry out the provisions of section 705, relating to grants for institutions of higher education, $35,000,000 for the fiscal year ending June 30, 1975, $40,000,000 for the fiscal year ending June 30, 1976, and $45,000,000 each for the fiscal years ending June 30, 1977, and June 30, 1978.

(e) There are authorized to be appropriated to carry out the provisions of section 707, relating to the Reading Improvement

Laboratory $10,000,000. Notwithstanding any other provision of law unless enacted in express limitation of this section, sums appropriated pursuant to this subsection shall remain available until expended.

(f) There are authorized to be appropriated to carry out the provisions of section 708, relating to State certification in the field of reading instruction, $2,500,000 for each of the fiscal years ending prior to July 1, 1978.

(g) There are authorized to be appropriated to carry out the provisions of section 710, relating to reading achievement awards, $10,000 for administrative expenses for each of the fiscal years ending prior to July 1, 1978.

(h) There is authorized to be appropriated to carry out the provisions of section 711, relating to reading academies, $10,000,000 for the fiscal year ending June 30, 1975, $15,000,000 for the fiscal year ending June 30, 1976, $20,000,000 for the fiscal year ending June 30, 1977, and $25,000,000 for the fiscal year ending June 30, 1978.

TITLE VIII—GENERAL PROVISIONS RELATING TO THE ASSIGNMENT OR TRANSPORTATION OF STUDENTS

PROHIBITION AGAINST ASSIGNMENT OR TRANSPORTATION OF STUDENTS TO OVERCOME RACIAL IMBALANCE

SEC. 801. No provision of this Act shall be construed to require the assignment or transportation of students or teachers in order to overcome racial imbalance.

PROHIBITION AGAINST USE OF APPROPRIATED FUNDS FOR BUSING

SEC. 802. (a) No funds appropriated for the purpose of carrying out any applicable program may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system, except on the express written voluntary request of appropriate local school officials. No such funds shall be made available for transportation when the time or distance is so great as to risk the health of the children or significantly impinge on the educational process of such children, or where the educational opportunities available at the school to which it is proposed that any such student be transported will be substantially inferior to those opportunities offered at the school to which such student would otherwise be assigned under a nondiscriminatory system of school assignments based on geographic zones established without discrimination on account of race, religion, color, or national origin.

(b) No officer, agent, or employee of the Department of Health, Education, and Welfare (including the Office of Education), the Department of Justice, or any other Federal agency shall, by rule, regulation, order, guideline, or otherwise, (1) urge, persuade, induce, or require any local education agency, or any private nonprofit agency, institution, or organization to use any funds derived from any State or local sources for any purpose, unless constitutionally required, for which Federal funds appropriated to carry out any applicable program may not be used, as provided in this section, or (2) condition the receipt of Federal funds under any Federal program upon any action by any State or local public officer or employee which would be prohibited by clause (1) on the part of a Federal officer or employee. No officer, agent, or employee of the Department of Health, Education, and Welfare (including the Office of Education) or any other Federal agency shall urge, persuade, induce, or require any local education agency to undertake transportation of any student where the time or distance of travel is so great as to risk the health of the child or significantly impinge on his or her educational process; or where the educational opportunities available at the school to which it is proposed that such student be transported will be substantially inferior to those offered at the school to which such student would otherwise be assigned under a nondiscriminatory system of school assignments based on geographic zones established without discrimination on account of race, religion, color, or national origin.

(c) An applicable program means a program to which the General Educational Provisions Act applies.

PROVISION RELATING TO COURT APPEALS

SEC. 803. Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court which requires the transfer or transportation of any student or students from any school attendance area prescribed by competent State or local authority for the purposes of achieving a balance among students with respect to race, sex, religion, or socioeconomic status, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeals has expired. This section shall expire at midnight on June 30, 1978.

PROVISION AUTHORIZING INTERVENTION IN COURT ORDERS

SEC. 804. A parent or guardian of a child, or parents or guardians of children similarly situated, transported to a public school in accordance with a court order, may seek to reopen or intervene in the further implementation of such court order, currently in effect, if the time or distance of travel is so great as to risk the health of the student or significantly impinge on his or her educational process.

PROVISION REQUIRING THAT RULES OF EVIDENCE BE UNIFORM

SEC. 805. The rules of evidence required to prove that State or local authorities are practicing racial discrimination in assigning students to public schools shall be uniform throughout the United States.

APPLICATION OF PROVISO OF SECTION 407(a) OF THE CIVIL RIGHTS ACT OF 1964 TO THE ENTIRE UNITED STATES

SEC. 806. The proviso of section 407(a) of the Civil Rights Act of 1964 providing in substance that no court or official of the United States shall be empowered to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards shall apply to all public school pupils and to every public school system, public school and public school board, as defined by title IV, under all circumstances and conditions and at all times in every State, district, territory, Commonwealth, or possession of the United States, regardless of whether the residence of such public school pupils or the principal offices of such public school system, public school or public school board is situated in the northern, eastern, western, or southern part of the United States.

PRIORITY OF REMEDIES

SEC. 807. (a) Notwithstanding any other provision of law, after June 30, 1974, no court of the United States shall order the implementation of any plan to remedy a finding of de jure segregation which involves the transportation of students, unless the court first finds that all alternative remedies are inadequate.

(b) Before implementing any plan proposed by a local education agency to remedy a judicial determination of de jure segregation, the court shall find that such plan minimizes the transportation of students.

REMEDIES WITH RESPECT TO SCHOOL DISTRICT LINES

SEC. 808. In the formulation of remedies under this title the lines drawn by a State subdividing its territory into separate school districts, shall not be ignored or altered except where it is established that the lines were drawn, or maintained or crossed for the purpose, and had the effect of segregating children among public schools on the basis of race, color, sex, or national origin, or where it is established that, as a result of discriminatory actions within the school districts, the lines have had the effect of segregating children among public schools on the basis of race, color, sex, or national origin.

PROHIBITION OF FORCED BUSING DURING SCHOOL YEAR

SEC. 809. (a) The Congress finds that—

(1) the forced transportation of elementary and secondary school students in implementation of the constitutional requirement for the desegregation of such schools is controversial and difficult under the best planning and administration; and

(2) the forced transportation of elementary and secondary school students after the commencement of an academic school year is educationally unsound and administratively inefficient.

(b) Notwithstanding any other provisions of law, no order of a court, department, or agency of the United States, requiring the transportation of any student incident to the transfer of that student from one elementary or secondary school to another such school in a local educational agency pursuant to a plan requiring such transportation for the racial desegregation of any school in that agency, shall be effective until the beginning of an academic school year.

(c) For the purpose of this section, the term "academic school year" means, pursuant to regulations promulgated by the Commissioner of Education, the customary beginning of classes for the school year at an elementary or secondary school of a local educational agency for a school year that occurs not more often than once in any twelve-month period.

(d) The provisions of this section apply to any order which was not implemented at the beginning of the 1974–1975 academic year.

