tee on Internal Security and its predecessor, the House Committee on Un-American Activities. The House Committee on Un-American Activities did not enjoy the reputation for accuracy and documentation which is held by the current committee, and the detractors of Chairman Ichord's work have used this to their advantage. As Representative Ichord, has stated, "the Committee on Internal Security must stand on its history and work, and not that of a predecessor."

Those who would deprive the American people of their one reliable source of information about organizations and groups intent on the overthrow of the Government by unlawful means have now engineered a drive to have the functions of the Committee on Internal Security transferred—without staff—to the Committee on the Judiciary, which is known to be antagonistic, if not hostile, to the work of the Committee on Internal Security. Sadly enough, one of the leaders of this drive is a member of Congress, a member of the Committee on Internal Security, and a member of an organization cited as a communist front which has been a leader in the effort to abolish the Committee. This member of Congress, best not named, but as Representative Ichord has had cause to note time and time again, has boasted that he sought assignment to the Committee in order to "destroy it from within."

The Select Committee on Committees, before which this particular member of Congress pleaded in May 1973, is about to recommend that the functions of the House Committee on Internal Security be transferred without staff to the Judiciary Committee. If this is done, the Committee will become defunct.

This attack on the Committee is just one of several being suffered by law enforcement and intelligence personnel across the nation. At every level, local, State and Federal, those charged with protecting our nation and its citizens from extremists are being harassed, not only by subversive organizations but by well-meaning but certainly unknowledgeable persons. As the memories of riot-torn cities, or Viet Cong flags parading down American streets, of leftist bombings and of sniper attacks on police fade away, the measures taken to combat the all-out assault on our way of life are being offered as proof of unwarranted action by every level of government. Does it not seem odd that many in this country never seem to ask why law enforcement and security personnel were concerned about Marxist organizations? That few take the time to examine the philosophies and tactics of extremist groups, but eagerly take the time to condemn those who sought to protect our country and its people.

The fact is that there were and are organizations in this country committed to Marxism and to other forms of totalitarianism and they are totally uninterested in reforming our system. These groups, and if one takes the time to read their literature one will find that they say so themselves, are committed to revolution and to the destruction of imperialism, that is, the United States. And how are the American people or the American Government to defend themselves against such groups?

Our police department intelligence units are under constant attack in the courts and at budget hearings by groups who allege that the mere existence of such units have a "chilling effect" on free speech. Police research records have been purged, if not dumped, in many locations, destroying years of dedicated work. Does it not seem odd that organizations committed to constructive purposes never seem to be bothered by any level of so-called government "snooping"?

The Subversive Activities Control Board, hamstrung for years by legal maneuvering, is no longer in existence. The Federal Bureau of Investigation, according to recent news stories, indicates it is about to get hit with an "expose" of its efforts against the so-called New Left. The effect of that may well be to take the FBI out of the business of fighting subversion. This itself would be catastrophic and critically affect the internal security of the United States. Two Senators are now introducing legislation to create a special Senate-House Committee to over-see alleged federal snooping. The Department of Defense, a special target of subversive and extremist groups, has been severely shackled in its ability to protect itself from them by a recently issued Department of Defense Directive.

In 1972, the House Committee on Internal Security issued a report of its Subcommittee on Loyalty-Security entitled "The Federal Civilian Loyalty Program." That report, in reviewing the concepts and history of the loyalty program of the Federal civilian work force, noted that a previous investigation in 1942 had discovered that FBI investigations concerning applicants or employees involved in subversive groups were turned over to departments and agencies which were inexperienced in the legislative mandate and which had inadequate information concerning subversive organizations. The Subcommittee's report noted that as of 1972 the situation was little changed, that the problem of training administrative or security personnel for their responsibilities in the complex field of subversive activities had not been resolved. The Subcommittee recommended that all personnel charged with the responsibility for the conduct of investigations, review of investigative reports, evaluation and adjudication of suitability for employment on loyalty or security grounds, and hearings therewith, be required by reason of training, study or experience of the concepts of ideological subversion and the origin and history of Communist and other subversive organizations, their diversity, leadership and semantics, their organizational, recruitment and indoctrination techniques and practices, their propaganda, agitation and conflict doctrines, their objectives, strategies and tactics, and in short the means to the end of destroying this country. Obviously, the current environment to remove or to nullify the ability of the Committee renders this recent rec-

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Two years ago, a Congressional committee inquired into so-called military spying by Army Intelligence. In the midst of these hearings, some "peace-loving" person or persons bombed the United States Capitol while their friends feverishly worked to abolish the surveillance systems which were hindering their efforts to destroy our constitutional government.

Unfortunately, the average American citizen cannot possibly imagine the scope of the efforts made by extremist groups to reduce the security capabilities of this country by every means possible. If the citizens of this nation were to realize and know that their own security and that of their families were at stake and that their liberties were just tenuously being protected by a subcommittee of the Congress, which may soon be put out of business, it is doubtful that Watergate or any of its nonsensical aspects would be of any consequence in comparison.

Those who feel that the work of the Committee on Internal Security is important should write their Congressmen and write the Chairman of the Select Committee on Committees, Representative Richard Bolling, Rayburn Office Building, Room 2465, Washington, D.C. 20515, and tell them how you feel, and why not ask why this Committee is being considered for elimination. The answers you receive might be interesting and even possibly enlightening.

SENATE—*Tuesday, April 2, 1974*

The Senate met at 11:15 a.m. and was called to order by Hon. HOWARD M. METZENBAUM, a Senator from the State of Ohio.

PRAYER

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

Breathe upon us, O Eternal Father, the breath of new life. As nature bursts forth in the beauty of spring, so may our lives be adorned with beauty, goodness, and truth. Bring us a new Passover liberating us from the bondage of darkness and sin into the light of redemption, freedom of the spirit, and fullness of life. May we drink of the water of life freely that our souls may never be thirsty. In the toilsome tedium of daily duties as in the moment of prayer, may we keep the fire of faith burning on the altar of the soul.

We pray in Thy Holy name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The second assistant legislative clerk read the following letter:

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

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. HOWARD M. METZENBAUM, a Senator from the State of Ohio, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, April 1, 1974, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

MOST-FAVORED-NATION TREATMENT TO THE PEOPLE'S REPUBLIC OF CHINA—INTRODUCTION OF S. 3285

Mr. MANSFIELD. Mr. President, the President of the United States has made an excellent record in the field of foreign policy. One of the outstanding achievements, perhaps the most outstanding achievement, in the promulgation of foreign policy during the administration of President Nixon has been the opening up and the normalization of relations with the People's Republic of China. Because of this very worthwhile initiative on the part of President Nixon, we find a continuing exchange of groups between the People's Republic and the United States—an exchange which I hope will expand in the years and decades ahead.

At the time of President Nixon's visit to Peking, the trade between our two countries was zero. The Chinese-American trade has increased from nothing 2 years ago to $750 million in 1973 and could exceed $1 billion this year. American exports to the People's Republic of China have exceeded imports to this country by approximately 10 to 1 and have played a very important part by contributing more than one-third of the total favorable American trade balance last year.

Some of the items bought by China are 10 Boeing 707's, contracts for eight U.S. fertilizer plants, mining and gear-cutting machinery, oilfield equipment, and electronic instruments. Until last year, the Chinese paid cash on the barrelhead for their purchases. Now, it is my understanding they are financing their purchases over 5-year periods, some a little longer, but all on a good credit basis.

It is time, I believe, to grant most-favored-nation treatment to the People's Republic of China and to do so on a single-country basis. In a speech delivered at the Johns Hopkins University School of Advanced International Study on March 15, 1973, I had the following to say about this proposal:

> It has been estimated that about 50 percent of China's exports to the United States are affected by lack of most-favored-nation treatment. The present gross trade imbalance with China cannot continue indefinitely. Either Chinese purchases here will drop or more will have to be bought from China or new multiangular patterns of trade will have to be encouraged in the Western Pacific.
>
> It would be my hope that Congress will provide authority to negotiate a most-favored-nation arrangement with China . . . Such an arrangement could be consummated, notwithstanding the absence of formal diplomatic relations.

It is interesting to note that the People's Republic of China is not only self-sufficient in oil but has for some time been exporting small quantities of that commodity. It is well to keep in mind that the great oilfields of the future may be offshore in the area extending from the Yellow Sea down the entire China coast to Indochina, including islands such as the Senkaku, which are in dispute at the present time between Taiwan, Japan, and the People's Republic of China, Spratly Island, and the Paracels, all of which the People's Republic of China has laid claim to and to all of which, based on historical precedent, they have excellent claims. There is no question in my mind but that the Chinese intend to develop these resources and, on the basis of what geological information there is available, it appears that the People's Republic of China could become a great oil exporting power.

It would be good policy and good sense for this country to follow up President Nixon's initiative in opening up and normalizing our relations with China by going one step further, by bringing into existence a most-favored-nation treaty between our two countries. I advocate such a move. I will support such a move and, in doing so, I think it will establish a policy which will redound to the benefit of both nations.

It is my intention to propose legislation that will provide most-favored-nation treatment for trade with the People's Republic of China.

I send to the desk a bill to achieve that objective, and I ask that it be read and then referred to the appropriate committee.

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

The bill (S. 3285) was referred to the Committee on Finance.

It was read as follows:

S. 3285

A bill to extend most-favored-nation treatment to products of the People's Republic of China

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 231 of the Trade Expansion Act of 1962 or of any other law, products of the Peoples Republic of China, whether imported directly or indirectly into the United States, shall receive nondiscriminatory treatment under the tariff laws of the United States and shall be subject to duty at the rates provided in rate column numbered 1 of the Tariff Schedules of the United States.

Mr. GRIFFIN addressed the Chair.

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

Mr. GRIFFIN. Mr. President, I commend the distinguished majority leader for his most thoughtful and constructive statement.

Like the majority leader, I have had the opportunity to visit the People's Republic of China, to talk with the leaders of that nation, and to observe first hand the conditions there. I am able to attest to the fact that much progress has been made in the People's Republic of China and to the great potential for trade that does exist.

I believe the majority leader would agree with me when that, in many respects, the use of the term "most favored nation" is unfortunate. It is a misnomer which tends to "turn people off" on an emotional basis.

It is important to realize that favoritism is not involved in most-favored-nation status. What is involved is an absence of discrimination in international economic intercourse.

I would inject one note of caution in response to the majority leader's suggestion. Just as our policy in the Middle East wisely contemplates evenhanded treatment, to the extent possible, as between Israel and the Arab Nations, I would suggest that it may be important to recognize a degree of evenhandedness in our relations with the People's Republic of China and the Soviet Union.

As the majority leader knows, we have pending before the Senate, in the Committee on Finance, a very important trade bill—a trade bill which, when it is voted upon, may decide whether most-favored-nation status will be accorded the Soviet Union.

As much as I deplore some of the policies that prevail in the Soviet Union, particularly with regard to emigration, I suggest that it will be a bit difficult to overlook completely similar policies in effect within the People's Republic of China; that is, if we are to be even-handed in our consideration of this issue.

I note with some regret that a large percentage of Members of the U.S. Senate have cosponsored the so-called Jackson amendment which would deny most-favored-nation status to the Soviet Union, because, as is certainly the case, we do not believe the emigration policies of the Soviet Union are as liberal as we would like.

But if we were to be consistent in our policy—if we were to attach a similar condition to the proposal advanced by the distinguished major leader—that most-favored-nation status be for the People's Republic of China—then I am afraid his proposal would probably go "down the drain."

It seems to me that we must view this issue in the context of our total policy, and not as an isolated and unrelated matter. The decision we ultimately reach with respect to the so-called Jackson amendment, as it affects most-favored-nation status for the Soviet Union will surely have an important bearing on whether we should take the most important step suggested this morning by the majority leader with regard to the People's Republic of China.

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

Mr. GRIFFIN. I am glad to yield.

Mr. MANSFIELD. Mr. President, the distinguished acting Republican leader has raised some pertinent questions. I would point out that the situation which exists vis-a-vis the trade relations with the Soviet Union do not exist so far as the People's Republic of China is concerned.

I would point out also that it is the usual policy of this Government to carry on "most-favored-nation" negotiations with specific countries, and that it is most unusual to consider a number of countries en bloc. To me the People's Republic of China is something separate and apart from the Soviet Union and the countries of Eastern Europe. The problem which seems to impede progress on the most-favored-nation treaty now before the Committee on Finance does not exist so far as the People's Republic of China is concerned. I think what we ought to do—and I say this most respectfully—is to follow on what the President has initiated, because our future is linked just as much to the West as it is to the East.

Furthermore, it ought to be brought

out that China, until comparatively recently, has been able to maintain a balance of trade which really was balanced. In 1972 I think their exports were $2.3 billion and their imports were $2.2 billion. A better balance than that would be hard to achieve. Since that time our trade with China has risen from zero to $750 million the last calendar year, and all indications point to a $1 billion trade this year. Our exports to China are approximately 10 times what the Chinese export to this country. While I am a little hazy on my figures, I believe, based on last year's trade, the figures are very likely somewhat comparable to our trade with the Soviet Union. However, I would have to qualify that until I can check the facts.

Then we also have to remember this: For 2 years previous to last year, for the first time since the turn of the century, we suffered trade deficits. Last year we had a trade surplus, and of that surplus, one-third was furnished as a result of our trade with China. Our exports to China, in addition to the items which I mentioned in my prepared remarks, included a large number of agricultural products.

So I would hope we could look at this picture, not in a total sense, not in a composite sense, not in a group sense, but in the sense of separate sovereign nations, the People's Republic of China and the United States working out an agreement which would be mutually beneficial, because the People's Republic of China cannot hardly go on trading on the present basis. In the end, we will suffer, whereas if we can work out a most-favored-nation agreement, I think we will both benefit.

Mr. GRIFFIN. Mr. President, I ask unanimous consent to proceed for another several minutes.

Mr. MANSFIELD. Mr. President, I have had some time, but would the distinguished Senator from Oregon extend to the acting Republican leader 3 or 4 minutes?

Mr. HATFIELD. Yes, I would be happy to.

Mr. GRIFFIN. Mr. President, I find little with which to disagree in the statement of the distinguished majority leader. I would emphasize again that in pursuing our foreign policy, it seems to me that we must keep in mind the impact of such a step on our total effort to build a structure of peace in the world.

In other words, there is a balance—a very delicate balance—to be maintained in our relationships with the People's Republic of China and the Soviet Union.

To the extent that we can encourage trade with either of those great nations, it can be beneficial, depending on what is traded. If we can import needed raw materials, for example, in exchange for our manufactured products, that can be very helpful and could generate more jobs in our country. However, if we were to import large quantities of manufactured goods from either of those countries, which use very cheap labor, the cost in jobs to our country could be damaging. In other words, we must approach the opportunities for trade with both nations with our eyes wide open and with our own national interest in mind.

Having made those points, let me say that I do not wish to throw cold water on the proposal of the suggestion made by the majority leader. It has merit, and certainly it should have the active, careful consideration of Congress and the administration.

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

Mr. GRIFFIN. I yield.

Mr. MANSFIELD. I appreciate the remarks just made by the distinguished acting Republican leader, but I do not know of any large masses or any particular ethnic or religious group seeking to achieve an exodus from the People's Republic of China, as is the case in the Soviet Union.

As a matter of fact, just the other day, a member from the Russian Embassy dropped by my office and left a statement which, it was explained, had been asked for by Senator LONG, chairman of the Finance Committee, and I assume in connection with the trade hearings now underway. According to that statement, which I shall be glad to put into the RECORD—I did not request it—95 percent of the Jewish people who had been seeking to leave the Soviet Union had been allowed to leave that country. I think President Nixon and Secretary Kissinger deserve great credit for accomplishing that much. But I know of no similar situation or need in the People's Republic of China.

I ask unanimous consent that the statement referred to be printed at this point in the RECORD.

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

JEWS LEFT SOVIET UNION

In 1973—33.5 thousand Jews left the Soviet Union for Israel and 645—for the U.S.

Ninety-five percent out of the total number of people, who applied, received permission to leave the U.S.S.R. for Israel and the U.S.

Permission to depart is not granted to those persons who possess state secrets; recently served in the armed forces having a speciality connected with military secrets; and to those who serve prison sentences.

Only nominal procedural fees are paid by persons leaving the U.S.S.R. for permanent residence abroad.

In connection with the recent events in the Middle East, in October–December 1973 a number of applicants to leave for Israel has decreased by 28 percent in comparison with the same period in 1972.

The Soviet authorities have received more than one thousand appeals from former Soviet citizens who left the U.S.S.R. for Israel, asking for permission to come back.

Mr. MANSFIELD. May I say that, as far as I am concerned, on a trade basis, and a trade basis only, I would like to see a most-favored-nation agreement extended to the Soviet Union and those countries of Eastern Europe which are not participants in such an agreement at the present time, but I do think we ought to recognize that there is a distinct difference insofar as concerns the addendum to the trade agreement being considered with the Soviet Union on the one hand and the People's Republic of China on the other. The distinguished Senator having been in China, I think he is well aware of that fact.

Mr. GRIFFIN. Mr. President, I might respond by saying that if actually there is no problem with respect to emigration policy in the People's Republic of China—if there are no large numbers of people who desire to, but cannot, leave the country—them, of course, there should be no particular objection to having the same policy apply.

But looking at the merits, it seems to me that the majority leader has just made an important point. During the last several years, while our relations with the Soviet Union have been improving, the number of Jews who have been allowed to leave the Soviet Union has greatly increased, year by year. As I understand it, the numbers have gone from something like 10,000 to 30,000 a year, during the past several years. Most of the Jews who have sought to emigrate—but not all—have been allowed to emigrate.

The PRESIDING OFFICER. The 3 minutes yielded to the Senator from Oregon have expired.

Mr. MANSFIELD. Mr. President, I yield 1 minute.

Mr. GRIFFIN. In other words, I believe that we would be better off to leave the Jackson amendment-type conditions out of our trade agreements with either country.

I thank the Senator from Oregon for yielding me this time.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed a bill (H.R. 5525) to declare that certain mineral interests are held by the United States in trust for the Chippewa Cree Tribe of the Rocky Boy's Reservation, Mont., in which it requested concurrence of the Senate.

ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills:

S. 969. An act relating to the constitutional rights of Indians;

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

S. 1836. An act to amend the act entitled "An Act To Incorporate the American Hospital of Paris," approved January 30, 1913 (37 Stat. 654); and

S. 2441. An act to amend the act of February 24, 1925, incorporating the American War Mothers to permit certain stepmothers and adoptive mothers to be members of that organization.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. METCALF).

APPOINTMENT BY VICE PRESIDENT

The ACTING PRESIDENT pro tempore. The Chair, on behalf of the Vice President, in accordance with Public Law 85–474, appoints the Senator from Michigan (Mr. GRIFFIN) to attend the Interparliamentary Union Meeting, to be held in Bucharest, Romania, April 15–20, 1974.

HOUSE BILL REFERRED

The bill (H.R. 5525) to declare that certain mineral interests are held by the United States in trust for the Chippewa Cree Tribe of the Rocky Boy's Reservation, Mont., was read twice by its title and referred to the Committee on Interior and Insular Affairs.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. HATHAWAY). Under the previous order, there will be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements therein limited to 5 minutes.

A CABLE FROM SAIGON

Mr. KENNEDY. Mr. President, as I indicated to the Senate yesterday, last week I received a thoughtful and significant reply from Secretary of State Kissinger to my March 13 letter of inquiry concerning current American policy toward Indochina. The Secretary's letter of March 25, which I inserted in yesterday's RECORD, is a welcome clarification of this administration's view of the Paris agreement, and our country's continued involvement in Vietnam and all of Indochina.

I know that other Members of the Senate share my appreciation for the Secretary's candor and responsiveness to congressional inquiries, especially over Indochina where troubling questions persist over the character and purpose of our country's policy, and the level of our involvement.

I regret, however, that the Secretary's honesty and willingness to clarify U.S. policy is apparently not shared by our Ambassador to Saigon.

Mr. President, I recently received a copy of a cable—labeled "Confidential"—sent to the Department of State by Ambassador Graham Martin in Saigon. The subject of the cable—dated March 21—is "Senator KENNEDY's Letter on Indochina Policy." On the face of it, the cable raises the most profound questions about which country and whose interests Ambassador Martin is truly representing. And, as he did so directly in an earlier cable which he asked to have released, he again links alleged decisions in Hanoi with legitimate public and congressional concern over the course of American policy in Vietnam.

I shall ask unanimous consent to insert the full text of Ambassador Martin's cable in the RECORD, but I wish to underscore two sentences that should outrage every Member of this body, and every Member of the Congress.

In his advice to the Department of State as to how it should reply to my letter of inquiry, Ambassador Martin states:

> I think it would be the height of folly to permit KENNEDY . . . the tactical advantage of an honest and detailed answer to the questions of substance raised in his letter.