REASONABLE TIME FOR DEVELOPING VOLUNTARY PLAN FOR DESEGREGATING SCHOOLS

SEC. 810. Notwithstanding any other law or provision of law, no court or officer of the United States shall enter, as a remedy for a denial of equal educational opportunity or a denial of equal protection of the laws, any order for enforcement of a plan of desegregation or modification of a court-approved plan, until such time as the local educational agency to be affected by such order has been provided notice of the details of the violation and given a reasonable time, to be determined by the Secretary, to develop a voluntary remedial plan. Such time shall permit the local educational agency sufficient opportunity for community participation in the development of a remedial plan.

TITLE IX—EQUAL EDUCATIONAL OPPORTUNITIES

SHORT TITLE

SEC. 901. This title may be cited as the "Equal Educational Opportunities Act of 1974".

PART A—POLICY AND PURPOSE

DECLARATION OF POLICY

SEC. 902. (a) The Congress declares it to be the policy of the United States that—

(1) all children enrolled in public schools are entitled to equal educational opportunity without regard to race, color, sex, or national origin; and

(2) the neighborhood is the appropriate basis for determining public school assignments.

(b) In order to carry out this policy, it is the purpose of this Act to specify appropriate remedies for the orderly removal of the vestiges of the dual school system. The provisions of this title and Title VIII are not intended to modify or diminish the authority of the courts of the United States to enforce fully the fifth and fourteenth amendments to the United States Constitution.

FINDINGS

SEC. 903. (a) The Congress finds that—

(1) the maintenance of dual school systems in which students are assigned to schools solely on the basis of race, color, sex, or national origin denies to those students the equal protection of the laws guaranteed by the fourteenth amendment;

(2) for the purpose of abolishing dual schools solely on the basis of race, color, sex, thereof, many local educational agencies have been required to reorganize their school systems, to reassign students, and to engage in the extensive transportation of students;

(3) the implementation of desegregation plans that require extensive student transportation has, in many cases, required local educational agencies to expend large amounts of funds, thereby depleting their financial resources available for the maintenance or improvement of the quality of educational facilities and instruction provided;

(4) transportation of students which creates serious risks to their health and safety, disrupts the educational process carried out with respect to such students, and impinges significantly on their educational opportunity, is excessive;

(5) the risks and harms created by excessive transportation are particularly great for children enrolled in the first six grades; and

(6) the guidelines provided by the courts for fashioning remedies to dismantle dual school systems have been, as the Supreme Court of the United States has said, "incomplete and imperfect", and have not established a clear, rational, and uniform standard for determining the extent to which a local educational agency is required to reassign and transport its students in order to eliminate the vestiges of a dual school system.

(b) For the foregoing reasons, it is necessary and proper that the Congress, pursuant to the powers granted to it by the Constitution of the United States, specify appropriate remedies for the elimination of the vestiges of dual school systems, except to the extent such specification is inconsistent with the requirements of the fifth and fourteenth amendments to the United States Constitution regarding the elimination of such vestiges of dual school systems.

PART B—UNLAWFUL PRACTICES

DENIAL OF EQUAL EDUCATIONAL OPPORTUNITY

SEC. 904. No State shall deny equal educational opportunity to an individual on account of his or her race, color, sex, or national origin, by—

(a) the deliberate segregation by an educational agency of students on the basis of race, color, or national origin among or within schools;

(b) the failure of an educational agency which has formerly practiced such deliberate segregation to take affirmative steps, consistent with part D of this title, to remove the vestiges of a dual school system;

(c) the assignment by an educational agency of a student to a school, other than the one closest to his or her place of residence within the school district in which he or she resides, if the assignment results in a greater degree of segregation of students on the basis of race, color, sex, or national origin among the schools of such agency than would result if such student were assigned to the school closest to his or her place of residence within the school district of such agency of providing the appropriate grade level and type of education for such student;

(d) discrimination by an educational agency on the basis of race, color, or national origin in the employment, employment conditions, or assignment to schools of its faculty or staff, except to fulfill the purposes of subsection (f) below;

(e) the transfer by an educational agency, whether voluntary or otherwise, of a student from one school to another if the purpose and effect of such transfer is to increase segregation of students on the basis of race, color, or national origin among the schools of such agency; or

(f) the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instruction programs.

BALANCE NOT REQUIRED

"SEC. 905. The failure of an educational agency to attain a balance, on the basis of race, color, sex, or national origin, of students among its schools shall not constitute a denial of equal educational opportunity, or equal protection of the laws.

ASSIGNMENT ON NEIGHBORHOOD BASIS NOT A DENIAL OF EQUAL EDUCATIONAL OPPORTUNITY

SEC. 906. Subject to the other provisions of this title, the assignment by an educational agency of a student to the school nearest his place of residence which provides the appropriate grade level and type of education for such student is not a denial of equal educational opportunity or of equal protection of the laws unless such assignment is for the purpose of segregating students on the basis of race, color, sex, or national origin, or the school to which such student is assigned was located on its site for the purpose of segregating students on such basis.

PART C—ENFORCEMENT

CIVIL ACTIONS

SEC. 907. An individual denied an equal educational opportunity, as defined by this title, may constitute a civil action in an appropriate district court of the United States against such parties, and for such relief, as may be appropriate. The Attorney General of the United States (hereinafter in this title referred to as the "Attorney General"), for or in the name of the United States, may also institute such a civil action on behalf of such an individual.

EFFECT OF CERTAIN POPULATION CHANGES ON CIVIL ACTIONS

SEC. 908. When a court of competent jurisdiction determines that a school system is desegregated, or that it meets the constitutional requirements, or that it is a unitary system, or that it has no vestiges of a dual system, and thereafter residential shifts in population occur which result in school population changes in any school within such a desegregated school system, such school population changes so occurring shall not, per se, constitute a cause for civil action for a new plan of desegregation or for modification of the court approved plan.

JURISDICTION BY THE ATTORNEY GENERAL

SEC. 909. The appropriate district court of the United States shall have and exercise jurisdiction of proceedings instituted under section 907.

INTERVENTION BY ATTORNEY GENERAL

SEC. 910. Whenever a civil action is instituted under section 907 by an individual, the Attorney General may intervene in such action upon timely application.

SUITS BY THE ATTORNEY GENERAL

SEC. 911. The Attorney General shall not institute a civil action under section 907 before he—

(a) gives to the appropriate educational agency notice of the condition or conditions which, in his judgment, constitute a violation of part B of this title; and

(b) certifies to the appropriate district court of the United States that he is satisfied that such educational agency has not, within a reasonable time after such notice, undertaken appropriate action.

ATTORNEYS' FEES

SEC. 912. In any civil action instituted under this Act, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorneys' fee as part of the costs, and the United States shall be liable for costs to the same extent as a private person.

PART D—REMEDIES

FORMULATING REMEDIES; APPLICABILITY

SEC. 913. In formulating a remedy for a denial of educational opportunity or a denial of the equal protection of the laws, a court, department, or agency of the United States shall seek or impose only such remedies as are essential to correct particular denials of equal educational opportunity or equal protection of the laws.

PRIORITY OF REMEDIES

SEC. 914. In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws, which may involve directly or indirectly the transportation of students, a court, department, or agency of the United States shall consider and make specific findings of the efficacy in correcting such denial of the following remedies and shall require implementation of the first of the remedies set out below, or of the first combination thereof which would remedy such denial;

(a) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account school capacities and natural physical barriers;

(b) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account only school capacities;

(c) permitting students to transfer from a school in which a majority of the students are of their race, color, or national origin to a school in which a minority of the students are of their race, color, or national origin;

(d) the creation or revision of attendance zones or grade structures without requiring transportation beyond that described in section 915;

(e) the construction of new schools or the closing of inferior schools;

(f) the construction or establishment of magnet schools; or

(g) the development and implementation of any other plan which is educationally sound and administratively feasible, subject to the provisions of sections 915 and 916 of this title.

TRANSPORTATION OF STUDENTS

SEC. 915. (a) No court, department, or agency of the United States shall, pursuant to section 914, order the implementation of a plan that would require the transportation of any student to a school other than the school closest or next closest to his place of residence which provides the appropriate grade level and type of education for such student.

(b) No court, department, or agency of the United States shall require directly or indirectly the transportation of any student if such transportation poses a risk to the health of such student or constitutes a significant impingement on the educational process with respect to such student.

(c) When a court of competent jurisdiction determines that a school system is desegregated, or that it meets the constitutional requirements, or that it is a unitary system, or that it has no vestiges of a dual system, and thereafter residential shifts in population occur which result in school population changes in any school within such a desegregated school system, no educational agency because of such shifts shall be required by any court, department, or agency of the United States to formulate, or implement any new desegregation plan, or modify or implement any modification of the court approved desegregation plan, which would require transportation of students to compensate wholly or in part for such shifts in school population so occurring.

DISTRICT LINES

SEC. 916. In the formulation of remedies under section 913 or 914 of this title the lines drawn by a State, subdividing its territory into separate school districts, shall not be ignored or altered except where it is established that the lines were drawn for the purpose, and had the effect, of segregating children among public schools on the basis of race, color, sex, or national origin.

VOLUNTARY ADOPTION OF REMEDIES

SEC. 917. Nothing in this title prohibits an educational agency from proposing, adopting, requiring, or implementing any plan of desegregation, otherwise lawful, that is at variance with the standards set out in this title, nor shall any court, department, or agency of the United States be prohibited from approving implementation of a plan which goes beyond what can be required under this title, if such plan is voluntarily proposed by the appropriate educational agency.

PART E—DEFINITIONS

DEFINITIONS

SEC. 918. For the purposes of this title—

(a) the term "educational agency" means a local educational agency or a "State educational agency" as defined by section 391 (k) of the Elementary and Secondary Education Act of 1965;

(b) the term "local educational agency" means a local educational agency as defined by section 801(f) of the Elementary and Secondary Education Act of 1965;

(c) the term "segregation" means the operation of a school system in which students are wholly or substantially separated among the schools of an educational agency on the basis of race, color, sex, or national origin or within a school on the basis of race, color, or national origin;

(d) the term "desegregation" means desegregation as defined by section 401(b) of the Civil Rights Act of 1964; and

(e) an educational agency shall be deemed to transport a student if any part of the cost of such student's transportation is paid by such agency.

PART F—MISCELLANEOUS PROVISIONS

REPEALER

SEC. 919. Section 709(a)(3) of the Emergency School Aid Act is hereby repealed.

SEPARABILITY OF POWERS

SEC. 920. If any provision of this title or of any amendment made by this title, or the application of any such provision to any person or circumstance, is held invalid, the remainder of the provisions of this title and of the amendments made by this title and the application of such provision to other persons or circumstances shall not be affected.

TITLE X—PROVISION WITH RESPECT TO CERTAIN FEES

LIMITATION ON ATTORNEY'S FEES

SEC. 1001. Notwithstanding any other provision of this Act, the prevailing party in any civil action brought under this Act may not be allowed attorney's fees as part of the costs of any such action.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 1539 be indefinitely postponed.

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

Mr. ROBERT C. BYRD. Mr. President, after several days of debate, the education bill was acted on by the Senate today. During that debate, there were a number of amendments on forced busing.

I consistently voted for amendments that would prohibit the forced busing of schoolchildren merely to achieve an arbitrary racial balance in the classroom.

Forced busing of school children does not improve education and is adamantly opposed by parents of all races. The money spent for the forced busing of schoolchildren would be better spent for increased teachers' salaries and improved educational facilities.

Moreover, the forced busing of schoolchildren puts a severe drain on our limited gasoline supplies.

Our first consideration ought always to be our children. For that reason, I will continue to oppose the unwise practice of forced busing of schoolchildren.

TRIBUTE TO SENATOR PELL, SENATOR JAVITS AND OTHER SENATORS

Mr. MANSFIELD. Mr. President I rise to pay tribute to the Senator from Rhode Island (Mr. PELL). During the past week or more the Senate has witnessed Senator PELL's handling of this vitally important measure, the extension of the elementary and secondary education programs. He performed the task with outstanding skill, and it hardly needs saying that among the Members of this body, Senator PELL applies the diligence and competence that has made his record exemplary. His long hard work and that of his subcommittee, has earned him our deepest gratitude. The Nation is in his debt.

Joining him on aiding in our understanding of this complex measure was the highly competent ranking members of the Senate Labor and Public Welfare Committee, the senior Senator from New York (Mr. JAVITS), Senator JAVITS, like Senator PELL, has served his Nation with great distinction. He, too, is a legislator who ranks among the outstanding.

Among other Senators exhibiting strong and sincere views on the education measure were two additional members of the Senator Labor and Public Welfare Committee—its chairman, Senator WILLIAMS, and Senator DOMINICK. Both Senators distinguished this body by making outstanding contributions to the discussion.

Senator MCCLELLAN, Senator BENTSEN, Senator GURNEY and many other Senators also deserve special recognition for their contributions on this measure. We are indebted for the cooperation too, demonstrated by all Members. It enabled the Senate to act with great efficiency on this most significant proposal.

Mr. JAVITS. Mr. President, a very, very monumental bill has just passed after a week's debate. Notwithstanding all of the furor which preceded it, it is truly an education bill and not a busing bill, which is what we tried so hard to avoid.

In summing up what happened in the last weeks of arduous debate, with its give and take, tribute is due, first and foremost, to the Senator from Rhode Island (Mr. PELL), chairman of the Education Subcommittee, who, for 2 years or more worked on this measure and who has had the enormous satisfaction, as the principal manager on the part of the majority, to guide it to final passage here on the floor.