The Ambassador goes on to say:

> I would suggest a very short routine reply from the Assistant Secretary for Congressional Relations . . .

The cable speaks for itself, and Secretary Kissinger should be commended for not following the Ambassador's advice that a Member of the Senate should not be given honest answers to questions of substance in a significant area of public policy and concern.

Furthermore, Mr. President, the Senate should also be aware of Ambassador Martin's unwarranted interference in field investigations of U.S. foreign aid expenditures by investigators of the General Accounting Office—GAO. Not only has the Ambassador intervened at the highest levels of the GAO to curb their inquiries, but he has repeatedly made every effort to restrict the investigators' access and use of information in the Embassy files. And he has even attempted to censor the transfer of GAO information from Saigon to Washington. The Refugee Subcommittee, which I serve as chairman, and other committees in the Congress have requested inquiries by the GAO. The Ambassador should be reminded that the GAO is an arm of Congress, and not the Ambassador in Saigon or the U.S. Mission in Vietnam.

It is distressing to me, Mr. President, as it is to many of our colleagues, that after all we had gone through in Vietnam—after all the deception we have witnessed over our involvement in Indochina—and after years of debate that nearly tore our society apart—we should still have an Ambassador in Saigon who does not believe the American people deserve honest answers, and who continues to practice the old techniques of coverup and deception for a cause the people no longer support.

This raises serious questions about the qualifications and representation of the American Ambassador to Saigon.

Mr. President, I ask unanimous consent that the full text of Ambassador Martin's cable be printed in the RECORD.

There being no objection, the text of the cable is ordered to be printed in the RECORD, as follows:

SENATOR KENNEDY'S LETTER ON INDOCHINA POLICY

1. It seems rather clear that the Shipler article and the reaction to Embassy Saigon's comment thereon has had the effect of upsetting the timetable of those whose objective it is to aid Hanoi by seriously crippling the RVN through a drastic reduction of economic and military aid. The central effort was to be mounted later against the authorizing and appropriation process for FY 75.

2. I think it would be the height of folly to permit Kennedy, whose staff will spearhead this effort, the tactical advantage of an honest and detailed answer to the questions of substance raised in his letter. While as an individual Senator he has the right to raise them, they are not questions which either fall within the purview of his subcommittee or which should be answered to him as an individual Senator so close before the full administration position is presented to the Foreign Affairs and the Foreign Relations Committees. The list of questions is clearly drawn to thoroughly mix up apples and oranges. Any substantive answer would permit another calculated campaign of distortion that would preempt the attention the presentation of the administration's case should receive.

3. Therefore, I would suggest a very short routine reply from the assistant secretary for congressional relations stating that the department had noted his letter and was sure that its substance would be thoroughly covered in the testimony to be given in the near future by the executive branch witnesses before the appropriate congressional committees which would consider foreign assistance legislation for FY 74.

4. I personally believe the interests of U.S. Policy would be best served by stopping there. However, if it is thought essential to take cognizance of the next-to-last paragraph of the letter another short paragraph might be added. It should state that since a considerable number of Members of Congress had asked the Comptroller General of the United States to investigate precisely the same matters to which Ambassador Martin had called attention, the department would prefer to defer comment until the Comptroller General's investigation had been completed.

MARTIN.

QUORUM CALL

Mr. KENNEDY. 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.

ORDER FOR RECOGNITION OF SENATORS METZENBAUM AND ROBERT C. BYRD ON WEDNESDAY, APRIL 10, 1974

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, after the two leaders or their designees have been recognized under the standing order on Wednesday, April 10, 1974, the distinguished Senator from Ohio (Mr. METZENBAUM) be recognized for not to exceed 15 minutes; and that he be followed by the junior Senator from West Virginia (Mr. ROBERT C. BYRD) for not to exceed 15 minutes.

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

TIME LIMITATION ON ROTH AMENDMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—and this has been cleared on the other side—that at such time as the distinguished Senator from Delaware (Mr. ROTH) brings up his amendment No. 1121, to S. 3044, the Federal Election Campaign Act of 1971, there be a time limitation of one-half hour to be equally divided and controlled in accordance with the usual form.

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

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. 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 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until 11 a.m. tomorrow.

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

STANDARDS PROMULGATED BY THE COST ACCOUNTING STANDARDS BOARD

A letter from the Chairman, Cost Accounting Standards Board, transmitting, pursuant to law, standards promulgated by that Board (with accompanying papers). Referred to the Committee on Banking, Housing and Urban Affairs.

REPORT OF NATIONAL RAILROAD PASSENGER CORPORATION

A letter from the Director, Federal Affairs, National Railroad Passenger Corporation (Amtrak), transmitting, pursuant to law, a report of that Corporation, for the month of November, 1973 (with an accompanying report). Referred to the Committee on Commerce.

PUBLICATION OF FEDERAL POWER COMMISSION

A letter from the Chairman, Federal Power Commission, transmitting, for the information of the Senate, a publication entitled "Federal and State Commission Jurisdiction and Regulation of Electric, Gas, and Telephone Utilities, 1973" (with an accompanying document). Referred to the Committee on Commerce.

REPORT ON DELIVERIES OF EXCESS DEFENSE ARTICLES

A letter from the Assistant Secretary for Congressional Relations, Department of State, transmitting, pursuant to law, a report on deliveries of excess defense articles, for the second quarter of fiscal year 1974 (with an accompanying report). Referred to the Committee on Foreign Relations.

REPORTS OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Telling America's Story to the World—Problems and Issues," U.S. Information Agency, dated March 25, 1974 (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Some progress in Improving Management of Government Owned and Leased Real Property Overseas," Department of State, dated March 28, 1974 (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Problems in the Homeownership Opportunities Program for Low-Income Families," Department of Housing and Urban Development, dated March 27, 1974 (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Observations on Housing Allowances and the Experimental Housing Allowance Program," Department of Housing and Urban Development, dated March 28, 1974 (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Examination of Financial Statements of the Tennessee Valley Authority for fiscal year 1973," dated March 27, 1974 (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Emergency Employment Act: Placing Participants in Nonsubsidized Jobs and Revising Hiring Requirements," Department of Labor, dated March 29, 1974 (with an accompanying report). Referred to the Committee on Government Operations.

PROPOSED AMENDMENT OF CONCESSION CONTRACT

A letter from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed amendment of the concession contract at the Overton Beach site of Lake Mead National Recreation Area (with accompanying papers). Referred to the Committee on Interior and Insular Affairs.

TEMPORARY ADMISSION OF CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, orders relating to the temporary admission of certain aliens into the United States (with accompanying papers). Referred to the Committee on the Judiciary.

WITHDRAWAL OF ALIENS RELATING TO SUSPENSION OF DEPORTATION

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, reporting, pursuant to law, on the withdrawal of Mr. Mohsen Shakerin, A13 732 759, in the case of suspension of deportation. Referred to the Committee on the Judiciary.

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, reporting, pursuant to law, on the withdrawal of Juan Escarpita-Tena, A19 045 498, involving suspension of deportation. Referred to the Committee on the Judiciary.

REPORT ON DEFECTOR ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, reporting, pursuant to law, on certain defector aliens (with accompanying papers). Referred to the Committee on the Judiciary.

REPORT OF U.S. COMMISSIONER OF EDUCATION

A letter from the United States Commissioner of Education, transmitting, pursuant to law, dated March 31, 1974 (with accompanying papers). Referred to the Committee on Labor and Public Welfare.

PROSPECTUS FOR ALTERATION TO FEDERAL BUILDING-POST OFFICE-COURTHOUSE, MISSOULA, MONT.

A letter from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus for alteration to the Federal Building-Post Office-Courthouse, at Missoula, Mont. (with accompanying papers). Referred to the Committee on Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CRANSTON, from the Committee on Labor and Public Welfare, without amendment:

S. 3203. A bill to amend the National Labor Relations Act to extend its coverage and protection to employees of nonprofit hospitals, and for other purposes (Rept. No. 93-766).

By Mr. STEVENS, from the Committee on Commerce, without amendment:

S. 3038. A bill to authorize and direct the Secretary of the Department under which the U.S. Coast Guard is operating to cause the vessel *Miss Keku*, owned by Clarence Jackson, of Juneau, Alaska, to be documented as a vessel of the United States so as to be entitled to engage in the American fisheries (Rept. No. 93-767).

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. HATFIELD:

S. 3284. A bill to reform and simplify the Federal individual income tax. Referred to the Committee on Finance.

By Mr. MANSFIELD:

S. 3285. A bill to extend most-favored-nation treatment to products of the Peoples Republic of China. Referred to Committee on Finance.

By Mr. KENNEDY:

S. 3286. A bill to amend the Social Security Act to establish a national health insurance program for all Americans within the social security system, to improve the benefits in the medicare program including a new program of long-term care, to improve Federal programs to create the health resources needed to supply health care, to provide for the administration of the national health insurance program and the existing social security programs by a newly established independent Social Security Administration, to provide for the administration of health resource development by a semi-independent Board in the Department of Health, Education, and Welfare, and for other purposes. Referred to the Committee on Finance.

By Mr. BAKER (for himself and Mr. BUCKLEY) (by request):

S. 3287. A bill to amend the Clean Air Act as amended and for other purposes. Referred to the Committee on Public Works.

By Mr. COTTON:

S. 3288. A bill to provide effective relief from disruptive imports of nonrubber footwear in a manner that will be fair to producers, workers, and consumers. Referred to the Committee on Finance.

By Mr. JACKSON:

S. 3289. A bill to amend the Act of August 10, 1939 (53 Stat. 1347), and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. JAVITS (by request):

S. 3290. A bill to improve and extend the Public Health and National Health Service Corps Scholarship Training Program. Referred to the Committee on Labor and Public Welfare.

By Mr. BELLMON:

S. 3291. A bill to return to the Congress, through the implementation of procedural reforms, the ability to insure that rules and regulations promulgated through the administrative process shall reflect the intent of Congress. Referred to the Committee on the Judiciary.

By Mr. PASTORE (for himself and Mr. AIKEN):

S. 3292. A bill to authorize appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes. Referred to the Joint Committee on Atomic Energy.

By Mr. DOMENICI:

S. 3293. A bill to authorize the Atomic Energy Commission in consultation with the U.S. Environmental Protection Agency to enter into cooperative agreements with certain States to contain and render harmless uranium mill tailings, and for other purposes. Referred to the Joint Committee on Atomic Energy.

By Mr. WILLIAMS:

S. 3294. A bill to provide that employees of States and political subdivisions thereof shall be subject to the provisions of the National Labor Relations Act; and

S. 3295. A bill to guarantee the right of employees to organize and bargain collectively which safeguards the public interest and promotes the free and unobstructed flow of commerce. Referred to the Committee on Labor and Public Welfare.

By Mr. STEVENSON (for himself and Mr. PERCY):

S. 3296. A bill to amend the Soldiers and Sailors Civil Relief Act. Referred to the Committee on Armed Services.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATFIELD:

S. 3284. A bill to reform and simplify the Federal individual income tax. Referred to the Committee on Finance.

Mr. HATFIELD. Mr. President, today I am introducing a major new tax proposal that I have called Simpliform. The standard deduction would be eliminated as well as most itemized deductions of a nonbusiness nature. Personal exemptions would also be eliminated but would be replaced by a personal exemption credit of $250 per adult.

This would reduce the income tax form to four lines—the present form 1040 has over 64 lines. The taxpayer would merely state one, his gross income; two, his gross tax; three, credit for exemptions; and four, his net tax or refund. Everyone would be treated the same. Everyone would use this form.

Rates would also be lower. They would go from 10 percent on incomes under $10,000 to 50 percent on incomes over $1 million. The present range is from 14 percent to 70 percent.

Ralph Nader's Tax Reform Research Group said of Simpliform, "no hocus-pocus with numbers: honest reform."

Simpliform would:

Double the tax base from $500 billion to $1 trillion: this allows tax rates to be cut on the average by half.

The tax form goes from 64 lines to 4. The number of tax brackets goes from 27 to 9. The number of tax rate tables goes from four to one.

All dollars are treated equally; each adult receives a $250 tax credit, replacing the present system of personal exemptions which treats persons unequally—for the wealthy person in the 70-percent bracket, his $750 personal exemption is worth $535 whereas a less affluent person in the 14-percent bracket is valued by the Government at only $105.

All personal itemized deductions are eliminated, which means a much lower rate schedule: for a couple it means no taxes below $5,000, 10 percent up to $10,000, 15 percent up to $15,000 and so on with a maximum rate of 50 percent for incomes over $1 million.

Additionally, Simpliform will greatly reduce the cost of preparing, collecting and enforcing taxes from the present level of $2 billion annually.

That is the structure of my proposal.

The heart of the proposal lies in making our antiquated tax system not only more fair but simpler to comply with and to administer.

In a recent interview published in U.S. News & World Report, the new Commissioner of Internal Revenue, Donald Alexander, stated:

I would like to have a simpler tax code and tax form, one which is better understood by more people.

He went on to say:

Pressure toward simplification is going to come from ordinary people, not pressure groups, who are willing to see some shifts of a minor nature in the tax burden in order to get real reform.

Simpliform would achieve Commissioner Alexander's aim.

There is little doubt that a sense of unrest characterizes the mood of the American taxpayer. Yet, efforts to adjust the present tax code to make it more equitable have only made it more difficult for the individual to determine his actual liability. Sophisticated techniques and a major industry have been created to cope with the ever-increasing forms and format. Somehow, this keeps working to the disadvantage of the small taxpayer—or so it seems to him.

Let us see how a family would come out under Simpliform and how it compares with current law. Let us say that a family has two young children and a combined salary of $12,500 per year. Under current law, the family takes the standard deduction, four exemptions and the parents file jointly. Tax bill: $1,300. Under Simpliform the "Gross Income" on line 1 is $12,500 and the "Gross Tax" on line 2 is $1,375. But the family get two credits of $250 each on line 3. Subtracting these from line 2, the "Net Tax" on line 4 is $875—a saving of $425.

Tax Analysts and Advocates, a public interest tax law and research group, has estimated that in fiscal year 1975 "tax expenditures" for individuals will amount to $78 billion. In other words, some $78 billion will escape taxation through loopholes and incentives created by Congress over the years. The distinguished Senator from Minnesota (Mr. MONDALE) has recently noted one of the effects of this leakage—the fact that 402 Americans with incomes of over $100,000 paid no tax at all in 1973. Incidentally, I was pleased to see that Senator MONDALE is also interested in replacing the personal exemption with a tax credit, and I have asked that I be made a cosponsor of S. 2906, the Senator's bill to achieve that goal.

All of us are aware of the erosion of the tax base, and how it bears upon the tax rates charged to middle-income Americans. All of us are eager for a thoroughgoing reform of the tax structure, for a system that is both equitable and simple. Our problem is that we all and tax breaks. Simpliform will wipe the want to protect our own special loopholes slate clean by eliminating them all. It may well be that Congress will wish to reinstate some deductions, such as that for business expenses. But if deductions are maintained, let it be on the basis of their merits, and not their longevity of service to special interests.

Simpliform would eliminate loopholes and lay the tax burden where it belongs—on those who can bear it.

Mr. President, today I am introducing my Simpliform proposal. I also have a copy of my 1972 statement to the Republican platform committee, and the report of the Nader Tax Reform Research Group. I should like to direct the particular attention of Senators to the platform committee statement, for it contains a great deal of useful information on Simpliform's benefits for senior citizens, entrepreneurs, middle-income earners, and single persons.

I ask unanimous consent that my 1972 Republican platform committee statement on Simpliform, the report of the tax reform research group, and the text of the bill be printed at this point in the RECORD.

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

REPUBLICAN PLATFORM COMMITTEE TESTIMONY
1972

(By Senator MARK O. HATFIELD)

Mr. Chairman, we are all familiar with two aspects of our Federal income tax system which are wrong: it is much too complicated and it is not as fair as it could and should be.

It is horribly complicated and confusing when:

Nearly $2 billion are spent in filling out tax forms and even then the more than 50,000 "tax preparers" cannot get it right most of the time. In fact, former Treasury Secretary John Connally pointed out that a Treasury survey of such returns found 97% inaccurate.

The income tax form has grown from 18 lines to 63 lines, not counting the multitude of additional schedules. And the book of instructions is so complex that even college graduates cannot understand all of it.

A Treasury official (quoted in the Washington Evening Star News, August 4, 1972) stated that "if we don't simplify taxes, the system will fall on its own weight . . . the seeds of decay are growing."

As a matter of fact, even the Internal Revenue Service with its 70,000 employees cannot complete the tax forms properly any more. In a test by the Wall Street Journal (April 12, 1972) five different IRS offices came up with five different tax results for the same taxpayer.

When the tax system has reached this point, we must all admit it is in a shambles. Even acknowledged tax experts say "they are knowing less and less about more and more." From a one paragraph amendment to the Constitution, the income tax has emerged as a hydra-headed monster that now takes more than a 6-foot bookshelf to contain its laws and regulations.

We also know that the tax system is not fair: a Harris Poll last year found that 69% of the public had joined the "tax revolt"—up from 43% two years earlier. The tax system is unfair when 21,317 persons in 1969 with incomes over $20,000, including 56 millionaires, paid no taxes whatsoever.

People with income under $2,000 paid one-half of this in all forms of taxes (federal, state, and local), as computed by the U.S Census Department in its 1970 Census, at the same time that one multi-millionaire paid $500 and another paid $4,500 in federal income taxes, which is less than they make in one hour. The rest of us end up paying about 30% of our income in all forms of taxes regardless of the income level despite the alleged progressive nature of the federal income tax that should rectify all this.

The Congress and the Treasury have tried to correct these admitted deficiencies in the tax system. It was tried in 1954, 1964, and finally in the "Tax Reform Act of 1969." An attempt was made to fill loopholes but more were created. It seems as though an effort was made to achieve reform through complexity but only more complexity resulted. The 1969 Act became so complex it was labeled "The Lawyers and Accountants Relief Act of 1969" by the Assistant Secretary

of the Treasury for Taxation. A year after reform 3,000 people with incomes over $30,000 still paid no taxes.

We have tried reform through making the tax laws more complicated but only succeeded in the latter. It is now high time we aim for tax reform through simplification to achieve both.

What I am proposing today owes its genesis to many individuals. It is a direction in which I believe we should move and a vehicle for discussion and perhaps improvement. I offer it in anticipation of major tax reform efforts during the next Congress in order that we in the Congress might examine as many of the complexities and implications of our present system as possible—and hopefully produce a better tax system.

I call my approach the "Simpliform" system. This is how it would work.

We would move to a simple gross income tax system eliminating all deductions except the personal exemption. (This resembles state income tax laws in Indiana and Pennsylvania.) This would mean more than 90% of our taxpayers could complete their form on a small IBM card using only four lines: total income, gross tax, credit for personal exemptions, and net tax (or refund) due.

All income flows (wages, salaries, interest, dividends) would be subject to a 10% withholding at the sources. The payers of such income flows would (as now except for interest and dividends) send copies of such withholdings to both the IRS and the taxpayer. At the end of the year the taxpayer would simply attach the withholding forms to his "simpliform" tax card, fill in the four lines, and that would be it.

The mathematics are quite simple: in rough orders of magnitude, in 1972 there was a total personal income tax base of about $914 billion (based on a Brookings Institution study by Drs. Okner and Pechman). A 10% withholding rate across the board would bring in $91 billion, roughly the current yield ($86.5 billion in fiscal 1972). The exemptions would be in the form of a straight dollar "tax credit" of $250 per adult (over 18). (Under a 10% tax rate their tax credits would be equivalent to a $2,500 adult deduction compared to the current $750 deduction under present law.) These personal exemptions would reduce the revenue yield by about $28 billion. However, this amount will be more than recouped by the progressive surtax provisions I propose to keep in the income tax in accord with our tradition of "ability-to-pay." (To raise additional revenue, a surcharge should be made on the actual amount paid, rather than increasing the specific surtax.)

It might be asked, why use "tax credits" instead of "deductions" from the total income base? The answer is simple equity; it would give each person the same dollar tax break. Under the present law a person in the 70 percent tax bracket gets a $525 tax cut for his exemption whereas a person in the bottom 14 percent bracket only benefits by $105. My plan gives to each one equally: $250 per adult—18 years old and above. (Children are required here as "choices" for parental consumption expenditures in our age of targeted "zero population growth." There is no reason why single or married individuals without children should have to "subsidize" other people's children, which is what the present system does. Obviously poor families are still taken care of under welfare.)