We all owe him a deep debt of gratitude. So do all the friends of education, and indeed all the people of the United States.

We also owe a debt of gratitude to our chairman, the Senator from New Jersey (Mr. WILLIAMS), and the other members of the Education Subcommittee, who worked so diligently to bring this legislation to the floor after many, many hearings and much consideration in the subcommittee, in a great exercise of cooperation and nonpartisanship.

I would particularly like to pay my thanks, on the minority side, to Senators SCHWEIKER, BEALL, and STAFFORD, minority members of the Education Subcommittee. Very special mention should be made of the Senator from Colorado (Mr. DOMINICK) for his diligence, for his very profound knowledge of the subject, for his host of contributions to the measure itself, and especially for the sense of responsibility which he has carried as one of the really true friends of education in this country, a role of which the people of Colorado may be extremely proud.

I would like to single out Charles Cooke, the Deputy Assistant Secretary of HEW for Legislation, who convincingly and competently represented the administration's views on a myriad of issues which had come before us.

Mrs. Tish Buselle, who directed the statistical work at the Library of Congress merits very special recognition for the many tables prepared for the committee.

Finally, my thanks to the committee staff: On the majority side, working for the Education Subcommittee, under the direction of Counsel Steve Wexler, who advised with the chairman of our subcommittee continuously, was Richard Smith and Mrs. Jean Frohlicher. We on the minority side are deeply indebted to them, and I feel the country is as well. Mrs. Frohlicher is a gifted attorney formerly with the Office of Education, whose knowledge of the intricacies of Federal education programs was invaluable.

Also on the full committee staff, Nik Edes and Lisa Walker were most helpful.

On the minority side, my own assistant and the minority staff director, Roy Millenson, who has been associated with me for several decades now when I was in the House and the Senate, with some years of exception when he was engaged

in other matters—an extraordinary man with extraordinary knowledge on this subject—was of tremendous help to us, ably assisted by David Dunn, the minority's research assistant, and Miss Barbara Lippa, an intern and a constituent of mine from Rochester. Also John Adair and Nick Maravel of the staff of the Senator from Colorado (Mr. DOMINICK), were most helpful to us and to the ranking minority member of the committee.

Finally, we owe a great deal to the leadership for their patience and cooperation so that we could consider this legislation in an orderly manner.

Again I want to pay my tribute to the Senator from West Virginia (Mr. ROBERT C. BYRD) for a fabulous fashioning of the unanimous consent. I think it will rank with the most complicated ever entered into here, and it all went off without a hitch, in time, and without any Senator appealing from any ruling. It is a record achievement.

Mr. ROBERT C. BYRD. The Senator is overly generous. I want to express my appreciation to the Senator from Rhode Island (Mr. PELL.) and other Senators who have played a leading part in the management of this bill for their usual cooperation, patience, courtesy, and understanding.

Mr. PELL. Mr. President, I would like to thank tremendously my colleagues who helped in the passage of this bill: The senior Senator from New York, who has been my partner in so many of these ventures; the senior Senator from Colorado, who has worked with no thought of partisanship and with the idea of trying to get the best education bill worked together.

I add my words of congratulation to the majority whip, who did a fabulous job of keeping us on course. We had the prospect of 7 or 8 weeks, which he lowered to 6 or 7 days. Three years from now, when we go through this mill again, perhaps he will be able to get it down again.

As we finish debate on S. 1539, I would like to make one or two observations.

First, I commend the Senate for the debate itself. As chairman of the Subcommittee on Education, I have brought before the Senate two other major omnibus bills, in addition to many minor single-purpose measures, and this is the first time that issues other that busing have been discussed at length on the Senate floor. The discussion on the title I formula was a healthy one. It pointed out the differences in views in the Senate, differences which are unfortunately regional in nature and which indicate a need for a realistic poverty measure, one which would reflect the regional cost-of-living differences in our country. The various amendments accepted on the Senate floor generated a debate of substantive interest, which has been lacking in previous sessions. Our work on the so-called Better Schools Act brought to the floor an issue which has been discussed by many people for many years, categorical vs. the broad, generalized revenue sharing approach, and the Senate's action has very clearly indicated what the majority view on that question is.

A bill is not the product of one person or of one subcommittee. I believe our debate on the floor allows me to take into conference a measure which will have the input of many Senators outside the subcommittee, as well as those members of the subcommittee who took leadership roles.

I should like to thank our chairman, Senator WILLIAMS, whose support of timely movement of the bill through the committee was invaluable and who added immensely to the content of the bill.

The junior Senator from Maine (Mr. HATHAWAY) was a strong right arm during this long debate on the bill. He was always ready to assist in debate and take the chair when I was called away from the floor. To him goes my warmest gratitude.

I would like to personally thank the senior Senator from Colorado and ranking minority member of the subcommittee on Education (Mr. DOMINICK). My thanks go not only to his invaluable assistance on the pending measure, but also to his cooperative attitude over the past 5 years during which I have been chairman of the Education Subcommittee. While the Senator and I have disagreed in the Senate on some basic philosophical issues, there has never been a disagreement on the philosophy that the Federal Government should be of the greatest assistance it can to insure a quality education for all Americans. The Senator has been a leader in bilingual education, Indian education, and in securing greater Federal assistance to students attending institutions of postsecondary education. PETER DOMINICK'S foresight and leadership have been instrumental in enacting three landmark education bills in 5 years. He has my professional esteem and personal gratitude.

My esteem for the senior Senator from New York and ranking minority member of the Committee on Labor and Public Welfare (Mr. JAVITS) knows no bounds. He has been tireless in his efforts to further the Federal role in education, and his assistance and advice have been that of a true and close friend. I have been proud and glad to have been his partner in many legislative undertakings and look forward to continuing this partnership over the years ahead.

I believe that special note should be taken by the Senate of the role of the Library of Congress during this year's development of and debate on the elementary and secondary education legislation.

About a year ago, at my direction, the Library was contacted to see if they could provide some computer capability for the subcommittee, since, up until that time, we were relying on the Department of HEW for statistical information, and that information always seemed to come dependent upon whether it would aid or detract from the Department's position. Working under the direction of Miss Helen Miller, Mrs. Tish Busselle and Mr. David Osman of the Education and Public Welfare Division of the Congressional Research Service, developed a computer capability in less time than the Department of HEW told us that they could plan for it. Their figures became so universally trusted that even those people who have direct access to the Department of HEW are now using the Library of Congress as a source. Mrs. Bouselle and Mr. Osman have spent long hours, nights, and weekends to develop charts and other statistical data for our use both in Committee and on the Senate floor. Their services have been utilized by other Members as well. The Library and personnel mentioned deserve the special thanks of the Senate.

Mr. President, I would like to thank Blair Crownover, Esq., of the Office of Legislative Counsel, whose timely advice was invaluable.

Finally, I should like to thank the majority whip. His mastery of the floor and patience as we worked through the bill was of invaluable assistance.

Mr. President, I must praise tremendously the work of the education staff of the Subcommittee on Education. The subcommittee's general counsel, Stephen J. Wexler, has carried out his responsibilities with unceasing care and thoughtfulness so that we could be prepared for all contingencies and has done an excellent job for all the members of the subcommittee in giving them all the information that they needed. Sitting at my side, he supported me throughout and gave me the specific details that I have needed in the course of this bill. All told, he has been an immense help.

I must also praise Richard Smith for the tremendous knowledge, care, and thoughtfulness he has used in helping draft this bill. And, Ms. Jean Frolicher for the excellent job she has done in preparing various tables and formulas that are so necessary in the outcome of the successful bill.

All told, no Senator could have a better or finer staff than, I believe, is the staff of the Education Subcommittee.

I would also praise the counsel for the minority, Roy Millenson, who has made many positive and fine contributions to this bill as it has moved along its legislative course.

Mr. DOMINICK. Mr. President, I would be churlish if I did not recognize publicly the enormous contributions that the chairman of the subcommittee (Mr. PELL) and also the Senator from New York (Mr. JAVITS) have given to this bill.

The Senator from New York, among other things, was the author of the "basket" provision in the Special Projects Act, which may be the best provision in the bill, which gives us a chance to review all these programs and determine whether to go ahead.

I cannot overestimate, and never will, the great help given us by Steve Wexler, Roy Millenson, and John Adair have given to me and to the committee.

Mr. KENNEDY. Mr. President, I want to commend the chairman, Senator PELL, for his leadership in managing the review, hearings, drafting, and final debate on the Elementary and Secondary Education Amendments of 1974.

It was an enormously difficult task and one which he completed in a way that benefits the Nation's schoolchildren and

improves the quality of education in America.

I believe the final product we have arrived at today represents a vital continuation of the Federal Government's role in assisting in the provision of quality education to the Nation's schoolchildren.

While there are changes which have occurred on the floor that I regret and which I opposed, including additional language seeking to narrow the Federal Government's role in desegregation and a new formula for the distribution of title I funds which I believe is less equitable than the original formula of the committee, I believe the bill still moves us closer to our national goal of improving the educational process.

The bill extends through fiscal year 1978 all programs authorized by the Elementary and Secondary Education Act of 1965. In addition, it contains major improvements in existing provisions, including title I, adult education, vocational education, and impact aid and major innovations in bilingual education, removing illiteracy, educating handicapped children, gifted and talented children and Indian children and in community education and career education.

S. 1539 also creates a National Center for Education Statistics and extends and expands the Emergency School Aid Act. In addition, it authorizes the convening of a White House Conference on Education in 1977.

Finally, the bill provides substantial consolidation of existing programs, particularly designed to reduce the redtape and duplication of applications which have put such heavy burdens on many smaller school districts. The other consolidations which include increasing the discretion of the Secretary with regard to new funds will require an extremely close oversight. I am particularly concerned and intend to watch closely to see that such successful programs as title III, ESEA which has promoted innovative programs in my State and many others, are continued and expanded.

Perhaps my greatest dissatisfaction with the bill is its limitation on appropriations since I believe that the level of authorization contained in this measure is fully justified.

However, I believe that the bill contains substantial improvement over existing programs and therefore I am pleased that the Senate has indicated its overwhelming approval of the continued commitment of the Federal Government to assuring quality education in Americans.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with statements limited therein to 5 minutes each.

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

ORDER FOR RECOGNITION OF SENATORS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after Mr. BARTLETT is recognized, the four Senators who will enter into the colloquy, to which I alluded earlier today, be as follows: Mr. HARTKE, Mr. THURMOND, Mr. ROTH, and Mr. BEALL; and that following the recognition of those Senators, and the consummation of the orders, Mr. WEICKER be recognized for not to exceed 15 minutes before the Chair recognizes me for the order previously entered.

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

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the orders for the recognition of Senators on tomorrow, there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements limited therein to 5 minutes each.

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

AMENDMENT OF TITLE 38, UNITED STATES CODE

Mr. HARTKE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3072.

The PRESIDING OFFICER (Mr. STEVENSON) laid before the Senate the amendment of the House of Representatives to the bill (S. 3072) 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 which was to strike out all after the enacting clause, and insert:

That (a) section 314 of title 38, United States Code, is amended—

(1) by striking out "$28" in subsection (a) and inserting in lieu thereof "$31";

(2) by striking out "$51" in subsection (b) and inserting in lieu thereof "$57";

(3) by striking out "$77" in subsection (c) and inserting in lieu thereof "$86";

(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. 2. 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".

SEC. 3. 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 section 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 section 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 in-

demnity 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. 4. 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. 5. (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. 6. Section 337 of title 38, United States Code, is amended by striking "January 31, 1955" and inserting in lieu thereof "December 31, 1946".

SEC. 7. The first section and sections 2, 3, 4, and 5 of this Act shall take effect on the first day of the second calendar month which begins after the date of enactment.

Mr. HARTKE. Mr. President, I rise to urge the Senate to support S. 3072, the Veterans Disability Compensation and Survivors Benefits Act of 1974. The amended bill before you which is ready for final action contains all the provisions of the original Senate passed bill with the addition of one provision taken from the original House-passed measure.

The amendment which I offer today has the complete support of all the members of the Committee on Veterans' Affairs which I am privileged to Chair, and has been worked out with members of the House Committee on Veterans' Affairs, which is chaired so ably by my colleague, WILLIAM JENNINGS BRYAN DORN, of South Carolina. It is my understanding that the amendment is acceptable to the House so that I believe we can expect the measure to be sent promptly to the White House for signature. The rate increases provided for in this bill would be retroactive to May 1.

As my colleagues will remember on May 2, 1974, the Senate by a unanimous vote passed S. 3072. This bill as reported and passed by the Senate contained six major provisions. First, it provided for cost-of-living increases in the rates of disability compensation for the 2.2 million service-connected disabled veterans. Increases of 15 percent were authorized for those veterans with disabilities rate 10 to 50 percent. The bill further provided for 18-percent increases for those veterans with disabilities rated 60 to 100 percent as well as similar increases for VA statutory awards for severe anatomical losses.

Second, increases of 15 percent were 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 were 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 were increased 17 percent.

Fourth, the bill provided 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 as passed authorized 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 by widows of veterans who had a disability rated total and permanent at the time of death.

Finally, the bill authorized 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 thereby, notwithstanding that a fiduciary has been appointed and regardless of any legal disability on the part of the beneficiary.