Would this "proportional" 10% tax rate system be "progressive" that is, be based on our tradition of "ability to pay"? Yes, in fact, while the present system is supposedly "progressive" it turns out to be "proportional because of loopholes." My system would be "progressive because of the use of personal credit exemptions. Thus, under my system a family of four would pay no taxes below a level of $5,000. At that point ($5,000) the tax rate would rise from zero and approach 50% at the level of $1 million under my surtax provisions. This is accomplished by a "surtax" of 5% on income between $10,000–$15,000; 10% between $15,000–$20,000; 15% between $20,000–$25,000; 20% between $25,000–$50,000; 25% between $50,000–$100,000; and 30% between $100,000–$5000,000; 35 between $500,000–$1,000,000; and 40% on incomes over $1 million. Thus, establishing a top bracket rate of 50% (10% base plus 40% surtax). (At present the actual top rate on upper incomes is not the 70% statutory rate, but is really an average 32%). This surtax would not complicate the system for nearly one-half of all American families have incomes below $10,000 and would hardly be difficult for those above the $10,000 bracket to compute—indeed, it would resemble many state income tax systems in its simple 5% brackets. This is illustrated in the following table:

SIMPLIFORM INCOME TAX SYSTEM

[Assume family of 4: 2 adult tax credits of $250–$500; in thousands of dollars]

Tax bracket (thousands of dollars)	0 to 10	10 to 15	15 to 20	20 to 25	25 to 50	50 to 100	100 to 500	500 to 1,000	1,000 plus
Marginal tax rate (highest)	10 percent	15 percent	20 percent	25 percent	30 percent	35 percent	40 percent	45 percent	50 percent.
Tax (before $500 2-adult credit)	10 percent	$1,000+15 percent above $10,000.	$1,750+20 percent above $15,000.	$2,750+25 percent above $20,000.	$4,000+30 percent above $25,000.	$11,500+35 percent above $50,000.	$29,000+40 percent above $100,000.	$189,000+45 percent above $500,000.	$414,000+50 percent above $1,000,000.
Illustrative tax (on middle of income tax bracket):									
Sample income	$7,500 [1]	$12,500	$17,500	$22,500	$37,500	$75,000	$300,000	$750,000	$2,000,000.
Tax	$250	$875	$1,750	$2,875	$7,250	$19,750	$108,500	$301,000	$91,3500.
Average tax rate	3.3 percent	7 percent	10 percent	12.8 percent	19.3 percent	26.3 percent	36.2 percent	40.1 percent	45.7 percent.

[1] No tax on 2-adult family with income $5,000 and below; $7,500 taken as middle of 1st taxable range of $5,000 to $10,000.

An important question might be raised: Would not the "middle income" American lose by eliminating deductions for property taxes, mortgage interest, medical expenses and charitable contributions? No, he would only be treated more fairly. On the average those with incomes below $20,000—86% of all families—will gain by this new system. Under the present law the "middle income" American is really subsidizing the rich. The "middle income" American, say in the 20% tax bracket, gets the benefit of 20 cents on the dollar for his property taxes, interest payments, contributions, etc.—the wealthy get up to 70 cents on the dollar for the same activities. Why should the "middle income" American pay higher taxes so the rich can deduct $70 of a $100 ticket to a Charity Ball when he gets only a 20 cents tax break for each dollar he puts in the church collection plate? Why should he pick up the tab for 70% of the tax and interest payments on a $200,000 mansion? By my system the "middle income" American could get direct relief through special grants or credits for property tax reductions. In addition, the homeowner and renter would be treated equally. So would those who bother to "itemize" and those who use the standard deduction. Instead of medical deductions favoring the wealthy, he would get better medical care through expanded health insurance programs, Medicare, and Medicaid, and federally-funded improved health care delivery systems provided by these tax savings. Let's not complicate our tax system to give "welfare" to the rich when we can get lower property taxes and better health care by a more direct and cheaper method.

The "middle-income" homeowner might ask: Wouldn't I still be better off taking my itemized deductions? Doesn't the Simpliform System only help those taking the standard deduction?"

The answer is definitely NO—unless you now pay interest on a mortgage with a remaining balance well over $40,000 and pay, in addition, well over $1,000 in property taxes.

For example, a family of four earning $15,000 a year would pay only $1,250 (or 8.3 per cent) under Simpliform. Under the present system (1972) the family taking the standard deduction would pay $1,930 in taxes (or 12.9 per cent). If the family took the average deductions now taken by half the families that itemize (average amount for a $15,000 family is $2,600), the tax would still be $1,688 (or 11.3 per cent)—and the family would still gain under Simpliform by some $418—worth a 25 per cent tax reduction compared to present law.

What the present system does is NOT to benefit the middle income homeowner who itemizes—what it does is to charge him a higher average tax rate so that the wealthier families with $100,000 homes get by with a lower tax bill. Under Simpliform the family with $15,000 in income, a $50,000 home, the average $1,000 for medical insurance, contributions, and miscellaneous deductions would still come out ahead by about 25 per cent less tax than under the present system.

What Simpliform really does is to tax income equally among income groups—and then to equalize tax breaks between the middle-income groups and the very rich. Itemized deductions and other preferences such as for capital gains may lower the average tax rate on the middle income family by a few percentage points (as in the $15,000 example) from 13 per cent to 11 per cent—but that family could get a bigger break—down to only 8 per cent under Simpliform. The reason why he now doesn't get that full tax break is that these very same deductions and preferences that give him 2 or 3 percentage points reduce the average tax rate of those earning over $50,000 by 20 to 30 percentage points! Thus, the millionaire goes from a tax rate above 60 per cent down to almost 30 percent—while the middle-income American thinks he's the big winner by getting a reduction from 13 to 11 per cent.

How would this "Simpliform" system work in practice for different income groups? The following table may help: (based on a family of four now taking the standard deduction). (I have included the social security "tax" on employee wages to provide a consolidated income and social security tax rate on earned income.)

Family income	Present system					Simpliform				
	Income tax	Social security tax	Total	Rate	Average rate, percent excluding social security	Income tax	Social security tax	Total	Rate	Average rate, percent excluding social security
$2,000	0	$100	$100	5.0	0	0	$100	$100	5.0	0
$4,000	$39	200	239	6.0	1.0	0	200	200	5.0	0
$5,600	271	280	551	9.8	4.8	60	280	340	6.1	1.1
$8,000	672	400	1,072	13.4	8.4	300	400	700	8.75	3.75
$10,000	1,000	450	1,450	14.5	10.0	500	450	950	9.5	5.0
$12,000	1,342	450	1,792	14.9	11.1	800	450	1,250	10.4	6.7
$15,000	1,996	450	2,446	16.3	13.3	1,250	450	1,700	11.3	8.3
$20,000	3,210	450	3,660	18.3	16.1	2,250	450	2,700	13.5	11.3
$25,000	4,636	450	5,086	20.3	18.5	3,500	450	3,950	15.8	14.0
$50,000	14,960	450	15,410	30.8	29.9	11,000	450	11,450	22.9	22.0
$100,000	42,660	450	43,110	43.1	42.7	28,500	450	8,950	29.0	28.5

Note: Negative tax equals refund. Present system based on 1971 income tax tables. Social security tax based on a 5-percent tax on first $9,000 income. (Actual 1972—5.2 percent.)

Notice that the "Simpliform" system would reduce taxes for all income groups based on combined federal income tax (and/or social security tax payments) and using the standard deductions) substantially benefit, especially those below $20,000. The overall equivalent yield of "Simpliform" at much lower tax rates is based on the elimination of "itemized deductions" plus the inclusion of all income (half of capital gains, tax-exempt bond interest, etc.) which are now excluded from the tax base.

How would business and entrepreneurs be affected? Full capital gains would be included in our income tax base. (This would require a separate form for the 5% of the population who receive capital gains; for those in mutual funds, capital gains would be reported the same as dividends or other ordinary income and included on the same simple 4-line "Simpliform" requiring no other schedule).

But remember the top rate for most Americans would still be well below 25%, which is the rate for most capital gains under the so-called alternative schedule used by most capital gainers, so there would be no direct change. (The highest marginal rate does not go above 25% until $25,000 in income.) (At present capital gains tax rates range between 7–35% but the predominant bulk is at 25%). For those earning between $50,000–$100,000 the rate would go to only 35% which is now the maximum rate. For those earning over $100,000, the highest rate would still be 40% until $500,000. But this is more than compensated for by the reduction in the top rate of 70% down to an average 41% on ordinary income for a millionaire. Overall incentives will be increased for business enterprise.

Indeed, for a young single executive who now faces marginal income tax bracket rates of 40% by the time he reaches $23,500, he will still be in the 25% tax bracket under "Simpliform." Those just below $50,000 will face only a 30% bracket under "Simpliform," as contrasted to 60% under present law. Incentives thus will be increased rather than diminished for rising young executives. And they will not have to waste time worrying about converting ordinary income to long-term gains because all will be called simple income under my system.

How will the senior citizen fare under Simpliform? He may now think he is getting a real break by getting a double personal exemption for being over 65 and by having his from the federal income tax. Nothing could be farther from the truth.

This supposed advantage is really illusory over what the system could be under Simpliform. Now the senior citizen is really subsidizing the rich retired person at the cost of his own living standard. And this is why.

The double personal exemption means nothing to the retired citizen who has so little income he pays low taxes anyway. If he does pay taxes, the extra exemption of $750 means $525 to the person in the 70 percent bracket but only $105 to the person in the 14 per cent tax bracket. Under Simpliform he gets $250 credit for his equivalent "personal exemption" now in the tax income—and this is the same for everyone, rich or poor. All senior citizens get the same—thus most would get more because no longer will the few get five times as much as the modest retired citizens.

Likewise, taxing social security benefits will mean no taxes for the majority of retired couples whose retirement income is below $5,000—for under Simpliform no couple pay federal income taxes below that level. For retired citizens above that level of income the system will no longer favor the millionaire over the retired average senior citizen. As it works now, the exemption of retirement income from the federal income tax means that the millionaire gets the "before-tax equivalent" of $3,333 for every $1,000 in pensions whereas the person in the bottom tax bracket gets only the "before-tax equivalent" of $1,163—almost a third less.

Thus by taxing social security benefits we can give the same retirement benefit to the modest senior citizen as to the rich. Now the wealthy social security recipient benefits at the cost of all others. Above, all, by equalizing social security benefits within the tax system—we can save the money to increase social security benefits for most. No longer will the modest retired have to subsidize the wealthy retired.

Indeed, under Simpliform the retired couple with income (from all sources) below $5,000 won't be taxed at all; with those having incomes between $5,000 and $10,000, the small tax of 10 percent on their social security and other income above $5,000 will be more than compensated for by the possible increases in social security benefits—as in the 20 percent just legislated this summer—and for those with substantial pensions and other incomes, the lower average tax rates under Simpliform will be easy to bear. At least the very rich won't get the equivalent of $10,000 for pre-tax income they now get from a $3,000 social security pension—at the same time those with modest retired incomes hardly benefit from this tax loophole at all—indeed are prevented from getting higher social security benefits because of it.

The tax savings under Simpliform in this area alone would allow an increase in social security benefits—after taxes—for those with retirement incomes below $20,000—by simply recouping the lost taxes from those above $20,000 in retirement income who now pay no taxes on retirement income.

How does Simpliform aid the young—say those between 18 to 24 or 30? Surely the present system does not.

Now the young are penalized severely by the system. Instead of equal opportunity to find a place in the sun of economic benefit, they come up against a tax system that:

Favors the married over the single (by income-splitting provisions that reduce the tax rate for married workers).

Favors the homeowner with his deductions for property taxes and mortgage interest as against the mobile renter—who still pays taxes and interest in higher rent payments but doesn't get the deductions.

Favors the older, wealth-holders over younger income-earners who don't have capital gains from long-held wealth.

Favors the large family over the newer smaller family or single person by the federal income tax subsidy in the form of personal exemptions for children.

In dollars and cents what does this mean?

It means that a single young man or woman is taxed over one-third of every additional dollar by the time he or she earns over $17,500. For the older—and usually wealthier and well-established—married man with two children, that tax bracket won't be reached until over $25,000. Under Simpliform—both will be treated equally—but both won't reach that 33 percent tax bracket until $50,000.

The beginning young person earning $5,000 faces a federal income tax bill of over $500—or about 10 percent under the present system. Under Simpliform this will be cut in half—he would only pay $250.

For the young couple who rent an apartment and make $10,000 a year: Under the present system this couple would pay over $1,200 in federal income taxes. Under Simpliform the tax would be only $500—much less than half.

Simpliform says simply that the tax system should not favor the homeowner over the renter, those who prefer large families to those who are single or who prefer small families, those who are married over those who are single, or those who are old as against those who are young.

The tax system can be both simple and fair. I believe Simpliform is both.

Let me now summarize some of the simple arithmetic and actual shift in tax burdens of this proposal with some tables prepared for me by the Congressional Research Service:

TAX YEAR 1972

AGI	Income tax	Social security tax	Total tax liability	Total tax rate	Income tax rate
PRESENT TAX SYSTEM					
One-member family:					
2,200	0	104	104	5.2	0
4,000	306	208	514	12.9	7.6
5,600	609	291	900	16.1	10.9
8,000	1,105	416	1,521	19.0	13.8
10,000	1,530	468	1,998	20.0	15.3
12,000	1,952	468	2,420	20.2	16.3
15,000	2,702	468	3,170	21.1	18.0
20,000	4,255	468	4,723	23.6	21.3
25,000	6,090	468	6,558	26.2	24.4
50,000	18,540	468	19,008	38.0	37.1
100,000	51,192	468	51,660	51.7	51.2
2-member family:					
2,000	0	104	104	5.2	0
4,000	174	208	382	9.6	4.4
5,600	422	291	713	12.7	7.5
8,000	853	416	1,269	15.9	10.7
10,000	1,190	468	1,658	16.6	11.9
12,000	1,534	468	2,002	16.7	12.8
15,000	2,150	468	2,618	17.5	14.3
20,000	3,400	468	3,868	19.3	17.0
25,000	4,860	468	5,328	21.3	19.4
50,000	15,310	468	15,778	31.6	30.6
100,000	43,080	468	43,548	43.5	43.1
3-member family:					
2,000	0	104	104	5.2	0
4,000	67	208	275	6.8	1.7
5,600	302	291	593	10.6	5.4
8,000	710	416	1,126	14.1	8.9
10,000	1,048	468	1,516	15.2	10.5
12,000	1,371	468	1,839	15.3	11.4
15,000	1,985	468	2,453	16.4	13.2
20,000	3,198	468	3,666	18.3	16.0
25,000	4,620	468	5,088	20.4	18.5
50,000	14,935	468	15,403	30.8	29.9
100,000	42,630	468	43,098	43.1	42.6
4-member family:					
2,000	0	104	104	5.2	0
4,000	0	208	208	5.2	0
5,600	189	291	480	8.6	3.4
8,000	573	416	989	12.4	7.2
10,000	905	468	1,373	13.7	9.1
12,000	1,228	468	1,696	14.1	10.2
15,000	1,820	468	2,288	15.3	12.1
20,000	3,010	468	3,478	17.4	15.1
25,000	4,380	468	4,848	19.4	17.5
50,000	14,560	468	15,028	30.1	29.1
100,000	42,180	468	42,648	42.6	42.2
5-member family:					
2,000	0	104	104	5.2	0
4,000	0	208	208	5.2	0
5,600	81	291	372	6.6	1.4
8,000	446	416	862	10.8	5.6
10,000	763	468	1,231	12.3	7.6
12,000	1,086	468	1,554	13.0	9.1
15,000	1,655	468	2,123	14.2	11.0
20,000	2,823	468	3,291	16.5	14.1
25,000	4,170	468	4,638	18.6	16.7
50,000	14,185	468	14,643	29.3	28.4
100,000	41,730	468	42,198	42.2	41.7
6-member family:					
2,000	0	104	104	5.2	0
4,000	0	208	208	5.2	0
5,600	0	291	291	5.2	0
8,000	326	416	742	9.3	4.1
10,000	620	468	1,088	10.9	6.2
12,000	943	468	1,411	11.8	7.9
15,000	1,490	468	1,958	13.1	9.9
20,000	2,635	468	3,103	15.5	13.2
25,000	3,960	468	4,428	17.7	15.8
50,000	13,820	468	14,288	28.6	27.6
100,000	41,280	468	41,748	41.7	41.3
SIMPLIFORM TAX SYSTEM					
2-adult family:					
2,000	0	104	104	5.2	0
4,000	0	208	208	5.2	0
5,600	60	291	351	6.3	1.1
8,000	300	416	716	9.0	3.8
10,000	500	468	968	9.7	5.0
12,000	800	468	1,268	10.6	6.7
15,000	1,250	468	1,718	11.5	8.3
20,000	2,250	468	2,718	13.6	11.3
25,000	3,500	468	3,968	15.8	14.0
50,000	11,000	468	11,468	22.9	22.0
100,000	28,500	468	28,968	29.0	28.5
One-adult family:					
2,000	0	104	104	5.2	0
4,000	150	208	358	9.0	3.8
5,600	310	291	601	10.7	5.5
8,000	550	416	966	12.1	6.9
10,000	750	468	1,218	12.2	7.8
12,000	1,050	468	1,518	12.7	8.0
15,000	1,500	468	1,968	13.1	10.5
20,000	2,500	468	2,968	14.8	12.5
25,000	3,750	468	4,218	16.9	15.0
50,000	11,250	468	11,718	23.4	22.5
100,000	28,750	468	29,218	29.2	28.8

Note: All calculations are based on the following assumptions: (1) 1 wage earner per family and all income is from wages for purposes of social security tax computation; (2) the most advantageous of either the low-income allowance or the percentage standard deduction is used; (3) all families are assumed to file a joint return except for the 1-member family which files as a single individual.

In conclusion, it is time to think anew and act anew to solve the mess of our present tax system. It is both too complex and unfair—and attempts to make it more fair have succeeded in making the system only more complex. We have tried the route of filling loopholes and making marginal adjustments. It is time to "redo" the system from the bottom up. We can do it. We can make a substantial simplification which also brings reform—for the poor, for the elderly, for the business entrepreneur, and for the overburdened and overbothered middle class.

My "Simpliform" approach is a way of fresh "new thinking" about tax reform. I do not know all the answers and my proposals are not yet ready to be carved in granite, but the call for tax reform continues and I submit this proposal so that it might be included in that discussion.

Hatfield "Simpliform" Real

The Administration continues to rail against tax reform and to insist it isn't needed, but some Republicans are getting down to business. Senator Mark Hatfield, (R-Ore.) recently presented a plan to simplify and reform the federal income tax to the Republican Platform Committee. Hatfield's plan, worked out by Professor Harley Hinrichs of the U.S. Naval Academy at Annapolis, is the real thing. No hocus-pocus with numbers: honest reform.

Hatfield calls his plan "Simpliform," from the form his system would use. The form has only four lines (the current Form 1040 has over 64.) The taxpayer merely has to state 1) His gross income; 2) His gross tax; 3) Credit for exemptions; and 4) His net tax or refund.

Cuts Loopholes

Hatfield's plan does more than just make the form simpler. It cuts the complexity out of the tax laws themselves; and that means cutting out loopholes. Under "Simpliform," there would be no more capital gains loophole, no more loophole for interest on state and local bonds, no more itemized deductions, and no more personal exemptions—in short, no more tax favors for the wealthy. Simpliform treats everyone the same.

That's why the tax form can be so simple.

Rates would be simpler too. Instead of the current 27 tax brackets there would be nine. And a single rate table would replace the four we have now.

Rates would also be lower. They would go from 10% on incomes under $10,000 to 50% on incomes over $1 million. The present range is from 14% to 70%. Lower rates are one bonus from closing loopholes.

Even though rates would be lower, "Simpliform" would be more progressive than the current law. Middle-income taxpayers would come out ahead. And the very rich, though paying more, would still have ample amounts left over for themselves. Professor Hinrichs estimates that the average family making under $20,000 would pay less tax than it does now. The average millionaire, who now pays 32% of his income in taxes, would pay 45%. And families making less than $5000 would pay no tax at all.

One reason Hatfield's plan is more progressive is that it gets rid of personal exemptions and puts tax credits in their place. An exemption is a chunk out of taxable income; the higher one's tax bracket, the more benefit he gets. Tax credits, on the other hand, the taxpayer subtracts right from his tax bill; so the poor man gets as much as the rich.

Hatfield proposes a tax credit of $250 for each family member of 18 years and older. Why no credits for children? So that single people and families without children would no longer have to subsidize other people's kids.

Compare

Let's compare (roughly) how a family comes out under Hatfield's "Simpliform" plan, with how it fares under current law. Our family has two young children and a combined salary of $12,500 per year. Under current law, the family takes the standard deduction, four exemptions, and the parents file jointly. Tax bill: $1300. Under "Simpliform" the "Gross Income" on line 1 is $12,500 and the "Gross Tax" on line 2 is $1375. But the family gets two "Credits" of $250 each on line 3. Subtracting these from line 2, the "Net Tax" on line #4 is $875—a $425 savings!