Following passage of the bill on May 2, the House proceeded to consider H.R. 14117, its version of the disability compensation survivors benefits bill on May 7. That bill, which passed the House by a vote of 396 to 0 was subsequently inserted in lieu of the original provisions of S. 3072 and returned to the Senate under that number. The House version is almost identical to the Senate bill as to rate increases although their increases were slightly less for those rated 10, 20, and 30 percent disabled. The Senate version of S. 3072 also contained three provisions not found in the House version. The first concerns the equalization of the rates of death compensation payable under section 322 and 342 to survivors regardless of the period of service in which the veterans' death occurred. The second provision concerns a study to be conducted by the Veterans' Administration of DIC applications as provided for in section 207 of the bill before you today. Third, title III of the Senate bill contained the provisions of an administration request measure concerning the payment of benefits to persons under legal disability. It is my understanding that all three of these amendments are acceptable to the House.

Similarly the House passed measure contains a provision not found in S. 3072 as originally passed by the Senate which the committee finds acceptable and which I urge my colleagues to accept today.

This amendment which is found in section 205 of S. 3072 before you would extend longstanding presumption of service-connection for wartime veterans to those veterans who served between the end of World War II, December 31, 1946, and before June 25, 1950, the beginning of the Korean conflict period. Current law provides certain "presumptive periods" following wartime service during which the incurrence of a chronic or tropical disease would be deemed service-connected on a rebuttable basis. These presumptive periods currently cover all periods of service with the exception of the period after World War II and before the Korean conflict. The committee believes that distinguishing this one period is inequitable and is not in keeping with past congressional action to equalize compensation laws for peacetime and wartime service. Accordingly the committee recommends that S. 3072 be amended to include the provision from the House passed measure which would accord to veterans of this limited period of service the same wartime presumption of service-connection.

The Veterans' Administration estimates that the cost attributable to S. 3072 is approximately $566.8 million in the first year gradually decreasing to $563.2 million in the fifth year. The following table shows the 5-year estimate of S. 3072 as amended.

5-YEAR COST OF S. 3072: COMPROMISE VERSION

Section and provisions	Fiscal year cost (in millions)				
	1975	1976	1977	1978	1979
101. 15-18-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 for 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 wartime presumption	(1)	(1)	(1)	(1)	(1)
206. Equalization of peacetime of rates and wartime compensation	$0.6	$0.5	$0.4	$0.3	$0.2
207. 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 guardain	(1)	(1)	(1)	(1)	(1)
Total	566.8	566.6	566.4	565.2	563.2

[1] No cost.

[2] Estimate of savings unavailable.

Mr. HARTKE. Mr. President, I ask unanimous consent that the section-by-section analysis and explanation of S. 3072 as amended today be inserted in the RECORD at this point.

There being no objection the section-by-section analysis and explanation was ordered printed in the RECORD as follows:

SECTION-BY-SECTION ANALYSIS AND EXPLANATION OF S. 3072, AS AMENDED

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 under section 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 O–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 O–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. The 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 amend section 337 of title 38, United States Code to provide for extension of the longstanding presumption of service-connection for diseases incurred in wartime to those veterans who served in the period December 31, 1946 to June 25, 1950, thus eliminating the distinction of "peacetime" for those who served during this period. Currently, this provision extends to all veterans who served in the active military, naval or air service after January 31, 1955.

Section 206

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 207

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 person 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. I am extremely pleased that we were able to come to such quick agreement with the House Committee on Veterans' Affairs. I want to thank the distinguished chairman of that committee, Mr. DORN, for his assistance in getting this bill resolved without delay.

Mr. President, I urge my colleagues to accept the amendments before them today.

Mr. THURMOND. Mr. President, I am pleased to support S. 3072, the Veterans Compensation Amendments for 1974.

The Senate unanimously approved these amendments on May 2. Subsequently, the House receded in its provisions and concurred in the Senate version with one amendment.

The House amendment provides a wartime presumption for disability compensation for all post World War II veterans. The period from 1946 to 1950 is excluded under the present law, and under the bill it will now be treated equally with other period of post World War II service. Basically, this provides a period during which a chronic or tropical disease would be deemed to be service-connected on a rebuttable basis. I urge the Senate to adopt this amendment as a part of the bill.

Our service disabled merit our closest attention. Often, because of their disabilities, they need the greatest assistance in keeping up with the cost of living.

S. 3072 will help our disabled veterans keep pace with the increased cost of living.

Mr. President, I urge my colleagues to support this bill.

Mr. HARTKE. Mr. President, I move that the Senate concur in the amend-

ment of the House with an amendment by the Senate in the nature of a substitute. I submit the amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

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. Section 337 of title 38, United States Code, is amended by striking "January 31, 1955" and inserting in lieu thereof "December 31, 1946".

SEC. 206. (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. 207. (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 afer 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 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 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.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Indiana.

The motion was agreed to.

COMPLAINT OF YOUNG VIETNAM VETERAN

Mr. HARTKE. Mr. President, this is a matter which, as chairman of the Veterans' Affairs Committee, I should like to call to the attention of the Senate. It is an item on the wire late this afternoon concerning the case of a Vietnam veteran who was injured in a football game while in the Navy, which has made it impossible for him to hold a job.

The item on the news wire reads as follows:

JUPITER, FLA.—A young Vietnam veteran who seeks a leg amputation that doctors won't give him is broke and jobless and considering going to jail so his family can get welfare payments.

Don Dagenhart, 22, says constant pain from a knee injury incurred in a Navy football game four years ago has made it impossible for him to hold a job. He wants an artificial limb, but a veteran's Administration panel of three doctors says he should keep his leg.

Broke and jobless, Dagenhart faces eviction from his apartment, his telephone has been disconnected and even though his VA disability payments have been raised to $77 a month he has been forced to sell furniture to get money to support his wife Anne and their two-year-old son Craig.

"We got $10 for the baby's crib," says Mrs. Dagenhart, who cannot work because she suffers from phlebitis, an inflammation of the veins. "We're trying to hang on to the high chair so Craig will have a place to eat, but I don't know how long we can."

State welfare offers only token payment because Dagenhart is a veteran. Rep. Paul Rogers, D-Fla., has been asked to get him a 100 per cent disability allowance, but that will take time.

"We've been told to pay the back rent or get out," Dagenhart says. "The landlord wants money and I can't blame him."

He says if the landlord evicts him, "then I'll just have to do something to get thrown in jail. Then the welfare people will have to do something to help my wife and son. That's the important thing right now."

Dagenhart's disability payments were increased from $49 a month to $570 a month a year ago when he was recovering from two exploratory operations. But they were reduced to $49 again six months later.

Dagenhart already had undergone two knee operations at Pensacola and three more in Chelsea, Mass., before his discharge in 1971. He was advised to see a specialist in Miami, 50 miles south of here.

Early this year, the VA medical panel in Miami told Dagenhart he could either have the knee fused and the nerves killed; keep the knee and wear a leg brace, or amputate the leg and get an artificial one.

But after a re-examination in April, the panel eliminated amputation as an alternative and advised that he wear a leg brace.

Dr. Donald Pearson, who has operated on Dagenhart's leg, says, "I don't think he fully realizes the full implications of an above-the-knee amputation. The full leg brace would help him and I think, with careful planning, something could be done to repair the knee."

Mr. President, I have asked the staff of the Veterans' Affairs Committee to go into the details and to check more fully into the matter and report to the committee.

I believe the time has come to recognize, when we deal with individuals, that we have to deal with them on an individual basis. When we have a young Vietnam veteran who appears to be in serious trouble, and is physically disabled, has a wife and a child, can get no help, and needs to appeal to welfare, it is high time that we call it to the attention of the public and to the attention of the Senate.

Mr. HANSEN. Mr. President, I am not familiar with the set of circumstances in the case to which the Senator from Indiana has just referred, but it occurs to me, from what little experience I have from the usual circumstances concerning such situations that I should await an opportunity to hear the other side before I make any final judgment in this case.

I am persuaded that the Veterans' Administration and the Veterans' hospitals are trying to do their jobs as best they can. I would hesitate to make any judgment or to assign any responsibility or culpability on the basis of the facts from only one side. I look forward to getting the facts, as I know the Veterans' Affairs Committee always does. I think we should have those facts before we impute blame to anyone.

ORDERS FOR CONSIDERATION OF BILLS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, so that Senators will be aware of the program for tomorrow, that following the transaction of routine morning business tomorrow, the Senate proceed to the consideration of H.R. 12670, Calendar Order No. 810, which has to do with incentive pay for aviation crew volunteers; that upon the disposition of that matter, the Senate then proceed to the consideration of S. 3500, Calendar No. 821, the amateur athletics bill; that upon the disposition of S. 3500, the Senate proceed to the consideration of S. 3458 and then S. 3459, Calendar Order Nos. 798 and 799, respectively.

So the order will be: H.R. 12670, S. 3500, S. 3458, and S. 3459. And that following the disposition of those measures, the Senate proceed to the consideration of S. 2439, Calendar Order No. 800, the wild and scenic rivers bill.

Mr. GRIFFIN. Mr. President, there is a hold on that bill. However, the distinguished junior Senator from Virginia is in the Chamber and can speak for himself on that bill.

Mr. WILLIAM L. SCOTT. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes; I yield.

Mr. WILLIAM L. SCOTT. Mr. President, I am not sure whether this is the bill that relates to the New River in North Carolina, Virginia, and West Virginia. If it is, I should prefer that it go over tomorrow and not come up for at least another day. The distinguished Democratic whip might want to look at the bill himself.

Mr. ROBERT C. BYRD. Very well; I will delete that one item from the order thus far.

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

Mr. ROBERT C. BYRD. Then, Mr. President, tomorrow, after these four measures have been completed, it is anticipated that the Senate may take up H.R. 11864 at some time during the day. That is the solar heating and cooling bill.

The Senate will then proceed to the consideration of S. 2665, to provide for increased participation by the United States in the International Development Association. That bill will be taken up at some point during the day tomorrow.

In addition, the energy bill, S. 3267, remains before the Senate, and action can occur thereon.

Conference reports may be called up at any time.

Other calendar measures, when cleared, may be called up for action at any time.

Yea-and-nay votes may occur during the day.

Mr. GRIFFIN. As I understand, there are no time agreements on any of the measures to be called up tomorrow?

Mr. ROBERT C. BYRD. The Senator is correct.

ORDER OF BUSINESS

Mr. GRIFFIN. Mr. President, will the majority whip yield?

Mr. ROBERT C. BYRD. I yield.

Mr. GRIFFIN. I see the Senator from California on the floor, and I know he has an interest in the legal services conference report. The Senator from North Carolina (Mr. HELMS) has asked to be notified when the legal services conference report is to be called up. I would just like to indicate that, and hope that that request will be honored.

Mr. CRANSTON. It, of course, will. The Senator from Wisconsin (Mr. NELSON) will actually be handling that conference report on the floor. I will notify him accordingly.

Mr. GRIFFIN. I thank the Senator.

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

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, May 20, 1974, he presented to the President of the United States the enrolled bill (S. 775) to amend the Public Health Service Act to provide for the establishment of a National Institute on Aging.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 9:15 a.m.

After the two leaders or their designees have been recognized under the standing order, the following Senators will be recognized, each for not to exceed 15 minutes, and in the order stated:

The Senator from Maryland (Mr. BEALL), the Senator from Vermont (Mr. AIKEN), the Senator from Oklahoma (Mr. BARTLETT), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. THURMOND), the Senator from Delaware (Mr. ROTH), the Senator from Kansas (Mr. DOLE), the Senator from Connecticut (Mr. WEICKER), and the Senator from West Virginia (Mr. ROBERT C. BYRD).

After the foregoing orders have been completed, there will be routine morning business for a period of not to exceed 15 minutes, with statements therein limited to 5 minutes each.

At the conclusion of routine morning business, the Senate will take up the bill (H.R. 12670) to provide incentive pay for aviation volunteers.

Upon the disposition of that measure, the Senate will take up S. 3500, dealing with amateur athletics, upon the disposition of which the Senate will proceed to the consideraion of S. 3458, a bill to amend the Agriculture and Consumer Protection Act and the Food Stamp Act. Upon the disposition of that measure, the Senate will take up S. 3459, dealing with child nutrition programs.

Among other measures which may be called up during the day are H.R. 11864, solar heating and cooling, and of course the IDA bill, S. 2665, International Development Association.

At the request of the distinguished Senator from Virginia (Mr. WILLIAM L. SCOTT) the bill (S. 2439), wild and scenic rivers, will not come up tomorrow, but may be called up the following day.

The energy bill remains before the Senate. Conference reports, being privileged matters, may be called up at any time. A conference report on the legal services bill, I believe, is waiting in the wings. A yea-and-nay vote is likely to occur on that measure when it is called up.

Other calendar measures which may be cleared for action may be called up at any time.

ADJOURNMENT UNTIL 9:15 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 9:15 a.m. tomorrow.

The motion was agreed to, and at 5:52 p.m. the Senate adjourned until tomorrow, Tuesday, May 21, 1974, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate May 20, 1974:

FEDERAL POWER COMMISSION

Daniel T. Kingsley, of Oregon, to be a Member of the Federal Power Commission for the term of 5 years expiring June 22, 1979, vice Albert Bushong Brooke, Jr., term expiring.

NATIONAL RAILROAD PASSENGER CORPORATION

The following-named persons to be Members of the Board of Directors of the National Railroad Passenger Corporation for the terms indicated (new positions):

For a term of three years:
Donald P. Jacobs, of Illinois.

For a term of four years:
Robert Galbraith Dunlop, of Pennsylvania.
Gerald D. Morgan, of Maryland.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 20, 1974:

FEDERAL TRADE COMMISSION

Stephen A. Nye, of California, to be a Federal Trade Commissioner for the unexpired term of 7 years from September 26, 1974.

DEPARTMENT OF JUSTICE

Robert E. Hauberg, of Mississippi, to be U.S. attorney for the southern district of Mississippi for the term of 4 years.