We hope the White House and its watercarriers in the Treasury will stop grinding out anti-tax reform statistics and arguments long enough to study Hatfield's plan. It deserves their attention—and the attention of serious tax reformers as well.

S. 3284

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Simpliform Tax Act".

(b) Amendment of 1954 Code.—Except as otherwise expressly provided, whenever in this Act a reference is made (by way of amendment, repeal, or otherwise) to a sec-

tion, chapter or other provision, the reference shall be considered to be made to a section, chapter, or other provision of the Internal Revenue Code of 1954.

(c) Technical and Conforming Changes.—The Secretary of the Treasury or his delegate shall, as soon as practicable but in any event not later than 90 days after the date of enactment of this Act, submit to the Committee on Ways and Means of the House of Representatives a draft of any technical and conforming changes in the Internal Revenue Code of 1954 which are necessary to reflect throughout such Code the changes in the substantive provisions of law made by this Act.

EFFECTIVE DATE

SEC. 2. Except as otherwise provided the amendments and repeals made by this Act shall apply to taxable years beginning after the date of the enactment of this Act.

REPEALS

SEC. 3. (a) The following provisions in chapter 1 (relating to normal taxes and surtaxes) are repealed:

(1) Section 4 (relating to rules for optional tax).

(2) Section 35 (relating to partially tax-exempt interest received by individuals).

(3) Section 37 (relating to retirement income).

(4) Section 41 (relating to contributions to candidates for public office).

(5) Part VI of subchapter A (relating to minimum tax for tax preferences).

(6) All sections in part III of subchapter B (relating to items specifically excluded from gross income), except—

(A) section 101 (relating to certain death benefits),

(B) section 102 (relating to gifts and inheritances),

(C) section 104 (relating to compensation for injuries or sickness),

(D) section 105 (relating to amounts received under accident and health plans),

(E) section 106 (relating to contributions by employer to accident and health plans),

(F) section 109 (relating to improvements by lessee on lessor's property),

(G) section 110 (relating to income taxes paid by lessee corporation),

(H) section 115 (relating to income of States, municipalities, etc.),

(I) section 118 (relating to contributions to the capital of a corporation), and

(J) section 124 (relating to cross references to other Acts).

(7) All sections in part IV of subchapter B (relating to standard deductions for individuals) except section 143 (relating to determination of marital status).

(8) Part V of subchapter B (relating to deductions for personal exemptions).

(9) Section 163 (relating to interest).

(10) Section 164 (relating to taxes).

(11) Section 170 (relating to charitable, etc., contributions and gifts).

(12) All sections in part VII of subchapter B (relating to additional itemized deductions for individuals (except—

(A) section 211 (relating to allowance of deductions),

(B) section 212 (relating to expenses for production of income), and

(C) section 215 (relating to alimony, etc., payments).

(13) Subchapter D (relating to deferred compensation, etc.).

(14) Section 6013 (relating to joint returns of income tax by husband and wife).

(b) All provisions of law (other than the provisions of subtitle A of the Internal Revenue Code of 1954, as amended by this Act), and all administrative regulations or rulings which exempt or exclude items of income from the tax imposed by such subtitle A shall have no force or effect for taxable years beginning after the date of the enactment of this Act.

"(c) Nonresident Aliens.—In the case of a nonresident alien individual, the tax imposed by subsections (a) and (b) shall apply only as provided by section 871 or 877.

"SEC. 2. COMMUNITY PROPERTY LAWS NOT TO APPLY.

"For purposes of this subtitle, the income of a married taxpayer shall be determined without regard to the property laws of any State under which any part of the income of a married individual is treated as the income of his spouse.

"The income is:	*The Surtax is:*
"Over $10,000 but not over $15,000	5% of the excess over $10,000.
"Over $15,000 but not over $20,000	$250 plus 10% of the excess over $15,000.
"Over $20,000 but not over $25,000	$750 plus 16% of the excess over $20,000.
"Over $25,000 but not over $50,000	$1,500 plus 20% of the excess over $25,000.
"Over $50,000 but not over $100,000	$6,500 plus 25% of the excess over $50,000.
"Over $100,000 but not over $500,000	$19,000 plus 30% of the excess over $100,000.
"Over $500,000 but not over $1,000,000	$169,000 plus 35% of the excess over $500,000.
"Over $1,000,000	$344,000 plus 40% of the excess over $1,000,000.

RATE OF TAX ON INDIVIDUALS

SEC. 4. Part I of subchapter A of chapter 1 (relating to tax on individuals) is amended to read as follows:

"PART I—TAX ON INDIVIDUALS

"Sec. 1. Tax imposed.
"Sec. 2. Community property laws not to apply.
"Sec. 3. Cross references relating to tax on individuals.

"SEC. 1. TAX IMPOSED.

"(a) Basic Tax.—There is imposed on the income of every individual a tax of 10 percent.

"(b) Surtax.—There is imposed on the income of every individual a surtax in accordance with the following table:

"SEC. 3. CROSS REFERENCES RELATING TO TAX ON INDIVIDUALS.

"(a) Other Rates of Tax on Individuals, Etc.—

"(1) For rates of tax on nonresident aliens, see section 871.

"(2) For computation of tax where taxpayer restores substantial amount held under claim of right, see section 1341.

"(3) For limitation on tax attributable to claims against the United States involving acquisitions of property, see section 1347."

PERSONAL EXEMPTION CREDIT

SEC. 5. (a) Subpart A of part IV of subchapter A of chapter 1 is amended by redesignating section 42 as 43 and by inserting after section 41 the following new section:

"SEC. 42. PERSONAL EXEMPTION.

"(a) Allowance of credit.—There shall be allowed to an individual as a credit against the tax imposed by this subtitle for the taxable year, are amount equal to—

"(1) $250 for the taxpayer,

"(2) $250 for the spouse of the taxpayer (unless such spouse files a separate return), and

"(3) $250 for each dependent of the taxpayer who is 18 years of age or older.

"(b) Definition of Dependent.—For purposes of this section, the term 'dependent' means any of the following individuals over half of whose support, for the calendar year in which the taxable year of the taxpayer begins, was received from the taxpayer (or is treated under subsection (c) or (e) as received from the taxpayer):

"(1) A son or daughter of the taxpayer, or a descendant of either,

"(2) A stepson or stepdaughter of the taxpayer,

"(3) A brother, sister, stepbrother, or stepsister of the taxpayer,

"(4) The father or mother of the taxpayer, or an ancestor of either,

"(5) A stepfather or stepmother of the taxpayer,

"(6) A son or daughter of a brother or sister of the taxpayer,

"(7) A brother or sister of the father or mother of the taxpayer,

"(8) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the taxpayer,

"(9) An individual (other than an individual who at any time during the taxable year was the spouse, determined without regard to section 153, of the taxpayer), who, for the taxable year of the taxpayer, has as his principal place of abode the home of the taxpayer and is a member of the taxpayer's household, or

"(10) An individual who—

"(A) is a descendant of a brother or sister of the father or mother of the taxpayer,

"(B) for the taxable year of the taxpayer receives institutional care required by reason of a physical or mental disability, and

"(C) before receiving such institutional care, was a member of the same household as the taxpayer.

"(c) Rules Relating to Definition of Dependent.—For purposes of this section—

"(1) The terms 'brother' and 'sister' include a brother or sister by the halfblood.

"(2) In determining whether any of the relationships specified in subsection (a) or paragraph (1) of this subsection exists, a legally adopted child of an individual (and a child who is a member of an individual's household, if placed with such individual by an authorized placement agency for legal adoption by such individual), or a foster child of an individual (if such child satisfies the requirements of subsection (b) (9) with respect to such individual), shall be treated as a child of such individual by blood.

"(3) The term 'dependent' does not include any individual who is not a citizen or national of the United States unless such individual is a resident of the United States, of a country contiguous to the United States, of the Canal Zone, or of the Republic of Panama. The preceding sentence shall not exclude from the definition of 'dependent' any child of the taxpayer—

"(A) born to him, or legally adopted by him, in the Philippine Islands before January 1, 1956, if the child is a resident of the Republic of the Philippines, and if the taxpayer was a member of the Armed Forces of the United States at the time the child was born to him or legally adopted by him, or,

"(B) legally adopted by him, if, for the taxable year of the taxpayer, the child has as his principal place of abode the home of the taxpayer and is a member of the taxpayer's household, and if the taxpayer is a citizen or national of the United States.

"(4) A payment to a wife which is includible in the gross income of the wife under section 71 or 682 shall not be treated as a payment by her husband for the support of any dependent.

"(5) An individual is not a member of the taxpayer's household if at any time during the taxable year of the taxpayer the relationship betwen such individual and the taxpayer is in violation of local law.

"(d) Multiple Support Agreements.—For purposes of subsection (b), over half of the support of an individual for a calendar year shall be treated as received from the taxpayer if—

"(1) no one person contributed over half of such support;

"(2) over half of such support was received from persons each of whom, but for the fact that he did not contribute over half of such support, would have been entitled to claim such individual as a dependent for a taxable year beginning in such calendar year;

"(3) the taxpayer contributed over 10 percent of such support; and

"(4) each person described in paragraph (2) (other than the taxpayer) who contributed over 10 percent of such support files a written declaration (in such manner and form as the Secretary or his delegate may by regulations prescribe) that he will not claim such individual as a dependent for any taxable year beginning in such calendar year.

"(e) Determination of Marital Status.—For purposes of this section—

"(1) the determination of whether an individual is married shall be made as of the close of his taxable year; except that if his spouse dies during his taxable year such determination shall be made as of the time of such death; and

"(2) an individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

"(f) Cross References.—

"(1) For definitions of 'husband' and 'wife', as used in subsection (c)(4), see section 7701(a)(17).

"(2) For deductions of estates and trusts, in lieu of the credit under this section, see section 642(b)."

(b) The table of sections for such part is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 42. Personal exemption.

"Sec. 43. Overpayments of tax."

(c) Section 143(b)(1) is amended by striking out "deduction" and inserting "credit", and by striking out "section 152" and "section 151" and inserting in each place "section 42".

(d) Section 46(a)(3)(B) (relating to the investment credit) is amended to read as follows:

"(B) section 42 (relating to personal exemptions), and".

(e) Section 172(d)(3) (relating to net operating loss deduction) is amended to read as follows:

"(3) Estates and trusts.—No deduction shall be allowed for the personal exemption allowed an estate or trust under section 642(b)."

(f) Section 443(c) (relating to return for short period) is amended by striking out "a deduction under section 151 (and any deduction in lieu thereof)" and inserting in lieu thereof "as a credit under section 42 or a deduction under section 642(b)".

(g) The last sentence of section 642(b) (relating to estates and trusts) is amended to read as follows: "The deductions allowed by this subsection shall be in lieu of the credits allowed under section 42 (relating to credit for personal exemptions."

(h) Section 703(a)(2) (relating to partnership computations) is amended by striking out subparagraph (B).

(i) Paragraph (3) of section 873(b) (relating to nonresident aliens) is amended to read as follows:

"(3) Credit for personal exemption.—Except in the case of a nonresident alien individual who is a resident of a contiguous country, only one credit shall be allowed for exemptions under section 42."

(j) Section 891 (relating to citizens of foreign countries) is amended by striking out "under section 151 and".

(k) Section 933(1) (relating to residents of Puerto Rico) is amended by striking out "(other than the deductions under section 151, relating to personal exemptions)".

(l) Section 1211(b)(3) (relating to deduction of capital losses) is amended by striking out "the deductions provided in section 151 (relating to personal exemptions) or any deduction in lieu thereof" and inserting in lieu thereof "any deduction allowed by section 642(b)".

(m) Section 1402(a) (relating to self-employment income) is amended by striking out paragraph (7).

GAINS AND LOSSES ON PROPERTY HELD AT DEATH OR TRANSFERRED BY GIFT

SEC. 6. (a) Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end thereof the following new sections:

"SEC. 84. GAINS AND LOSSES ON PROPERTY AT TIME OF DEATH

"(a) In General.—Upon the death of an individual, there shall be taken into account in computing taxable income for the taxable period in which falls the date of his death, a percentage (determined under subsection (c)) of the gains and losses which would have been realized and taken into account in computing taxable income (of the decedent or some other person) if all the property (other than property described in subsection (b)) required to be included in determining the value of the decedent's gross estate under chapter 11 had been sold immediately before his death at the estate tax fair market value. This subsection shall not apply unless the aggregate amount of such fair market value exceeds $60,000.

"(b) Excluded Property.—Subsection (a) shall not apply to—

"(1) property which passes or has passed from the decedent to his surviving spouse and which qualifies for the deduction provided by section 2056;

"(2) property which passes or has passed to a corporation, organization, or other entity described in section 2055 and which qualifies for the deduction provided by such section;

"(3) items of gross income in respect of a decedent described in section 691; or

"(4) any other property includable in the gross estate of the decedent under chapter 11 for which basis is not provided for in section 1014(a).

"(c) Rules for Application of Subsection (a).—For purposes of subsection (a)—

"(1) The estate tax fair market value of property is the fair market value of the property at the date of the decedent's death, or, in the case of an election under section 2032, its value at the application valuation date prescribed by that section.

"(2) If the aggregate adjusted basis of all property subject to the provisions of subsection (a) is less than $60,000, and the gains under subsection (a) (without the application of this paragraph) exceed the losses, then the aggregate adjusted basis of such property shall be increased to $60,000.

"(3) Losses shall be taken into account without regard to the provisions of section 1091.

"(4) The percentage of gains and losses taken into account shall be determined in accordance with the following table:

"For taxable years beginning:	*The percentage is:*
Less than 1 year after the date of enactment of the Tax Reform Act of 1973.	0 percent.
One year or more but less than 2 years after such date.	20 percent.
Two years or more but less than 3 years after such date.	40 percent.
Three years or more but less than 4 years after such date.	60 percent.
Four years or more but less than 5 years after such date.	80 percent.
5 years or more after such date	100 percent.

"(d) Time for Filing Return.—If subsection (a) applies to the taxable year, the time for filing the return for such year shall be the date nine months after the date of the decedent's death if such date is later than the time prescribed in section 6072 for filing such return.

"(e) Liability With Respect to Property Transferred Before Death.—If gain is taken into account under subsection (a) with respect to property transferred by the decedent during his lifetime, the executor shall be entitled, unless the decedent directs otherwise in his will, to recover from the transferee of such property the amount of income tax imposed with respect to such gain.

"SEC. 85. GAINS AND LOSSES ON INTER VIVOS GIFTS.

"(a) In General.—In the case of the transfer of property by an individual by inter vivos gift, there shall be taken into account in computing taxable income for the taxable period in which the transfer was made, the gain or loss which would have been realized and taken into account in computing taxable income if the taxpayer had sold the property at its fair market value at the time of the transfer.

"(b) Exceptions.—

"(1) in general.—Subsection (a) shall not apply to a transfer of property, to the extent that, at the time of the transfer, the aggregate fair market value of—

"(A) property (including the transferred property) held by the taxpayer, and

"(B) property previously transferred by the taxpayer after the date of the enactment of the Simpliform Tax Act,

does not exceed $60,000.

"(2) Gifts to spouse.—Subsection (a) shall not apply to a transfer of property to the taxpayer's spouse."

(b)(1) Section 1014(b) (relating to basis of property acquired from a decedent) is amended by striking out paragraphs (5) and (6).

(2) Paragraph (9) of section 1014(b) is amended by inserting "and" at the end of subparagraph (A), by striking out subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(3) Section 1015 (relating to basis of property acquired by gifts and transfers in trust) is amended by adding at the end thereof the following new subsection:

"(e) Property Subject to Tax Upon Transfer.—If the property was acquired by gift in a transfer to which section 85(a) (relating to gains and losses on inter vivos gifts) applied, the basis shall be the fair market value of the property at the time of the transfer."

(4) Section 6161(a) (relating to extension of time for paying tax) is amended—

(A) by inserting "or income tax for a decedent's final taxable period" after "estate tax" in paragraph (1),

(B) by inserting "and income tax on gains at death" after "Estate tax" in the heading of paragraph (2), and

(C) by inserting at the end of paragraph (2)(A) "or of any part of the tax imposed

by chapter 1 attributable to the application of section 84,".

(5) Section 6166 (relating to extension of time for payment of estate tax where estate consists largely of interest in closely held business) is amended—

(A) by inserting "AND INCOME TAX ON GAINS AT DEATH" after "ESTATE TAX" in the heading, and

(B) by redesignating subsections (j) and (k) as (k) and (l), respectively, and by inserting after subsection (i) the following new subsection:

"(j) Tax on Gains at Death.—Under regulations prescribed by the Secretary or his delegate, the provisions of this section shall apply with respect to so much of the tax imposed by chapter 1 as is attributable to the application of section 84 (relating to gains and losses on property at time of death) in the same manner as it applies to the tax imposed by section 2001."

(c) Section 84 of the Internal Revenue Code of 1954 (as added by subsection (a)) and the amendments made by paragraphs (1), (2), (5), and (6) of subsection (b) shall apply with respect to decedents dying after the date of the enactment of this Act. Section 85 of such Code (as added by subsection (a)) and the amendments made by paragraphs (3) and (4) of subsection (b) shall apply with respect to transfers of property by inter vivos gift after such date.

TREATMENT OF CAPITAL GAINS

SEC. 7. (a) Section 1201 (b) (relating to other taxpayers) is amended by inserting "or an individual" after "other than a corporation".

(b) Section 1202 (relating to deduction for capital gains) is amended by inserting "or an individual" after "other than a corporation".

(c) Section 1211 (relating to limitation on capital losses) is amended by—

(1) inserting "or an individual" after "other than a corporation" in subsection (a),

(2) inserting "or an individual" after "other than a corporation" in paragraph (1) of subsection (b), and

(3) striking out paragraph (2) and redesignating paragraph (3) as (2).

SPECIFIC INCLUSIONS IN GROSS INCOME

SEC. 8. (a) Part II of subchapter B of chapter 1, as amended by section 6, is amended by adding at the end thereof the following new section:

"SEC. 86. SOCIAL SECURITY AND WELFARE PAYMENTS.

"There shall be included in gross income monthly insurance benefits paid under title II of the Social Security Act to the taxpayer and any other cash benefits paid (other than a lump sum payable on account of death) to the taxpayer under such Act or any other Act of the United States or of any State providing for the payment of money to individuals in order to enable them to purchase food, clothing, and shelter and otherwise provide for their general welfare."

(b) The table of sections of such part is amended by adding at the end thereof the following new item:

"Sec. 86. Social security and welfare payments."

(c) Section 74 (relating to prizes and awards) is amended to read as follows:

"SEC. 74. PRIZES AND AWARDS.

"Gross income includes amounts received as prizes and awards, including amounts received as scholarships and fellowship grants."

(d)(1) Section 274(a) (relating to entertainment, amusement, or recreation expenses) is amended to read as follows:

"(a) Entertainment, Amusement, or Recreation.—No deduction otherwise allowable under this chapter shall be allowed for any item with respect to an activity which is of a type generally considered to constitute entertainment, amusement, or recreation, or with respect to a facility used in connection with such activity. For purposes of this subsection—

"(1) dues or fees to any social athletic, or sporting club or organization shall be treated as items with respect to facilities, and

"(2) an activity described in section 212 shall be treated as a trade or business."

(2) Section 274(e) (relating to specific exceptions to application of subsection (a)) is amended by striking out paragraph (1) (relating to business meals).

MISCELLANEOUS AMENDMENTS

SEC. 9. (a) Section 62 (relating to adjusted gross income defined) is amended by striking out paragraphs (3) and (8) and redesignating paragraphs (4), (5), (6), (7), and (9) as (3), (4), (5), (6), and (7), respectively.

(b) The text of section 63 (relating to taxable income defined) is amended to read as follows:

"For purposes of this subtitle the term 'taxable income' means gross income minus the deductions allowed by this chapter."

WITHHOLDING

SEC. 10. (a) Section 3402 (relating to income tax collected at source) is amended by—

(1) striking out subsections (b), (c), (f), and (m), and

(2) amending subsection (a) to read as follows:

"(a) Requirement of Withholding.—Every employer making payment of wages shall deduct and withhold upon such wages (except as otherwise provided in this section) a tax of 10 percent.".

(b) Subsection (p) (relating to extention of withholding to certain payments other than wages) is amended by—

(1) striking "General rule." in paragraph (1) and inserting in lieu thereof "Supplemental unemployment compensation benefits and annuities.",

(2) redesignating paragraphs (1) through (3) as (2) through (4), respectively,

(3) striking "paragraph (1)" in paragraph (3)(A) (as redesignated by this Act) and inserting in lieu thereof "paragraph (2)", and

(4) inserting before paragraph (2) (as redesignated by this Act) the following new paragraph:

"(1) In general.—Under regulations prescribed by the Secretary or his delegate, any person making a payment of interest, a dividend, or any other payment subject to tax under chapter 1, shall deduct and withhold upon such payment a tax of 10 percent. For purposes of this chapter (and so much of subtitle F as relates to this chapter) any such payment shall be treated as if it were a payment of wages by an employer to an employee for a payroll period."

By Mr. MANSFIELD:

S. 3285. A bill to extend most-favored nation treatment products of the Peoples Republic of China. Referred to Committee on Finance.

(The discussion of this bill, when Senator MANSFIELD introduced it, is printed earlier in the RECORD.)

By Mr. KENNEDY:

S. 3286. A bill to amend the Social Security Act to establish a national health insurance program for all Americans within the social security system, to improve the benefits in the medicare program including a new program of long-term care, to improve Federal programs to create the health resources needed to supply health care, to provide for the administration of the national health insurance program and the existing social security programs by a newly established independent Social Security Administration, to provide for the administration of health resource development by a semi-independent board in the Department of Health, Education, and Welfare, and for other purposes. Referred to the Committee on Finance.

Mr. KENNEDY. Mr. President, I send a bill to the desk and ask that it be appropriately referred.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

Mr. KENNEDY. Mr. President, the legislation which I have introduced this afternoon parallels exactly legislation which is being introduced by Chairman WILBUR MILLS of the Ways and Means Committee in the House of Representatives. It is designed to provide a comprehensive health insurance program for all Americans as a matter of right.

This legislation has accepted features from a variety of health programs which have been debated over the period of the past 5 years.

Five years ago, I introduced S. 3, the Health Security Act, and reintroduced it in each succeeding Congress since then. Our Health Subcommittee has held hearings across the country on various aspects of that bill's approach to solving our health care crisis. Other health measures have been introduced to deal with particular health care needs, such as the catastrophic proposals introduced by the Senator from Louisiana (Mr. LONG) and the Senator from Connecticut (Mr. RIBICOFF).

A significant part of that proposal has been grafted into our legislation. The administration's proposal, which expand dramatically their benefits package over their earlier bill, has also been used in our bill. There are also some essential principles of S. 3, the Health Security Act, which have been included in the bill.

The concept of one, uniform system for all Americans has been incorporated. It proposes basically a universal coverage. It does not provide one system for people in one economic class and a different system for those in another class. It provides one system for all.

Another feature that has been accepted from S. 3 is its comprehensive benefits package. The benefits package which has been included in this legislation is essentially the benefits package included in S. 3.

Mr. President, there are also important cost and quality controls carried over from S. 3 in this bill. One of the essential features of S. 3 is to provide for perspective budgeting of health care institutions. We have maintained the concept of prospective budgeting based on State and area planning agencies.

One extremely important quality control which is built in involves expanding the PSRO concept to cover all services. This concept has been accepted by the Senate as an amendment to medicare by the distinguished Senator from Utah (Mr. BENNETT) some years ago.

The bill also includes another imaginative feature of S. 3, namely, a Health Resources Development Board, recognizing the need for the development of

additional manpower, facilities, and services, as well as a more imaginative and creative delivery system to meet the increase in the demand for services. The Health Resources Development Board will be an important factor during the period of transition to broader coverage and in helping to meet some areas of critical need in planning and development of resources in the future.

So, these are the important features in the bill:

A single system for all Americans—universal coverage;

Comprehensive benefits;

More equitable contributions according to income, and

Cost and quality controls.

Basic reform of the health care system, with a Health Resources Development Board.

These essential aspects come from S. 3, the Health Security Act.

There are certain provisions in the bill about which I have some serious reservations; but which, nonetheless, were included in an effort to make important progress for the American people. Every year we have failed to achieve health security, the American people have paid for it in terms of increased premiums on their health insurance and increased costs in the health care area of their budget, and, in many instances, in the deterioration of services.

So, in the development of this legislative proposal, I have accepted some features which were not included in S. 3, and which concern me.

I plan to watch these elements and to evaluate them in relationship to the development of our health care system and to adjust, change or eliminate them as the need arises in the future. I feel this way about deductibles and coinsurance, although the provisions we have included in our measure are less harsh and less costly than those that have been included in the administration's proposal.

I also have reservations about the role for the insurance carriers in the bill, which is roughly comparable to that which has been provided for them under the medicare program.

These are the two provisions which have been included about which I have some reservations. We are building upon the medicare record in the development of this program, which gives a role for the insurance carriers. They will also be able to augment and supplement social security coverage by providing supplementary coverage, to cover the deductibles and co-insurance. We in Congress can provide oversight of this area; and if there is an abuse in those particular areas, we will be able to take corresponding action.

Finally, Mr. President, there is one important addition this bill considers which we do not include in S. 3, and that is a long term care program for our elderly. That program was not included in S. 3 nor in the administration's program. In this case I think we are feeling our way in an area of great importance and need for the elderly people of this country. I am hopeful that we will be able to meet some of the needs for the elderly in this area.

In all respects, I think we have made important progress. In the debate of National Health Insurance. We recognize, as I introduce this measure today, the ideas and contributions that have been made by a number of Members of this body in their active concern for providing decent, quality health care as a right for all Americans, and I believe that this bill represents their best judgment at this time.

I remind the Members that this measure is costed out at exactly the same price as the administration's program; I urge their serious consideration of the measure.

Mr. President, 5 years ago, I introduced the Health Security Act, a far-reaching proposal for national health insurance into the Senate. Since that time, I have reintroduced this proposal in both the 92d and 93d Congresses, with broadening support from America's labor movement, from numerous national organizations, and from millions of Americans at the grass roots level in communities across the Nation. I am proud to be associated with this movement begun by Walter Reuther and his Committee of 100 for National Health Insurance—and continued today under the chairmanship of Leonard Woodcook, and with the strong support of the AFL–CIO.

I will continue to work for the principles of health security that have made this movement great. I believe we will fulfill these principles in our Nation. Good health care must be guaranteed to all Americans as a matter of right. We must eliminate financial barriers to health care by enacting a universal program of comprehensive health insurance that is paid for equitably according to a family's income. We must improve and expand our health care system to control costs and assure that high quality care is available to every American in every community across our Nation. To obtain these objectives, we must make the Social Security Administration the health insurer for all Americans.

The program of national health insurance that I have introduced in the Senate today, with Chairman MILLS's sponsorship in the House of Representatives, represents a practical embodiment of these principles that can be enacted into law in the next year or two. There are elements of the proposal, such as deductibles and coinsurance, that I regret must be included. Nevertheless, I believe this proposal, far more than any other pending proposal, is a major step toward guaranteeing good health care as a right—and can be built upon in future years as necessary to further guarantee this right.

I will make every possible effort to obtain passage of this legislation. I believe it can form the basis of the effective consensus needed to enact major legislation. The program represents the fruits of 2 years of discussions between Chairman MILLS and myself. It accents the general benefit structure of the administration's proposal and costs the same as that proposal. It accepts the concepts of catastrophic coverage, assistance to low-income Americans, and regulation of private insurance policies developed by Senators LONG and RIBICOFF in their catastrophic Health Insurance and Medical Assistance Act of 1973. Above all, the proposal further develops proven concepts and approaches to national health insurance demonstrated to be effective under medicare.

I believe the time has come to build the consensus that will give national health insurance to America. I call on my fellow legislators and on the administration to join Chairman MILLS and me to this end.

Mr. President, I ask unanimous consent that a joint statement by myself and Representative MILLS, and a detailed description of the bill be printed in the RECORD. I also ask unanimous consent that the text of the bill be printed in the RECORD.

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

JOINT STATEMENT OF CONGRESSMAN WILBUR D. MILLS AND SENATOR EDWARD M. KENNEDY, UPON INTRODUCTION OF THE COMPREHENSIVE NATIONAL HEALTH INSURANCE ACT OF 1974

We have been engaged in the United States in an extended period of study and debate on national health insurance. A large variety of proposals have been advanced by various members of the Congress, and we have recently received a major proposal from the Administration.

Such a period of study and debate is, of course, necessary as we consider legislation of farreaching importance. It is one of the strengths of our democracy that our process requires an attempt to reach wide consensus before major action. At the same time, if we are to be responsive to the clearly perceived needs of our Nation, at some point the debate must end, adjustment of opposing views must be worked out and action taken.

We are deeply aware that as the Congress and the Executive Branch have worked toward a solution, the problem has gotten worse. The cost of health insurance has been taking a larger and larger bite of the family budget, and out-of-pocket expenses for the services not covered by health insurance have been rising rapidly. Moreover, a larger and larger share of the worker's dollar goes for government-paid health programs like Medicare and Medicaid.

The effect of these factors has been to price millions of Americans out of health care, as well as to create a general feeling of helplessness in dealing with the situation. A family can buy cheaper cuts when meat prices go up, but where do you find a cheaper doctor to care for a child's earache?

Private health insurance has not proven adequate protection against costs for most Americans. For example, only a little more than one-half of the under-65 population has insurance against the costs of physicians' services at home or office. We will not detail here the problems of lack of coverage; of arbitrary limits and exclusions which people find when they attempt to claim benefits; and of individual policies which pay out only 58 cents of each dollar collected.

But the problems extend beyond costs. People who live in one of the 140 or so counties without any practicing physician face long drives and long waits to find a physician. It means going without needed medical care until the condition is so serious that attention can no longer be delayed. In this respect, the American family living in a ghetto has much in common with the rural family. Typically this family must wait in the long lines at hospital emergency rooms and suffer the overcrowded conditions of a poorly financed city hospital.

And the family living in the suburbs is

not without its problems in finding health care. Many a young family has moved into an area where physicians have stopped taking new patients. The search for quality medical care can then be difficult indeed. Even if this family finds a physician who will serve them, the problems are not over. They find themselves shunted back and forth in a maze of referring practitioners—specialists, subspecialists, laboratories, clinics and so on. Yet, in an emergency they will likely have to settle for whoever happens to be on duty in the emergency room of a nearby hospital.

The problems that pervade our present methods of financing and delivering health care are clearly not limited to one class of people or one area of the country. We are all involved in them and only through joint action will we solve them.

Sometime ago we jointly endorsed four basic principles of health care reform—and four basic guarantees of free choice to Americans.

1. *America has a responsibility to offer every American family quality health care whenever they need it, regardless of income, where they live, or any other factor.*

Every American must know that he can afford the cost of health services. Every doctor, hospital, or other provider must know that he will be paid for his services.

Every American should receive needed health services from the day he is born to the day he dies, including dental services and mental health services, with an emphasis on preventive care to keep him healthy.

Every American should have a doctor, hospital or some form of medical help near and ready to serve him and his family.

2. *The Federal Government should assume this responsibility by establishing a system of compulsory national health insurance which covers all Americans with a standard comprehensive set of basic benefits supplemented by protection against catastrophic costs.*

Americans should be covered for whatever form of care is most appropriate to their need, and no incentives created to overutilize or choose one form of care over another simply because it is paid for. Thus, the program should cover health care whether given in a hospital, in the doctor's office, and in other health care settings. Moreover, no American should face financial ruin due to catastrophic illness. He should be protected from financial disaster relative to his income. Finally, Americans should contribute to the cost of this coverage on the basis of their income.

3. *The national health insurance system should incorporate incentives and controls, (a) to assure that all health services are of high quality, well organized and efficiently delivered, and (b) to slow down inflation of health care costs.*

Simply by paying for office treatment, we can eliminate the existing incentives to hospitalize patients unnecessarily. Surveys show hospitalization is cut substantially when office treatment is fully covered.

National health insurance should be designed to provide incentives for physicians, hospitals and other providers to offer better care economically. The system must incorporate new ways of paying providers, such as prospective budgeting, as well as fee-for-service. The system must include strong cost and quality controls, such as peer review and conditions of participation and payment. Finally, the national health insurance system must standardize claims forms and processing procedures and otherwise simplify the process that physicians, hospitals, and other providers must go through to obtain payment.

Rather than simply passing dollars through to the providers, the health insurance mechanism must be used as a means of encouraging efficiency and improvements in the health care system.

4. *The national health insurance system must provide needed health service resources and develop higher quality, better organized and more efficient health services.*

We must specify this Nation's current and future needs for health services on a rational basis. Then we must invest the funds needed to develop additional health care resources in every community that needs them, or will need them as a result of national health insurance. We must invest in additional doctors, dentists, and nurses in ways that encourage them to enter the kinds of specialties, and practice in the parts of the country where we need them the most.

We must build the health facilities and buy the equipment that communities need.

And we must invest in new and better ways to get good health care to our people.

It is urgent that we create these expanded health care resources. A health resource development fund should be created to assure that funds to build resources are consistent with funds spent to buy health care. The need is already great—and it will become greater as national health insurance eliminates economic and other barriers to needed care.

Both those who offer health care and those who receive it—both doctor and patient—know that it is time for change. The challenge is to create a system whose incentives encourage health care that is best for both the provided and the patient. The challenge is to bring about this change in such a way that we meet every American's need for health care *while protecting every American's right of freedom of choice. Such a system can be built—and can make the following guarantees with regard to free choice:*

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.

The Federal Government must not take over ownership of the various elements of the health care system.

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.

The Federal Government should not make community policy, but should offer financial and technical support, and information and guidelines based on national planning to support local policy formulation.

We believe that the debate on national health insurance has reached the point where it is possible to build a consensus in the Congress in support of these principles and thus in support of a universal and comprehensive system of national health insurance. We are today jointly introducing a bill that we believe can form the basis for such a consensus.

ONE SYSTEM FOR ALL AMERICANS

Our bill follows the essential principle of one level of health care for all Americans. Every American regardless of the source of his income would be protected by the contributory health insurance system from the day he is born through old age. Medicaid is repealed and social security and welfare recipients are included in the program on a contributory basis. Each person will be protected under the National Health Insurance Program until he is eligible for Medicare.

BENEFITS

Our bill would provide benefits similar to those proposed by the Administration—that is, inpatient hospital services with no day or dollar limitation; physicians' services in home, office, or elsewhere with no dollar limitation; and a variety of other medical services which in general would be subject to an annual deductible of $150 and 25 percent coinsurance. However, we would not apply deductibles to preventive services of particular importance in promoting the health of the next generation—prenatal care, well-child care, dental care for children and so on. We believe it is of great importance to remove any possible barrier to the receipt of such care for children and to put a major emphasis in any national health insurance plan on protecting the health of children.

In addition, in comparison with the Administration's bill, our bill would lower the family deductible from three members at $150 to two members—or a limit of $300 rather than $450—and would lower the maximum amount for which any family would be liable in a year from $1,500 to $1,000. As one way of maintaining the cost of the benefits which we propose at approximately the same level as those proposed by the Administration, we are suggesting a somewhat more limited drug benefit. There is great administrative difficulty in launching a comprehensive drug insurance program and, in any event, we believe it is wise to start the program on a scale that minimizes these problems.

Our bill provides a catastrophic plan which covers the full cost of services included in the program after a family has incurred annual expenses of $1,000.

CONTINUOUS COVERAGE

While our proposed benefits are similar to those in the Administration's recent proposal, we have adopted a coverage approach that covers the worker from job to job as in social security and does not tie coverage to work with a particular employer. In this way, we avoid the gaps in protection and the complications inherent in any approach which rests on the concept of requiring each employer to pay protection for his own work force.

We propose to finance our contributory plan by having every employer pay the same percentage of payroll and every employee pay the same percentage of his earnings, as is the case in social security rather than, as in the Administration's plan, compelling employers and employees to pay the experience-rated costs of health care for the labor force of the particular employer. We are greatly concerned that experience-rated premiums, employer by employer, as in the Administration's plan, rewards the employer who refuses to hire older workers, handicapped workers, and all those who are most likely to have higher health costs.

The community-rated premium determined nationally in our plan calls for a contribution from employers of 3 percent of payroll up to an earnings level of $20,000 and a contribution from the employee of 1 percent of earnings up to $20,000. Those with unearned income but without earnings from work would also contribute under the program on the basis of contributions on their unearned income.

Although benefit costs are approximately the same as the Administration's plan, our approach saves over 5 percent of total benefit costs—which we have used for improved benefits—by relying on a social security collection approach and thus avoiding certain private insurance costs such as marketing.

SIGNIFICANT ROLE OF PRIVATE INSURANCE CARRIER

Under our proposal, private insurance and Blue Cross-Blue Shield plans would have a significant role in the administration of the program—as far as physician and other non-institutional services are concerned, their selection and role would differ from that now in use in the Medicare program. In addition, our bill would encourage private insurance to combine the basic government program with supplementary health benefits and other group insurance benefits in a variety of ways. For example, our bill would leave about one-half of a median-income

family's health costs available for private insurance supplementation. But we see no purpose to be served and much difficulty and expense in the notion of running an essentially compulsory, government-required system through the existing marketing mechanism of private insurance.

NATIONAL HEALTH INSURANCE TRUST FUND

We propose that the contributions of employers and employees established on an average or national community-rated basis, be aside in a special National Health Insurance Trust Fund. The transactions of this trust fund and the transactions of all the trust funds of our comprehensive social security system would be separated out from the general budget just as they were prior to the fiscal year 1969 budget. In the case of this proposed National Health Insurance Plan and in all our social security programs, we are dealing with what is essentially a group insurance and retirement system operated by the government in trust for those covered by the program. These funds are not and should not be available for any other purpose and they do not belong in the general budget.

SEPARATE SOCIAL SECURITY AGENCY

Our bill sets up a new agency of government reporting directly to the President and headed by a bipartisan board. This new Social Security Board would be made up of the present Social Security Administration and in addition, would have responsibility for administering the new National Health Insurance Program. The Social Security Administration today, with its 70,000 employees and some 1,300 offices across the country and with responsibility for the social security cash benefit program, medicare and supplemental security income, is already one of the largest agencies of government and in any event, should not be a subordinate part of some other agency. Even more importantly, however, the concept of social security as a group insurance-retirement system calls for a separate board administration and an independence from politics.

HEALTH DEVELOPMENT RESOURCES BOARD

We have been very mindful of the need for coordination between the administration of the new National Health Insurance system and the responsibility of planning for the development of health services and facilities. Thus, our bill would create a National Health Development Resources Board within the Department of Health, Education, and Welfare and assigns to it the continuing responsibility for the development and the effective availability of covered services throughout the Nation. The National Health Insurance Trust Fund would make a regular and substantial contribution to the work of this resources board and both the Chairman of the new Social Security Board and the Chairman of the National Health Development Resources Board would be members of a National Health Insurance Resources Advisory Council.

INCENTIVES FOR EFFICIENCY AND QUALITY

Rather than simply passing dollars out to providers, the health insurance mechanism must be used as a means of increasing efficiency and improvements in the health care system. Our bill contains several provisions designed to carry out this objective. The proposal would require that Professional Standards Review Organizations review all services reimbursed by the program within two years of the effective date for the payment of benefits.

Institutional providers would be paid on a prospective budget basis incorporating incentives for efficiency, and would only be reimbursed for types and volumes of services certified by State and local health planning agencies.

Professional providers would be reimbursed on the basis of fee schedules set by the professional community itself but restrained in overall cost by a total base year expenditure level. Overall expenditures would be allowed to rise in accord with a wage and price index similar to the present medicare arrangement, but the fee schedule itself could be changed at the initiative of the profession.

Physicians choosing to participate in the program would be paid the standard fee (including deductibles and coinsurance for which the patient would be billed later by the plan) for all procedures for all patients and, in return, would agree not to charge the patient any additional amounts. Nonparticipating physicians would bill their patients as they wished and collect their own bills with the plan paying their patients the standard fee minus deductibles and coinsurance.

Institutional providers of care would be required to meet conditions of participation.

In addition, the program would encourage the start-up of forms of health care organization, such as HMO's, that offer greater efficiency.

HEALTH CREDIT CARD

Our proposal incorporates the Administration's plan for a health credit card. Thus, the patient would not need to pay deductibles and coinsurance at the time services were rendered but would be billed later by the plan.

GENERAL REVENUE PROGRAM FOR LOW-INCOME AMERICANS

There is a separate program for low-income Americans paid for from general revenues which on an income-tested basis assists such families in meeting the costs of deductibles and coinsurance.

MEDICARE IMPROVEMENTS

The medicare program for people 65 and over and those totally disabled social security beneficiaries who have received cash benefits for at least two years is retained as a separate program, but wherever the provisions of the new National Health Insurance system are more generous—as for example in removing all limitations on the number of days paid for in a hospital—the more generous provisions have been added to the Medicare program.

LONG-TERM CARE

The benefits in the bill that we have described so far are quite similar to those in the Administrations' bill and as indicated, have approximately the same costs. In one major respect, however, the bill we are introducing will add a totally new program as a separate part of medicare over and above anything in the Administration's proposal. Just as our bill recognizes the special need among the young for preventive services to give them a start toward a healthy life, so does it recognize the special needs of those in old age. The bill, therefore, establishes a new program under medicare to meet the long-term care needs of the elderly and the severely disabled. We believe that the addition of this new program will complete the goal we have of assuring a comprehensive approach to the health needs of all Americans.