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

IN THE ARMY

The following-named officers to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Arthur Sylvester Collins, Jr., [redacted], Army of the United States (major general, U.S. Army).

Lt. Gen. Richard Thomas Knowles, [redacted], Army of the United States, (major general, U.S. Army).

Lt. Gen. George Phillip Seneff, Jr., [redacted], Army of the United States (major general, U.S. Army).

Lt. Gen. Glenn David Walker, [redacted], Army of the United States (major general, U.S. Army).

The following-named officers for temporary appointment in the Army of the United States to the grade indicated, under the provisions of title 10, United States Code, sections 3442 and 3447:

To be brigadier general

Col. James T. Tuberty, [redacted], U.S. Army.

Col. Rex D. Wing, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Kenneth E. McIntyre, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Richard M. Connell, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Charles I. McGinnis, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Donald F. Packard, [redacted], U.S. Army.

Col. Emil L. Konopnicki, [redacted], U.S. Army.

Col. Franklin J. Glunn, [redacted], U.S. Army.

Col. John K. Stoner, Jr., [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. James W. Cannon, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Emory M. Sneeden, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Roswell E. Round, Jr., [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Thomas B. Mancinelli, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Sampson H. Bass, Jr., [redacted], Army of the United States, (lieutenant colonel, U.S. Army).

Col. William R. Todd, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Richard S. Kotite, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. George B. Price, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. James C. Pennington, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. James M. Thompson, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Alexander M. Weyand, [redacted], Army of the United States lieutenant colonel, U.S. Army).

Col. Louis W. Prentiss, Jr., [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Edwin L. Kennedy, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Richard L. Prillaman, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. John B. Blount, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Jaul J. Mueller, Jr., [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Rufus C. Lazzell, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. William E. Cooper, Jr., [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. William B. Steele, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Daniel W. French, [redacted], Army of the United tSates (lieutenant colonel, U.S. Army).

Col. Edwin C. Heffelfinger, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Jere W. Sharp, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Charles F. Gorden, Jr., [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. William L. Shea, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Alfred L. Sanderson, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Lucien E. Bolduc, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Donald E. Rosenblum, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Donald E. Sampson, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Wilman D. Barnes, [redacted], Army of the United States (lieutenant colonl, U.S. Army).

Col. Emmett W. Bowers, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. William H. Fitts, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. William J. Livsey, Jr., [redacted] Army of the United States (lieutenant colonel, U.S. Army).

Col. Floyd C. Adams, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Alfred J. Cade, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. David E. Watts, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. James F. Cochran III, [redacted] Army of the United States (lieutenant colonel, U.S. Army).

Col. Joseph N. Jaggers, Jr., [redacted] Army of the United States (lieutenant colonel, U.S. Army).

Col. Thomas D. Ayers, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. William C. Rousse, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Walter F. Ulmer, Jr., [redacted] Army of the United States (lieutenant Colonel, U.S. Army).

Col. Glenn K. Otis, [redacted], Army of the United States (major, U.S. Army).

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.

Vice Adm. Jerome H. King, Jr., U.S. Navy, for appointment to the grade of vice admiral, when retired, pursuant to the provisions of title 10, United States Code, section 5233.

IN THE AIR FORCE

Air Force nominations beginning John R. Chasteen, to be colonel, and ending Paul R. Day, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on April 29, 1974.

Air Force nominations beginning Herbert E. Adams, to be lieutenant colonel, and ending Henry O. Wick, Jr., to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on May 2, 1974.

IN THE ARMY

Army nominations beginning Michael K. Abdo, to be second lieutenant, and ending Ancil L. Hicks, to be second lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on April 29, 1974.

IN THE NAVY

Navy nominations beginning Clifford G. Barnes, Jr., to be ensign, and ending Richard R. Brown, to be a permanent commander and a temporary captain, which nominations were received by the Senate and appeared in the Congressional Record on May 6, 1974.

HOUSE OF REPRESENTATIVES—*Monday, May 20, 1974*

The House met at 12 o'clock noon.

Msgr. James P. Cassidy, director of Catholic Charities, archdiocese of New York, offered the following prayer:

Almighty and Eternal God, Lord of all nations, and Father of all men, we ask Your blessings for all who rule over us that they may exercise their office with wisdom and justice.

Bless them Lord with the courage to ignore their own selves and to be sensitive to the needs of the people they have been elected to serve.

Grant that all people may be aware of their devine vocation and strive to fulfill it with the help of Your Holy Spirit.

Today, on Cuban Independence Day, we pray for the liberty and freedom of all nations and for especially the people of the Cuban nation.

Lord, You make all things new and tell us to wait for Your Kingdom. Grant that the more longingly we look forward to the life of Heaven, the more carefully we carry out our present duties. Grant that we may all be together again with You for ever and ever. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 10942. An act to amend the Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755), as amended, to extend and adapt its provisions to the Convention between the United States and the Government of Japan for the protection of migratory birds and birds in danger of extinction, and their environment, concluded at the city of Tokyo, March 4, 1972.

The message also announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 775. An act to amend the Public Health Service Act to provide for the establishment of a National Institute on Aging.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 13999. An act to authorize appropriations for activities of the National Science Foundation, and for other purposes.

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 202. Joint resolution designating the premises occupied by the Chief of Naval Operations as the official residence of the Vice President, effective upon the termination of service of the incumbent Chief of Naval Operations.

The message also announced that Mr. STAFFORD was appointed in place of Mr. BUCKLEY as a conferee on H.R. 14368, Energy Supply and Environmental Coordination Act.

PERMISSION FOR MANAGERS TO FILE CONFERENCE REPORT ON H.R. 14013, MAKING FURTHER SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1974

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 14013) making further supplemental appropriations for the fiscal year ending June 30, 1974, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

COMMITTEE REFORM AMENDMENTS OF 1974

(Mr. MARTIN of Nebraska asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARTIN of Nebraska. Mr. Speaker, what should Members of the House tell their constituents in reporting to them on the status of the Committee Reform Amendments of 1974, House Resolution 988?

Dare we tell our constituents that this resolution, adopted unanimously by an official, bipartisan House committee after some 15 months of intensive hearings, studies, and discussion, has not been scheduled for debate but has been packed off to a group made up of just Democrats to see if it is to their particular liking?

The action by the Democratic Caucus in holding up action on House Resolution 988 and sending the resolution to a Democratic Caucus committee for study and recommendation has stripped this effort of its bipartisan foundation and turned it into a political circus.

Democrats in the House can, and ought to, feel an acute sense of embarrassment about this type of partisan maneuvering; Republicans can, and ought to, feel an acute sense of outrage. The public can, and ought to, feel a deep sense of embarrassment and outrage.

I call on the leadership to make every effort to terminate this inequitable, one-sided political arrangement and bring this legislation back into the official channels of House procedures so that the entire membership of the House can consider it and exercise its judgment on House Resolution 988.

When that happens we will all have something praiseworthy to tell our constituents.