We maintain a high degree of financial participation in the program by the States and require a monthly premium of those who voluntarily enroll under it similar to that paid for medical services under Medicare.

This additional program will have some additional cost associated with it, primarily in later years when the program would become fully effective. However, preparing estimates of the cost of the long-term care provisions is extremely difficult since there are few insurance precedents, and they have not yet been completed.

The addition of these provisions in the bill means that we are able to repeal the medicaid program with all of its complexities and inequities.

CONCLUSION

We have sought to incorporate and reconcile the many insights and virtues included in the growing body of legislative proposals submitted to the Congress so as to develop a program that would achieve the various agreed upon objectives—support continuing improvement in the quality and accessibility of care, cover all appropriate health care needs without creating incentives for using one service when another one would do as well, safeguard the expenditure of public funds by including reimbursement mechanisms designed to foster efficiency in the organization, management, and delivery of services, assure effective and continuing review of services by the professional community and provide for the creation of a responsible partnership between the government and the private insurance community in the ongoing administration of the program.

We have welcomed the contributions of a large number of Senators and Congressmen to the provisions of the bill and, particularly on the benefit package, we have relied extensively on the proposal of the Administration.

We now call on all Senators and Congressmen and on the Administration to join us in a constructive effort to build the consensus needed to enact the National Health Insurance Program so desperately needed by the American people.

We call on health care providers and patients, representatives of all organizations with a special interest in the provision of proper health care and on experts on our health care system in this effort to build a consensus for a comprehensive, universal national health insurance system.

THE COMPREHENSIVE NATIONAL HEALTH INSURANCE ACT OF 1974

Chief Sponsors—Senator EDWARD M. KENNEDY and Representative WILBUR D. MILLS

A. GENERAL APPROACH

The bill would establish a contributory program of national health insurance under the Social Security Act covering comprehensive health care benefits on a social insurance basis to all Americans, except those covered under Medicare. The bill would repeal the present Medicaid program under title XIX of the Social Security Act. The present Medicare program would be retained except that the benefits would be expanded to include long-term care, outpatient drugs, and certain extended benefits.

The National Health Insurance Program would cover every family and individual who contributes to the program and would be financed by contributions from employers, employees, self-employed individuals, those with unearned incomes, and, for certain additional benefits for those with lower incomes, by general revenues.

The program would be administered by an independent Social Security Administration with a significant role for private health insurance in the administration of the program for both institutional and non-institutional care. A National Health Insurance Trust Fund would be established to receive and hold contributions to the program outside of the Federal budget.

A new title would be added to the Public Health Service Act establishing a Health Resources Development Board responsible for assuring that the services covered under the program would actually be available to all U.S. residents. The Board would receive a continuing contribution from the National Health Insurance Trust Fund on a percentage basis to carry out its responsibility.

B. PEOPLE COVERED

All residents who are not eligible for Medicare would be eligible for the program through their contributions to the system.

Contributions would be made by all Americans who have earned or unearned income of any kind, including governmental benefits.[1] Each person who is fully or currently insured, as defined under the present social security law,[2] and his dependents would be eligible.

Special provisions would provide immediate coverage under the plan for the relatively few individuals who, because they are new entrants into the work force, are not fully or currently insured. Coverage would be extended to an employee during the first week during which he worked 25 hours or more; coverage would not end until after there were three consecutive weeks in each of which he did not work 25 hours or more. People just starting out in self-employment, or starting to receive unearned income, would be eligible beginning with the first day of the first year in which they have such income.

In addition, all social security and railroad retirement cash beneficiaries (including widows and widowers under age 65) who are not eligible for coverage under Medicare, would be covered. Existing rules for eligibility under Medicare would not be changed.

C. SCOPE OF BENEFITS

Benefits covered under the National Health Insurance Plan would be the following:

1) Inpatient hospital services with no day or dollar limitation;

2) Physicians' services, in home, office, or elsewhere, with no dollar limitation;

3) Medical and other health services (as defined under medicare, e.g., prosthetic devices, dialysis equipment and supplies, x-rays, laboratory, ambulance, etc.);

4) Home health services—100 visits per year;

5) Post-hospital extended care services—100 days per year;

6) Mental health services—inpatient, 30 full days in a psychiatric hospital or 60 partial days; outpatient services in a comprehensive community care center equivalent to the costs of 30 visits to a private practitioner or outpatient services of a private practitioner equal to half the costs of 30 visits;

7) Outpatient prescription drugs and biologicals for specified chronic conditions;

8) Preventive care services—

a. Routine dental services for children under age 13;

b. Developmental vision care services, routine eye and vision exams, and lenses or eyeglasses, for children under age 13;

c. Hearing aids and exams for children under age 13;

d. Well-child care to age 6;

e. Prenatal care; and

f. Family planning services.

All services except those listed under preventive care would be subject to a combined annual per person deductible of $150. No family would have to meet more than 2 deductibles. All services, except drugs, would be subject to a 25-percent coinsurance. Outpatient drugs would be subject to a separate copayment of $1 per prescription drug. As indicated above, preventive care services would not be subject to any deductible.

The medicare program would continue to cover existing people and benefits but would be amended to include outpatient prescription drugs, as under the National Health Insurance Plan, and a new voluntary long-term care program. The long-term care program would primarily cover non-institutional medical and social services, and, when determined medically necessary, long-term institutional services. Such services would be covered when provided through community long-term care centers specially organized and approved for this purpose, and administered by the States and localities.

For persons covered under medicare, the current medicare cost-sharing amounts would continue to be applicable to covered services—not the deductible and coinsurance amounts set for services under the National Health Insurance Plan. The Medicare patient would also be responsible for the $1 copayment on outpatient prescription drugs. However, Medicare beneficiaries would also be protected under the catastrophic elements of the national plan described below.

The bill includes a special provision designed to protect against catastrophic-type illness expenses. Under the National Health Insurance Plan and Medicare, cost-sharing for covered services (i.e., the sum of deductible and coinsurance amounts incurred), would be limited to a maximum annual amount of $1,000. The $1,000 annual limitation on cost-sharing would also be applied to services covered under Medicare. (The $1 copayment on drugs would not be included as coinsurance for this purpose).

The bill contains provisions for reducing the impact of deductibles and coinsurance amounts on those with lower incomes. For example, for a family of four with an annual income of $4,800 or less, the deductibles and coinsurance would never be collected from the patient by the credit card agency described below. For families with incomes above $4,800, the amount collected by the agency for incurred deductibles and coinsurance could be no higher than 25 percent of the difference between $4,800 and actual family income. For example, a family of four with $6,000 income would pay no more than $300—one-fourth of the $1,200 difference between $4,800 and $6,000.

At the $8,800 annual income level, the maximum deductible and coinsurance that could be billed would reach the $1,000 maximum which applies to everyone under the catastrophic element of the program. This special provision for those with lower incomes would be financed from general revenues and not from the contributions of those covered under the program.

Through collective bargaining, employers could agree to pay part or all of their employees' required contribution.

The effective date of benefits would be July 1, 1976, but the Health Resource Development Board would be appropriated funds in FY 1975 and FY 1976 to begin resource development in anticipation of the program.

D. ADMINISTRATION

The present Social Security Administration would become a new independent agency headed by a Social Security Board composed of three members (no more than two members from the same political party). The independent Social Security Administration (SSA) would continue to administer the present cash social security program, the supplemental security income program, and the medicare program; it would also administer the National Health Insurance Program established under this bill.

For institutional services, the Social Security Administration would use intermediaries much as it now does under the Medicare program. For physicians' services and other non-institutional services, carriers selected by employers with 1,000 or more employees would administer the program on behalf of the employees, and their dependents of that employer. Such employers, as well as institutional providers, would have the option of dealing directly with the SSA. For all people not covered by large employers, carrier contracts would be awarded by SSA on a competitive basis, in each geographical area of the country. Contracts would be for two years.

Every insured individual whether covered under the National Health Insurance Plan or the Medicare program, would be issued a health benefits card, similar to a credit card, indicating his status as an insured individual for purposes of covered benefits. The Social Security Administration, or a consortium of participating carriers at their request, would be responsible for administering the operation of the health benefits card system. Under this system, participating providers would not collect the deductibles and coinsurance amounts from the patient, but would be paid in full by the program. Deductible and coinsurance amounts would be billed later directly to the patients by the program.

E. FINANCING

The new National Health Insurance Program would be financed by payroll taxes of 4 percent on annual earnings in employment up to $20,000 a year. Employers would be responsible for at least 3 percent, with employees paying no more than 1 percent. The employer could choose to pay the full four percent. Self-employed individuals would pay a single rate of 2 and one-half percent up to $20,000 on their covered earnings. People who do not have a combination of annual earnings and self-employment income totaling at least $20,000 would be required to pay a tax of two and one-half percent on all unearned income (from any regular source, including governmental benefits, except that AFDC benefits would be taxed at the rate of 1 percent on the recipient and 3 percent on the State) up to the $20,000 base.

Special provisions would assure a tax refund for those situations where the total contributions of the members of a family exceeded the $20,000 base.

The cost of the provision for eliminating or reducing billings for incurred deductibles and coinsurance would be met from general revenues plus a continuing contribution from the States equal to their Medicaid dollar expenditures in calendar year 1973 or their 3-percent contributions for AFDC families, whichever is higher.

All of the funds necessary to support the program would flow through the National Health Insurance Trust Fund established under the bill. The Medicare trust funds would continue to exist in their present form. However, all these contributory trust fund fiscal operations would be completely separate from the Federal budget.

F. PAYMENTS TO AND STANDARDS FOR PROVIDERS OF SERVICES

The standards for the various payments of services under the program would resemble those now used in the Medicare program. State health agencies would be used to determine compliance with the conditions of participation for hospitals, skilled nursing facilities, intermediate care facilities, home health agencies, health maintenance organizations, neighborhood health centers, and community mental health centers. Payments to institutional providers of services would be on the basis of a variety of prospective payment systems with incentive payments to better performing providers; half of the incentive payment to a provider would have to be passed on to the provider's staff and employees.

Payments for the services of physicians and certain other professional practitioners would be on the basis of fee schedules established by the respective professions. The schedules would have to be accepted by the Social Security Administration if actuarial calculations showed that the resulting costs would not exceed those actually experienced in a base year adjusted for changes in prices

[1] Active duty members of the armed forces would not be covered but would remain under the military health program.

[2] A fully insured person, as the term is defined in the bill, means an individual who has had income taxable under the program of at least $50 a quarter for 40 quarters or more or for one quarter per year between the year the individual reaches age 22 and the current year. A currently insured individual is one who has had such income for at least 6 calendar quarters out of the prior three years.

and earnings under an index reflecting such changes.

Physicians who choose to participate in the program would receive the full fee schedule amount directly from the program for all services to all their patients (with the deductible and coinsurance amounts collected directly from the patient by the program under the health benefits credit card system). In the case of physicians who do not participate, payment at the fee schedule amount, less deductible and coinsurance amounts, would be paid by the program directly to the patients; non-participating physicians would have to look to the patient for payment of his charge, which could exceed the fee schedule amount.

For all other covered items and services, payment would be made—as under the Medicare program now—on the basis of the lowest cost of the items or services which are widely and consistently available in a locality.

Conditions of payment for covered services would resemble those now applied to the Medicare program with the following additions:

Payments would not be made to any institutional provider for services whose character or quantity have not received the positive endorsement of the State and local health planning agencies for the year being budgeted; payment would not be made for certain physicians' services unless performed by recognized specialists; surgery could be performed only after the patient had been referred to a surgeon by a primary physician; certain surgical and other major procedures could be performed only after consultation with an additional specialist; and all covered services would have to be reviewed by the Professional Standards Review Organization in that area, effective two years after the program begins.

G. EFFECT ON OTHER GOVERNMENT PROGRAMS

Medicare would be retained but would be liberalized, primarily in the benefit area with the addition of two new benefits—outpatient prescription drugs, and a new voluntary long-term care program. The existing title XIX program (Medicaid) would be repealed. The Veterans Administration would continue to operate a separate health care system for those eligible for VA benefits; the Indian Health Service would continue to provide health care to eligible Indians; the health insurance program for servicemen and their families (CHAMPUS) would also continue.

H. OTHER MAJOR PROVISIONS

Establishes wthin HEW a semi-autonomous Health Resources Board which would specifically be charged with assuring availabilty in all parts of the country of the services covered under the programs. Authorizes for these purposes $400 million in FY 1976, $600 million in FY 1977, and in FY 1978 two percent of the amounts deposited in or appropriated to (in the prior fiscal year) the National Health Insurance Trust Fund, 1½ percent of those amounts in fiscal year 1979, and 1 percent for all later years.

S. 3286

A bill to amend the Social Security Act to establish a national health insurance program for all Americans within the social security system, to improve the benefits in the medicare program including a new program of long-term care, to improve Federal programs to create the health resources needed to supply health care, to provide for the administration of the national health insurance program and the existing social security programs by a newly established independent Social Security Administration, to provide for the administration of health resource development by a semi-independent Board in the Department of Health, Education, and Welfare, 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, divided into titles and sections according to the following table of contents, may be cited as the "Comprehensive National Health Insurance Act of 1974".

Sec. 1. Short title.
Sec. 2. Findings and declaration of purpose.
TITLE I—NATIONAL HEALTH INSURANCE PROGRAM
Sec. 101. Establishment of program.
"TITLE XX—NATIONAL HEALTH INSURANCE PROGRAM
"Sec. 2001. Short title.
"Sec. 2002. Free choice by patient and practioner.
"Sec. 2003. Administration of program.
"PART A—SCOPE OF BENEFITS
"(a) Covered services.
"(b) Coverage limits.
"(c) Deductible and coinsurance.
"(d) Catastrophic coverage.
"(e) Review of services.
"Sec. 2012. Payment for outpatient drugs and biologicals.
"PART B—ELIGIBILITY FOR BENEFITS
"Sec. 2021. Eligible individuals.
"PART C—METHOD OF PAYMENT TO ELIGIBLE INDIVIDUALS
"Sec. 2031. Establishment of individual accounts.
"Sec. 2032. Payment for items and services and collection of deductibles and coinsurance.
"Sec. 2033. Special waiver of or limitation on deductibles and coinsurance for lower income families (with financing from general revenues).
"Sec. 2034. Information and data to facilitate administration.
"PART D—ADMINISTRATION OF PROGRAM C
"Sec. 2041. Conditions of and limitations on payment.
"(a) Requirement of requests and certifications.
"(b) No payments to Federal providers of services.
"(c) Payment for emergency hospital services.
"(d) Payment for inpatient hospital services prior to notification of noneligibility.
"(e) Payment for posthospital extended care services.
"(f) Payment for home health services.
"(g) Limitation on payment for outpatient drugs and biologicals.
"(h) Limitations on payment for surgery and other specialized services.
"(i) Limitation on payment for practitioner services furnished in nonparticipating hospital.
"(j) Limitation on payment for certain prosthetic devices.
"(k) Payment for certain patient services furnished by nonparticipating hospital.
"(l) Collection by hospitals of customary charges for certain outpatient services.
"Sec. 2042. Payment to providers of services; prospective determination of payment to providers; quality management payments.
"Sec. 2043. Agreements with providers of services.
"Sec. 2044. Use of public agencies or private organizations to facilitate payment to providers of services.
"Sec. 2045. Use of carriers for administration of noninstitutional benefits.
"Sec. 2046. Payment to physicians and other health professionals.
"Sec. 2047. Special provisions relating to outpatient drugs and biologicals.
"(a) National Health Insurance Formulary Committee.
"(b) Formulary.
"(c) Limitations on payment for charges of providers of services.
"(d) Reasonable allowance for outpatient drugs and biologicals.
"(e) Special provisions for physicians dispensing outpatient drugs and biologicals.
"Sec. 2048. National Health Insurance Trust Fund.
"PART E—MISCELLANEOUS PROVISIONS
"Sec. 2051. Definitions.
"(a) Inpatient hospital services.
"(b) Hospital.
"(c) Psychiatric hospital.
"(d) Tuberculosis hospital.
"(e) Physicians' services.
"(f) Physician.
"(g) Medical and other health services.
"(h) Extended care services.
"(i) Posthospital extended care services.
"(j) Skilled nursing facility.
"(k) Utilization review.
"(l) Agreements for transfer between skilled nursing facilities and hospitals.
"(m) Home health services.
"(n) Home health agency.
"(o) Outpatient physical therapy services.
"(p) Drugs and biologicals.
"(q) Outpatient drugs and biologicals.
"(r) Routine dental services.
"(s) Dentist.
"(t) Eyeglasses.
"(u) Eye and vision examination.
"(v) Hearing aids and examinations.
"(w) Physician extender services.
"(x) Carrier.
"(y) Arrangements for certain services.
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"(aa) Provider of services.
"(bb) Participating pharmacy.
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"Sec. 2052. Consultation with State agencies and other organizations to develop conditions of participation for providers of services.
"Sec. 2053. Use of State agencies to determine compliance by providers of services with conditions of participation.
"Sec. 2054. Effect of accreditation.
"Sec. 2055. Determinations; appeals.
"Sec. 2056. Overpayments on behalf of individuals and settlement of claims for benefits on behalf of deceased individuals.
"Sec. 2057. Application of certain provisions of title II.
"Sec. 2058. Designation of organization or publication by name.
"Sec. 2059. Penalties.
"Sec. 2060. Provider Reimbursement Review Board.
"Sec. 2061. National Health Insurance Benefits Advisory Council.
"Sec. 2062. Regulations.".
Sec. 102. Taxes and coverage for health insurance purposes.
Sec. 103. Tax refunds for certain servicemen.
Sec. 104. Professional standards review.
Sec. 105. Repeal of medicaid program.
TITLE II—CHANGES IN MEDICARE PROGRAM
Sec. 201. Establishment of medicare long-term care program.
"PART D—LONG-TERM CARE SERVICES PROGRAM
"Sec. 1881. Establishment of program.
"Sec. 1882. Eligibility for long-term care service benefits.
"Sec. 1883. Scope of benefits.
"Sec. 1884. State long-term care agency.
"Sec. 1885. Payment of premiums.
"Sec. 1886. Federal Long-Term Care Trust Fund.
"Sec. 1887. Functions of community long-term care centers.
"Sec. 1888. Payment to States for reimbursement of community long-term care centers.
"Sec. 1889. Definition of terms used in this part.

"(a) Community long-term care center.
"(b) Governing board.
"(c) Nutrition services.
"(d) Homemaker services.
"(e) Institutional services.
"(f) Home health services.
"(g) Day care; foster home care.
"(h) Community mental health center outpatient services.
"(i) Intermediate care facility.
"Sec. 1890. Payment method for community long-term care centers.
"Sec. 1891. Miscellaneous provisions.
"Sec. 1892. Determinations and appeals."
Sec. 202. Coverage of prescription drugs.
Sec. 203. Termination of deductible and coinsurance obligation in cases of catastrophic illness or injury.
Sec. 204. Elimination of posthospital requirement for home health services under part A of medicare.
Sec. 205. Elimination of durational limits on inpatient hospital services.
Sec. 206. Elimination of blood deductibles.
Sec. 207. Changes in payment procedures and administrative mechanisms under medicare program.

TITLE III—INDEPENDENT SOCIAL SECURITY ADMINISTRATION

Sec. 301. Declaration of purpose.
Sec. 302. Social Security Administration.
Sec. 303. Transitional provisions.
Sec. 304. Miscellaneous and conforming amendments.
Sec. 305. Amendments to Budget and Accounting Act.
Sec. 306. Amendments to title 5, United States Code.
Sec. 307. Effective date.

TITLE IV—AMENDMENT TO PUBLIC HEALTH SERVICE ACT

Sec. 401. Purpose.
Sec. 402. Health Resources Development Board.

"TITLE XIV—HEALTH RESOURCES DEVELOPMENT BOARD

"PART A—ADMINISTRATIVE PROVISIONS RESPECTING BOARD

"Sec. 1401. Establishment of Board.
"Sec. 1402. Executive Director; delegation of authority.
"Sec. 1403. Personnel.
"Sec. 1404. Information.
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"PART B—FUNCTIONS OF THE BOARD

"Sec. 1411. General provisions.
"Sec. 1412. Studies and evaluations, systems development, tests and demonstrations.
"Sec. 1413. Research.
"Sec. 1414. Planning.
"Sec. 1415. General policies and priorities.
"Sec. 1416. Organizations for the care of ambulatory patients.
"Sec. 1417. Recruitment, education and training of personnel.
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"PART C—NATIONAL ADVISORY COUNCI

"Sec. 1421. National Health Insurance l sources Advisory Council.

"PART D—FUNDING

"Sec. 1431 Authorization of appropriations; payments from Trust Fund.".

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Private supplemental health insurance certification program.

"TITLE XV—PRIVATE SUPPLEMENTAL HEALTH INSURANCE CERTIFICATION

"Sec. 1501. Purpose.
"Sec. 1502. Certification of supplemental health insurance policies.
"Sec. 1503. Standards with respect to supplemental health insurance policies.
"Sec. 1504. Establishment of emblem to indicate certification.
"Sec. 1505. Report to Congress.".
Sec. 502. Existing employer-employee health benefit plans unaffected.
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Sec. 504. Technical and conforming amendments.
Sec. 505. Additional technical and conforming amendments and transitional provisions.
Sec. 506. Effective date.

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress finds that—

(1) the health of the Nation's people is the foundation of their well-being and of our Nation's strength, productivity, and wealth;

(2) adequate health care for all of our people must now be recognized as a right; and

(3) a system of national health insurance is the means to implement that right.

(b) The purpose of this Act is—

(1) to create a system of national health insurance benefits which will make comprehensive health services available to all residents of the United States;

(2) through the operation of the system, to effect modifications in the organization and methods of delivery of health services which will increase the availability and continuity of care, will enhance its quality, will emphasize the maintenance of health as well as the treatment of illness and, by improving the efficiency and the utilization of services and by strengthening professional and financial controls, will restrain the mounting cost of care while providing fair and reasonable compensation to those who furnish it;

(3) through programs of health resource development based on National, State, and areawide planning, to assure that the amounts and kinds of manpower, facilities, and services needed to obtain health care covered by this insurance are actually available in every community; and

(4) through an independent contributory, social insurance program which administers funds placed in trust by all Americans, to assure a stable and systematically managed program which responds to the needs of both its beneficiaries and those who provide health care services in the Nation.

TITLE I—NATIONAL HEALTH INSURANCE PROGRAM

ESTABLISHMENT OF PROGRAM

SEC. 101. The Social Security Act is amended by adding at the end thereof the following new title:

"TITLE XX—NATIONAL HEALTH INSURANCE PROGRAM

"SHORT TITLE

"SEC. 2001. This title may be cited as the 'National Health Insurance Program'.

"FREE CHOICE BY PATIENT AND PRACTITIONER

"SEC. 2002. The administration of this title shall not interfere with the freedom of every physician and every patient to choose where and how they will give or receive health care. Neither the Board of the Social Security Administration, nor any of its agents, shall make medical judgments with respect to a patient's health care; this function is reserved solely to the physician and his peers. Nothing in this title shall be construed to mean that the Administration may own or operate any of the various elements of the health care system.

"ADMINISTRATION OF PROGRAM

"SEC. 2003. (a) Except as otherwise provided in this title, the national health insurance program established by this title shall be administered by the Board of the Social Security Administration established by section 701 (hereinafter in this title referred to as the 'Administration'). The Administration may perform any of its functions under this title directly, or by contract providing for payment in advance or by way of reimbursement, and in such installments, as the Administration may deem necessary.

"(b) The Administration may contact with any person, agency, or institution to secure on a reimbursable basis such special data, actuarial information, and other information as may be necessary in the carrying out of its functions under this title.

"(c) In the course of any hearing, investigation, or other proceeding that it is authorized to conduct under this title, the Administration may administer oaths and affirmations.

"PART A—SCOPE OF BENEFITS

"BENEFITS PROVIDED

"Covered Services

"SEC. 2011. (a)(1) Eligibility of an individual for health insurance benefits under the program established by this title consists of entitlement to have payment made on behalf of such individual in accordance with the provisions of this title for the following items and services:

"(A) inpatient hospital services;
"(B) physicians' services;
"(C) medical and other health services;
"(D) home health services;
"(E) post-hospital extended care services;
"(F) outpatient drugs and biologicals;
"(G) routine dental services for individuals under the age of 13;
"(H) developmental vision care services, as defined in regulations, routine eye and vision examinations, and eyeglasses, for individuals under the age of 13; and
"(I) hearing aids and examinations therefor, for individuals under the age of 13.

The items and services described in the preceding sentence include items and services related to mental health care, including those furnished in cases of alcoholism and drug abuse.

"(2) Notwithstanding the provisions of paragraph (1), payment under the program will not be made for items and services—

"(A) which are not reasonable and necessary for the diagnosis or treatment of congenital defect, illness, or injury or to improve the functioning of a malformed body member; except that nothing in this subparagraph shall prevent payment under the program for family planning and prenatal care items and services, routine dental services for individuals under the age 13, routine eye and vision examinations for individuals under the age of 13, examinations for hearing aids for individuals under the age of 13, and well-child care (as defined in section 2051(cc)) for individuals under the age of 6;

"(B) which are eyeglasses or eye examinations therefor, or hearing aids or examinations therefor, except for children under the age of 13;

"(C) for which the individual furnished such items or services has no legal obligation to pay and which no other person (by reason of such individual's membership in a prepayment plan or otherwise) has a legal obligation to provide or pay for;

"(D) which are not provided within the United States, except to the extent that payment would be made for the items or services involved in comparable circumstances under title XVIII;

"(E) which constitute personal comfort items;

"(F) which are orthopedic shoes or other supportive devices for the feet, except for individuals under the age of 6;

"(G) which constitute custodial care;

"(H) which constitute cosmetic surgery or are provided in connection therewith, except as required for the prompt repair of accidental injury or for the improvement of the functioning of a malformed body member;

"(I) which are provided by immediate relatives of the individual or members of his household;

"(J) which constitute—

"(i) the treatment of weak, strained, or flatfoot conditions of the prescription of

supporting or corrective devices therefor, except when provided to individuals under the age of 6,

"(ii) routine foot care;

"(K) which are kidney dialysis or transplantation items and services, unless provided by a kidney dialysis or transplantation center or facility which meets such requirements as the Administrator may by regulation provide; or

"(L) to the extent that payment has been made, or can reasonably be expected to be made, with respect to those items and services, under a workmen's compensation law or plan of the United States or a State (and any payment under the program shall be conditioned on reimbursement to the Federal Health Insurance Trust Fund when notice or other information is received that payment for the items or services involved has been made under such a law or plan).

"Coverage Limits

"(b) Payment under the program for—

"(1) post-hospital extended care services shall be limited to 100 days per calendar year;

"(2) home health services shall be limited to 100 visits per calendar year;

"(3) inpatient psychiatric hospital services shall be limited to 30 days of active treatment per calendar year; and partial hospitalization for the treatment of mental illness, as defined in regulations prescribed by the Administration, shall be limited to 60 days per calendar year; and

"(4) services provided on an outpatient basis for the treatment of mental illness in any calendar year shall be limited to the estimated cost of 30 outpatient visits to a private practitioner for the treatment of mental illness, as determined by the Administration in November of the preceding year, and payment for such services other than services provided on an outpatient basis in a comprehensive community care center, as defined in regulations, shall be limited to one-half of that amount.

"Deductibles and Coinsurance

"(c)(1)(A) Payment for items and services under the program shall, subject to subparagraph (B) and subsection (d), be reduced by a per-individual per-calendar-year deductible of $150; except that no further deductible shall be imposed under this paragraph in any calendar year with respect to any member of a covered family after two members of such family satisfy the deductible requirement for that year.

"(B) No deductible shall be imposed under the program with respect to prenatal items and services (other than hospitalization), well-child care, family planning services, or any item or service referred to in subparagraph (G), (H), or (I) of subsection (a)(1).

"(2) Payment for items and services under the program (other than outpatient drugs and biologicals and items and services specified in paragraph (1)(B)) shall, subject to subsection (d), be subject to a coinsurance requirement of 25 percent of the expenses incurred for such items and services in excess of any applicable deductible.

"Catastrophic Coverage

"(d) No further deductible or coinsurance requirement shall be imposed under the program with respect to items or services furnished to or for any member of a family in any calendar year after the total of the deductibles and coinsurance paid by or on behalf of all the members of such family under the program in that year (not including copayments for outpatient drugs and biologicals) equals $1,000.

"Review of Services

"(e) For requirement that Professional Standards Review Organizations review services for which payment is or may be made under this title, see section 1155(h) (as amended by section 104 of the Comprehensive National Health Insurance Act of 1974).

"PAYMENT FOR OUTPATIENT DRUGS AND BIOLOGICALS

"SEC. 2012. The amount paid to any participating pharmacy which is a provider of services with respect to outpatient drugs and biologicals for which payment may be made under this title shall, subject to the provisions of section 2011(c) and in accordance with section 2047, be (1) the reasonable allowance with respect to such drugs and biologicals, reduced (in the case of any one prescription or renewal for drugs or biologicals purchased by an individual at any one time) by (2) the applicable prescription copayment obligation which shall be $1.

"PART B—ELIGIBILITY FOR BENEFITS

"ELIGIBLE INDIVIDUALS

"SEC. 2021. (a) Every individual who—

"(1)(A) is fully or currently insured (within the meaning of section 214) for purposes of the old-age, survivors, and disability insurance program, or

"(B) would be fully or currently insured (within the meaning of section 214) for purposes of such program if his or her unearned income (as defined in subsection (f)) for periods after December 1975 had constituted wages or self-employment income for such purposes,

"(2) is the spouse of an individual described in paragraph (1), or is a dependent (as defined in section 152 of the Internal Revenue Code of 1954) of such an individual or suc han individual's spouse and (A) is under the age of 18, (B) is a full-time student (as defined in section 202(d)(7)) under the age of 22, or

(C) is under a disability (as defined in section 223(d)) which began before he or she attained the age of 22, or

"(3) is under the age of 65 and (A) is entitled to monthly insurance benefits under title II or (B) is a widow or widower who would upon application be entitled to monthly insurance benefits under section 202(e) or 202(f) had she or he attained the age of 65, shall be eligible for health insurance benefits under and in accordance with this title. In addition, an individual may be eligible for such benefits as provided in subsection (b), (c), or (d).

"(b) Any individual who during any calendar week performs employment (as defined in section 3126(b) of the Internal Revenue Code of 1954) for 25 or more hours shall be eligible for health insurance benefits under and in accordance with this title for the period beginning with the first day of such week and ending at the close of the third calendar week following such week.

"(c) Any individual who during any taxable year has or will have net earnings from self-employment (as defined in section 211(a)) or unearned income (as defined in subsection (f)), or both, in an aggregate amount equal to $400 or more (exclusive of aid to families with dependent children and supplemental security income benefits) shall be eligible for health insurance benefits under and in accordance with this title for the period beginning on the day such individual notifies the Administration in writing that he or she has or will have such earnings or income or both and ending at the close of such taxable year. If an individual receives benefits under this title pursuant to a notification under the preceding sentence and does not in fact have such net earnings from self-employment and unearned income of $400 or more during the taxable year, the amount of such benefits shall be considered an overpayment adjustable in the manner provided in section 2056(b) (subject to section 2056(c)).

"(d) Any individual or family receiving aid to families with dependent children under a State plan approved under section 402, or receiving supplemental security income benefits under title XVI, shall be eligible for health insurance benefits under and in accordance with this title for the period beginning with the first day of the third calendar month preceding the first month for which the tax imposed by section 3101(c) of the Internal Revenue Code of 1954 is deducted and withheld from such aid or benefits as provided in section 3102(d) of such Code and continuing for as long as such individual or family is (without interruption) receiving such aid or benefits.

"(e) Notwithstanding any other provision of this section, if any individual applies for and receives a credit or refund as provided in section 6413(d) of the Internal Revenue Code of 1954 with respect to the tax paid on any wages under section 3101(c) of such Code, such wages shall be deemed not to have been paid for purposes of determining such individual's eligibility for health insurance benefits under this title.

"(f) For purposes of this section, the term 'unearned income' with respect to any individual means—

"(1) the amount of such individual's adjusted gross income for the taxable year (as determined under chapter 1 of the Internal Revenue Code of 1954), including payments of aid to families with dependent children under a State plan approved under section 402, supplemental security income benefits under title XVI, and any amounts referred to in subparagraphs (B) and (F) of section 1612(a)(2) to the extent not otherwise includible in such income, reduced by

"(2) any part of such income (whether from wages or any other source) in excess of the amount of the contribution and benefit base for purposes of the taxes under sections 3101(c) and 3111(c) of such Code for such year (as determined under section 3126(a) of such Code), and further reduced by

"(3) any part of the remaining adjusted gross income which consists of—

"(A) wages taxable under section 3101(c) of such Code,

"(B) self-employment income taxable under section 1401(c) of such Code,

"(C) remuneration for services performed as a member of a uniformed service on active duty, or

"(D) remuneration (not taxable under section 3101(c) of such Code) for service performed by an alien in the employ of a foreign government, or an instrumentality of a foreign government, or an international organization.

"PART C—METHOD OF PAYMENT TO ELIGIBLE INDIVIDUALS

"ESTABLISHMENT OF INDIVIDUAL ACCOUNTS

"SEC. 2031. (a) In order to provide for the payment on behalf of eligible individuals of the amounts due under this title for items and services furnished them, the Social Security Administration shall establish for each such eligible individual an account against which such individual may charge the cost of obtaining any items and services furnished him under this title, without regard to any deductible or coinsurance requirement which may be applicable under section 2011(c).

"(b) Payment for any items and services furnished an eligible individual under this title (other than emergency services) shall be made only on the basis of charges against such individual's account.

"PAYMENT FOR ITEMS AND SERVICES AND COLLECTION OF DEDUCTIBLES AND COINSURANCE

"SEC. 2032. (a) Payment for items and services furnished an eligible individual shall be made by the Social Security Administration (at the applicable reimbursement rates) to the providers of services and other persons by which or by whom such items and services were furnished, on the basis of charges against such individual's account established under section 2031, in accordance with section 2042 in the case of providers of services

and section 2046 in the case of other persons (including physicians). Unless such individual's account is in default, payment shall be made to such providers and other persons without reduction on account of the applicable deductible and coinsurance requirements; and (subject to section 2033) such individual shall be billed as provided in subsection (b) for the portion of any such payment properly chargeable to him on account of those requirements.

"(b) The Administration shall have full responsibility for the collection of any deductible and coinsurance amounts due from an individual (after the application of section 2033) in connection with items and services furnished him under this title; except that the Administration in its discretion may enter into an agreement with a consortium of qualified carriers (included on the list established under section 2045(c)(1)) for the performance by such carriers on behalf of the Administration of the function of collecting such amounts.

"(c) Credit shall be available with respect to any bill submitted to an individual pursuant to subsection (a) with respect to items and services furnished him, and interest shall accrue on amounts owed on any such bill, in accordance with regulations. No recovery shall be made from any provider or other person to whom payment has been made because of the failure of such individual to pay any such bill; and an account will not be regarded as being in default unless (1) payment of amounts due under the account, or any other such account established with respect to such individual pursuant to the requirements of this title, is 90 days or more in arrears, and (2) the individual has not made satisfactory extended credit or repayment arrangements with the Administration or shown any indication of intent to pay the account within a reasonable period.

"SPECIAL WAIVER OF OR LIMITATION ON DEDUCTIBLES AND COINSURANCE FOR LOWER INCOME FAMILIES (WITH FINANCING FROM GENERAL REVENUES)

"SEC. 2033. (a) Notwithstanding any other provision of this part—

"(1) no deductible or coinsurance requirement shall be imposed upon any individual or family under section 2011(c) or billed to such individual or family under section 2032, with respect to items or services furnished under this title, in any calendar year, if the income of such individual or family for the most recent complete taxable year, as determined under subsection (d), is at or below the applicable income level set forth in subsection (c); and

"(2) the total amount of the deductibles and coinsurance which may be imposed upon any other individual or family under section 2011(c) and billed to such individual or family under section 2032, with respect to items and services furnished under this title in any calendar year, shall not exceed 25 percent of the amount by which the income of such individual or family for the most recent complete taxable year (or for such other period as the Administration determines will more nearly reflect the rate of income being received at the time the bill involved is submited), as determined under subsection (d), exceeds the applicable income level set forth in subsection (c).

"(b) For purposes of subsection (a), the term 'individual' does not include any individual who is a member of a family; and the term 'family' means two or more individuals who are (1) related by blood, marriage, or adoption and (2) living in a place of residence maintained by one or more of them as his or their own home.

"(c)(1) The term 'applicable income level' (subject to paragraphs (2) and (3)) means—

"(A) $2,400 in the case of an individual; and

"(B)(i) $3,600 in the case of a family consisting of two members,

"(ii) $4,200 in the case of a family consisting of three members,

"(iii) $4,800 in the case of a family consisting of four members, and

"(iv) $4,800, plus $400 for each member in excess of four, in the case of a family consisting of more than four members.

"(2) In the case of jurisdictions of the Commonwealth of Puerto Rico, the Virgin Islands, and Guam, the dollar amounts set forth in paragraph (1) shall each be deemed to be reduced to such amount as the Administration determines to be appropriate to assure that the ratio of individuals and families in any such jurisdiction who are entitled to the benefits of this section to the total population of such jurisdiction is not greater than the ratio of individuals in that State of the United States which has the highest such ratio of individuals who are entitled to such benefits to the total population of such State.

"(d)(1) For purposes of this section, the term 'income' means (subject to paragraph (2)) both earned income and unearned income; and—

"(A) 'earned income' means only—

"(i) wages as determined under section 203(f)(5)(C); and

"(ii) 'net earnings from self-employment', as defined in section 211 (without application of the second and third sentences following subsection (a) (10), and the last paragraph of subsection (a)), including earnings for services described in paragraphs (4), (5), and (6) of subsection (c); and

"(B) 'unearned income' means all other income, including—

"(i) support and maintenance furnished in cash or kind,

"(ii) any payments received as an annuity, pension, retirement, or disability benefit; including veterans' compensation and pensions; workmen's compensation payments; old-age, survivors, and disability insurance benefits; railroad retirement annuities and pensions; and unemployment insurance benefits,

"(iii) prizes and awards,

"(iv) the proceeds of any life insurance policy to the extent that they exceed the amount expended by the individual or family involved for purposes of the insured person's last illness and burial or $1,500, whichever is less,

"(v) gifts (cash or otherwise), support and alimony payments, and inheritances, and

"(vi) rents, dividends, interest, and royalties.

"(2)(A) In determining, for purposes of this section, the income of any individual or family, for any period of time, there shall be excluded—

"(i) subject to limitations (as to amount or otherwise) prescribed by the Administration, if such individual is a child who is, as determined by the Administration, a student regularly attending a school, college, or university, or a course of vocational or technical training designed to prepare him for gainful employment, the earned income of such individual;

"(ii)(I) the total unearned income of such individual (and such spouse, if any) in a calendar quarter which, as determined in accordance with criteria prescribed by the Administration, is received too infrequently or irregularly to be included, if such income so received does not exceed $60 in such quarter, and (II) the total earned income of such individual (and such spouse, if any) in a calendar quarter which, as determined in accordance with such criteria, is received too infrequently or irregularly to be included, if such income so received does not exceed $30 in such quarter;

"(iii) any amount received from any public agency as a return or refund of taxes paid on real property or on food purchased by such individual (or such spouse);

"(iv) any portion of any grant, scholarship, or fellowship received for use in paying the cost of tuition and fees at any educational (including technical or vocational education) institution;

"(v) home produce of such individual (or spouse) utilized by the household for its own consumption;

"(vi) any amounts received for the foster care of a child who is not an eligible individual but who is living in the same home as such individual and was placed in such home by a public or nonprofit private child-placement or child-care agency; and

"(vii) the aggregate value of any gifts which do not exceed $100, if such period of time is equal to 12 months, or, if such period of time is less than 12 months, then an amount which bears the same ratio to $100 as such period bears to 12 months.

"(B) For purposes of subparagraph (A) and subsection (a)—

"(i) a loan of $100 or more (or aggregate thereof) shall be regarded as a gift if such loan—

"(I) is unsecured (or is without adequate security), or

"(II) has no maturity date; and

"(ii) in the case of a loan which—

"(I) bears no interest, or

"(II) bears no interest at a rate which is not more than one-half of the prevailing rate of interest imposed with respect to similar loans,

the recipient of such loans shall be regarded as having received, as a gift, an amount, with respect to any period of time, equal to the excess of—

"(III) the amount of interest which would have been payable by him, with respect to such period, on such loan if such loan bore a rate of interest equal to the prevailing rate of interest imposed (as of the time such loan was made) with respect to similar loans, over

"(IV) the amount of interest (if any) payable by him, with respect to such period, on such loan.

"INFORMATION AND DATA TO FACILITATE ADMINISTRATION

"SEC. 2034. (a) Each State agency administering or supervising the administration of a State plan for aid to families with dependent children approved under section 402 shall submit to the Administration any information or data relating to family status or family income which such agency may have and which the Administration requests to facilitate the administration of this part.

"(b) The Administration is authorized to enter into such contracts and arrangements with other public agencies (Federal, State, or local) as may be necessary or appropriate to obtain information and data which relates to family status and family income and which would facilitate the administration of this part, and to make appropriate payment to such agencies (in advance or by way of reimbursement) for any such information and data obtained thereunder.

"PART D—ADMINISTRATION OF PROGRAM

"CONDITIONS OF AND LIMITATIONS OF PAYMENT

"Requirement of Requests and Certifications

"SEC. 2041. (a) Except as provided in subsections (c), (g), and (h) of this section and in section 2045, payment for items and services furnished an individual may be made only to providers of services which are eligible therefor under section 2043 and only if—

"(1) written request, signed by such individual, except in cases in which the Social Security Administration finds it impracticable for the individual to do so, is filed for such payment in such form, in such manner, and by such person or persons as the Administration may by regulation prescribe, no later than the close of the period of 3 calendar years following the year in which such services are furnished (deeming any services furnished in the last 3 calendar months of any calendar year to have been furnished in the succeeding calendar year) except that where the Administration deems that efficient ad-

ministration so requires, such period may be reduced to not less than 1 calendar year;

"(2) a physician certifies (and recertifies, where such services are furnished over a period of time, in such cases, with such frequency, and accompanied by such supporting material, appropriate to the case involved, as may be provided by regulations, except that the first of such recertifications shall be required in each case of inpatient hospital services not later than the 20th day of such period) that—

"(A) in the case of inpatient psychiatric hospital services, such services are or were required to be given on an inpatient basis, by or under the supervision of a physician, for the psychiatric treatment of an individual; and (i) such treatment can or could reasonably be expected to improve the condition for which such treatment is or was necessary or (ii) inpatient diagnostic study is or was medically required and such services are or were necessary for such purposes;

"(B) in the case of inpatient tuberculosis hospital services, such services are or were required to be given on an inpatient basis, by or under the supervision of a physician, for the treatment of an individual for tuberculosis; and such treatment can or could reasonably be expected to (i) improve the condition for which such treatment is or was necessary or (ii) render the condition noncommunicable;

"(C) in the case of post-hospital extended care services, such services are or were required to be given because the individual needs or needed on a daily basis skilled nursing care (provided directly by or requiring the supervision of skilled nursing personnel) or other skilled rehabilitation services, which as a practical matter can only be provided in a skilled nursing facility on an inpatient basis, for any of the conditions with respect to which he was receiving inpatient hospital services (or services which would constitute inpatient hospital services if the institution met the requirements of paragraphs (6) and (8) of section 2051(b)) prior to transfer to the skilled nursing facility or for a condition requiring such extended care services which arose after such transfer and while he was still in the facility for treatment of the condition or conditions for which he was receiving such inpatient hospital services;

"(D) in the case of home health services (i) such services are or were required because the individual is or was confined to his home (except when receiving items and services referred to in section 2051(m)(7)) and needed skilled nursing care on an intermittent basis, or physical or speech therapy, (ii) a plan for furnishing such services to such individual has been established and is periodically reviewed by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician;

"(E) in the case of inpatient hospital services in connection with the care, treatment, filling, removal, or replacement of teeth or structures directly supporting teeth, the individual, because of his underlying medical condition and clinical status, requires hospitalization in connection with the provision of such dental services;

"(F) in the case of medical and other health services except services described in subparagraphs (B), (C), and (D) of section 2051(g)(2), such services are or were medically required;

"(G) in the case of outpatient physical therapy services, (i) such services are or were required because the individual needed physical therapy services, (ii) a plan for furnishing such services has been established, and is periodically reviewed by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician; or

"(H) in the case of outpatient speech pathology services, (i) such services are or were required because the individual needed speech pathology services, (ii) a plan for furnishing such services has been established and is periodically reviewed by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician;

"(3) with respect to inpatient hospital services (other than inpatient psychiatric hospital services and inpatient tuberculosis hospital services) which are furnished over a period of time, a physician certifies that such services are required to be given on an inpatient basis for such individual's medical treatment, or that inpatient diagnostic study is medically required and such services are necessary for such purpose, except that (A) such certification shall be furnished only in such cases, with such frequency, and accompanied by such supporting material, appropriate to the cases involved, as may be provided by regulations, and (B) the first such certification required in accordance with clause (A) shall be furnished no later than the 20th day of such period;

"(4) in the case of inpatient psychiatric hospital services, the services are those which the records of the hospital indicate were furnished to the individual during periods when he was receiving (A) intensive treatment services, (B) admission and related services necessary for a diagnostic study, or (C) equivalent services;

"(5) in the case of inpatient tuberculosis hospital services, the services are those which the records of the hospital indicate were furnished to the individual during periods when he was receiving treatment which could reasonably be expected to (A) improve his condition or (B) render it noncommunicable;

"(6) with respect to inpatient hospital services furnished such individual after the 20th day of a continuous period of such services and with respect to post-hospital extended care services furnished after such day of a continuous period of such services as may be prescribed in or pursuant to regulations, there was not in effect, at the time of admission of such individual to the hospital or skilled nursing facility, as the case may be, a decision under section 2043(d) (based on a finding that utilization review of long-stay cases is not being made in such hospital or facility);

"(7) with respect to inpatient hospital services or post-hospital extended care services furnished such individual during a continuous period, a finding has not been made (by the physician members of the committee or group, as described in section 2051(k)(4), including any finding made in the course of a sample or other review of admissions to the institution) pursuant to the system of utilization to review that further inpatient hospital services or further post-hospital extended care services, as the case may be, are not medically necessary; except that, if such a finding has been made, payment may be made for such services furnished before the 4th day after the day on which the hospital or skilled nursing facility, as the case may be, received notice of such finding; and

"(8) with respect to outpatient drugs or biologicals, the participating pharmacy (as defined in section 2051(bb)) has the physician's prescription in its possession, or some other record (in the case of insulin) that is satisfactory to the Administration.

"To the extent provided by regulations, the certification and recertification requirements of paragraph (2) shall be deemed satisfied where, at a later date, a physician makes certification of the kind provided in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H) of paragraph (2) (whichever would have applied), but only where such certification is accompanied by such medical and other evidence as may be required by such regulations. For purpose of this section, the term 'provider of services' shall include a clinic, rehabilitation agency, or public health agency if, in the case of a clinic or rehabilitation agency, such clinic or agency meets the requirements of section 2051(o)(4)(A), or if, in the case of a public health agency, such agency meets the requirements of section 2051(o)(4)(B), but only with respect to the furnishing of outpatient physical therapy services as therein defined. To the extent provided by regulations, the certification and recertification requirements of paragraph (2) shall be deemed satisfied where, at a later date, a physician makes a certification of the kind provided in subparagraph (D) or (F) of paragraph (2) (whichever would have applied), but only where such certification is accompanied by such medical and other evidence as may be required by such regulations.

"No Payments to Federal Providers of Services

"(b) No payment may be made under this title (except under subsection (c)) to any Federal provider of services or other Federal agency, except a provider of services which the Administration determines is providing services to the public generally as a community institution or agency; and no such payment may be made to any provider of services for any item or service which such provider is obligated by a law of, or a contract with, the United States to render at public expense.

"Payment for Emergency Hospital Services

"(c)(1) Payments shall also be made to any hospital for inpatient hospital services furnished in a calendar year by the hospital or under arrangements (as defined in section 2051(y)) with it, to an individual entitled to benefits under this title even though such hospital does not have an agreement in effect under this title if (A) such services were emergency services, (B) the Administration would be required to make such payment if the hospital had such an agreement in effect and otherwise met the conditions of payment hereunder, and (C) such hospital has elected to claim payment for all such inpatient emergency services and for the emergency outpatient services referred to in subsection (k) furnished during such year. Such payments shall be made only in the amounts provided under subsection (b) and then only if such hospital agrees to comply, with respect to the emergency services provided, with the provisions of section 2043(a).

"(2) Payment may be made on the basis of an itemized bill to an individual entitled to benefits under this title for services described in paragraph (1) which are emergency services if (A) payment cannot be made under paragraph (1) solely because the hospital does not elect to claim such payment, and (B) such individual files application (submitted within such time and in such form and manner and by such person, and containing and supported by such information as shall be prescribed in regulations) for reimbursement.

"(3) The amounts payable under the preceding paragraphs with respect to services described therein shall, subject to the provisions of section 2011(c), be equal to 60 percent of the hospital's reasonable charge for routine services furnished in the accommodations occupied by the individual or in semiprivate accommodations, whichever is less, plus 80 percent of the hospital's reasonable charges for ancillary services. If separate charges for routine and ancillary services are not made by the hospital, reimbursement may be based on two-thirds of the hospital's reasonable charges for the services received but not to exceed the charges which would have been made if the patient had occupied semiprivate accommodations. For purposes of the preceding provisions of this paragraph, the term 'routine services' shall mean the regular room, dietary and nursing services, minor medical and surgical supplies, and the use of equipment and facilities for which a separate charge is not customarily made; the term 'ancillary services' shall mean those

special services for which charges are customarily made in addition to routine services.

"Payment for Inpatient Hospital Services Prior to Notification of Noneligibility

"(d) Notwithstanding that an individual is not entitled to have payment made under this part for inpatient hospital services furnished by any hospital, payment shall be made to such hospital (unless it elects not to receive such payment or, if payment has already been made by or on behalf of such individual, fails to refund such payment within the time specified by the Administration) for such services which are furnished to the individual prior to notification to such hospital from the Administration of his lack of entitlement, if such payments are precluded only by reason of section 2011(b) and if such hospital complies with the requirements of and regulations under this title with respect to such payments, has acted in good faith and without knowledge of such lack of entitlement, and has acted reasonably in assuming entitlement existed. Payment under the preceding sentence may not be made for the services furnished an individual pursuant to any admission after the 6th elapsed day (not including as an elapsed day Saturday, Sunday, or legal holiday) after the day on which such admission occurred.

"(1) such hospital has an agreement with the Administration under section 2043, and

"(2) the Administration has received written assurances that (A) such payment will be used by such fund solely for the improvement of care of hospital patients or for educational or charitable purposes and (B) the individuals who were furnished such services or any other persons will not be charged for such services (or if charged, provision will be made for return of any moneys incorrectly collected).

"Payment for Post-hospital Extended Care Services

"(e)(1) An individual shall be presumed to require the care specified in subsection (a)(2)(C) of this section for purposes of making payment to an extended care facility (subject to the provisions of section 2011(b)) for post-hospital extended care services which are furnished by such facility to such individual if—

"(A) the certification referred to in subsection (a)(2)(C) of this section is submitted prior to or at the time of admission of such individual to such extended care facility,

"(B) such certification states that the medical condition of the individual is a condition designated in regulations,

"(C) such certification is accompanied by a plan of treatment for providing such services, and

"(D) there is compliance with such other requirements and procedures as may be specified in regulations, but only for services furnished during such limited periods of time with respect to such conditions of the individual as may be prescribed in regulations, taking into account the medical severity of such conditions, the degree of incapacity, and the minimum length of stay in an institution generally needed for such conditions, and such other factors affecting the type of care to be provided as the Administration deems pertinent.

"(2) If the Administration determines with respect to a physician that such physician is submitting with some frequency (A) erroneous certifications that individuals have conditions designated in regulations as provided in this subsection or (B) plans for providing services which are inappropriate, the provisions of paragraph (1) shall not apply, after the effective date of such determination, in any case in which such physician submits a certification or plan referred to in subparagraph (A), (B), or (C) of paragraph (1).

"Payment for Home Health Services

"(f)(1) An individual shall be presumed to require the services specified in subsection (a)(2)(D) of this section for purposes of making payment to a home health agency (subject to the provisions of section 2011(b)) for home health services furnished by such agency to such individual if—

"(A) the certification and plan referred to in subsection (a)(2)(D) of this section are submitted in timely fashion prior to the first visit by such agency,

"(B) such certification states that the medical condition of the individual is a condition designated in regulations, and

"(C) there is compliance with such other requirements and procedures as may be specified in regulations, but only for services furnished during such limited numbers of visits with respect to such conditions of the individual as may be prescribed in regulations, taking into account the medical severity of such conditions, the degree of incapacity, and the minimum period of home confinement generally needed for such conditions, and such other factors affecting the type of care to be provided as the Administration deems pertinent.

"(2) If the Administration determines with respect to a physician that such physician is submitting with some frequency (A) erroneous certifications that individuals have conditions designated in regulations as provided in this subsection or (B) plans for providing services which are inappropriate, the provisions of paragraph (1) shall not apply after the effective date of such determination, in any case in which such physician submits a certification or plan referred to in subparagraph (A) or (B) of paragraph (1).

"Limitation on Payment for Outpatient Drugs and Biologicals

"(g) Payment may be made under this title for outpatient drugs and biologicals only when they are dispensed by a participating pharmacy; except that payment under this title may be made for outpatient drugs and biologicals dispensed by a physician where the Administration determines, in accordance with regulations, that such drugs and biologicals were required in an emergency or that there was no participating pharmacy available in the community, in which case the physician (under regulations) shall be regarded as a participating pharmacy for purposes of this title with respect to the dispensing of such drugs and biologicals.

"Limitations on Payment for Surgery and Other Specialized Services

"(h)(1) Payment may be made under this title for major surgery or for other specialized services designated in regulations only when they are furnished by specialists and, to the extent specified in regulations, are either emergency services or services furnished on referral by a physician engaged in general or family practice (as determined in accordance with regulations).

"(2) A physician is a specialist, for purposes of paragraph (1), only if he holds a certificate from the appropriate national specialty board; except that (A) a physician who possesses the qualifications requisite to such certification may furnish services as a specialist during a period of five years after attaining such qualifications and (if later) a period of five years after the effective date of health benefits under the program, (B) a physician may be authorized by the Administration to furnish services as a specialist if (i) prior to such effective date he has engaged in furnishing such services as a specialist or as a substantial part of his medical practice, (ii) he meets standards established by the Administration, and (iii) where appropriate, authorization to him to furnish services as a specialist is recommended by a participating hospital in which he has engaged substantially in furnishing such services, and (C) a physician may be authorized by the Administration to furnish services as a specialist if the number of physicians with the same specialty in the geographic area involved (as established under section 1152(a)) is insufficient to meet the needs of the residents of such area.

"(3) The Administration may by regulation exclude from covered services specified surgical procedures, when not required by life-threatening or other acute emergencies, which have not been preceded by consultation with, and recommendation of surgery by, such appropriately qualified specialists as may be required by the regulations. Hospital and other services incident to surgery excluded by regulations under this subsection are not covered services.

"(4) With respect to the performance of surgical procedures specified in regulations under paragraph (3), including emergency procedures, the Administration may require as a condition of payment to the provider that there be submitted to the carrier having responsibility for the administration of noninstitutional benefits under this title in the area involved pursuant to section 2045 a pathology report on tissue removed and a clinical abstract or discharge report of the case.

"Limitation on Payment for Practitioner Services Furnished in Nonparticipating Hospital

"(i) Payment may not be made under this title for services furnished by a professional practitioner in a hospital which is not a participating provider of services.

"Limitation on Payment for Certain Prosthetic Devices

"(j) Payment may not be made under this title—

"(1) for a fixed dental prosthesis without approval in advance given by the Professional Standards Review Organization for the area involved (or, if there is no such organization for that area, in such manner and by such entity as the Board may determine); or

"(2) for a hearing aid without a prescription therefor written by a physician who is a doctor of medicine or a doctor of osteopathy.

"Payment for Certain Outpatient Services Furnished by Nonparticipating Hospital

"(k)(1) Payment may also be made to any hospital for services described in section 2051(g) furnished as an outpatient service by a hospital or by others under arrangements made by it to an individual entitled to benefits under this title even though such hospital does not have an agreement in effect under this title, if (A) such services were emergency services, (B) the Administration would be required to make such payment if the hospital had such an agreement in effect and otherwise met the conditions of payment hereunder, and (C) such hospital has made an election pursuant to subsection (c)(1)(C) with respect to the calendar year in which such emergency services are provided. Such payments shall be made only if such hospital agrees to comply, with respect to the emergency services provided, with the provisions of section 2043(a).

"(2) Payment may also be made on the basis of an itemized bill to an individual for services described in paragraph (1) of this subsection if (A) payment cannot be made under such paragraph solely because the hospital does not elect, in accordance with subsection (c)(1)(C), to claim such payments and (B) such individual files application (submitted within such time and in such form and manner, and containing and supported by such information, as the Administration shall be regulations prescribe) for reimbursement.

"Collection by Hospitals of Customary Charges for Certain Outpatient Services

"(1) Notwithstanding any other provision of this part, a hospital may, subject to such

limitations as may be prescribed by regulations, collect from an individual the customary charges for services specified in section 2051(g) and furnished to him by such hospital as an outpatient, but only if such charges for such services do not exceed the applicable deductible, and such customary charges shall be regarded as expenses incurred by such individual for purposes of section 1811(c)(2). Payments under this title to hospitals which have elected to make collections from individuals in accordance with the preceding sentence shall be adjusted periodically to place the hospital in the same position it would have been in had it been reimbursed without regard to this subsection.

"PAYMENT TO PROVIDERS OF SERVICES; PROSPECTIVE DETERMINATION OF PAYMENT TO PROVIDERS; QUALITY MANAGEMENT PAYMENTS

"SEC. 2042. (a) The Administration shall periodically determine (subject to subsection (b)) the amount which should be paid under this title to each provider of services with respect to the services furnished by it, and the provider of services shall be paid, at such time or times as the Administration believes appropriate (but not less often than monthly) and prior to audit of settlement by the General Accounting Office, from the National Health Insurance Trust Fund, the amounts so determined, with necessary adjustments on account of previously made overpayments or underpayments; except that no such payments shall be made to any provider unless it has furnished such information as the Administration may request in order to determine the amounts due such provider under this title for the period with respect to which the amounts are being paid or any prior period.

"(b)(1) The Administration after consultation with providers of services and organizations of such providers, third party payors for institutional care, and other interested parties and organizations shall develop and make available to such providers of services one or more methods of obtaining payment on a prospective basis for services furnished under this title. Such providers will have the option of electing to utilize any one of such prospective payment methods. Once a provider elects a particular prospective payment method, it may not alter its election without the prior approval of the Administration. Where the Administration finds that the number of providers electing a prospective payment method promulgated in accordance with this paragraph is not sufficient to provide an adequate basis for either the operation or evaluation of that method, or that the method does not achieve improved results, then the Administration shall withdraw that method and allow the electing providers to select another method within 30 days of notice of such withdrawal.

"(2) In addition to the method or methods for establishing prospective rates or amounts made available under paragraph (1), the Administration may make available to providers in a State or any other region or geographic area designated by the Administration another method for establishing prospective rates or amounts where the Administration finds that the State or regional plan for prospective payment, as developed by either the State, providers or a provider organization, or a third party payor, is consistent with the policies expressed in this subsection.

"(3) Prior to the initial publication of any prospective payment method under paragraph (1) or the approval of any alternative prospective payment method under paragraph (2), the Administration shall give 60 days' notice thereof to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

"(4) Prospective payment methods authorized under this subsection shall include in their design provisions (A) for financial incentives for efficiency and effectiveness of provider operations equal to the potential difference between the prospective rate or amount and the actual rate or amount, (B) which provide assurances to providers of services that their total income from all patient care will be equal to their financial requirements (subject to section 1122), (C) to assure the substantial participation by providers in such prospective payment methods, (D) to assure the availability of institutional services of high quality to beneficiaries and recipients under this title, and (E) for maintaining independent management discretion and responsibility in such providers.

"(5) Any payment method which the Administration establishes or approves under paragraphs (1) and (2) must recognize in the establishment of the prospective rate or amount the providers' total cost of operation of facilities and services which have been approved under section 1122, including (A) the unrecovered costs due to credit losses and patient's inability to pay; (B) the costs associated with agreed upon working capital needs; and (C) the cost of financing approved capital facility or services projects.

"(6)(A) Any payment method which the Administration establishes or approves under paragraph (1) or (2) shall not be modified once established with respect to an accounting period except under the circumstances described in subparagraph (B).

"(B) The Administration by regulation shall provide for adjustment to the agreed upon prospective rate amount for (i) unforeseeable events such as natural catastrophies and (ii) significant and unexpected changes in demand for services or for unexpected or significant changes in patient mix not under control of the provider.

"(C) A provider shall have the right to appeal a decision under subparagraph (B) to the Provider Reimbursement Review Board as authorized under section 2060.

"(7) Any payment method which the Administration establishes or approves under paragraph (1) or (2) must include provision for a return on the equity invested in the provision of the services, with the Administration determining annually a reasonable rate, after consideration of rates of return on investment of comparable risk and with such rate being included as a factor in the determination of the prospective rate or amount in the case of for-profit providers. Amounts shall also be included in determining the prospective rate or amount for not-for-profit providers in order to give appropriate recognition to the risk assumed under a prospective payment method.

"(8) Any prospective payment method established under this subsection shall exclude from reimbursement under this title in any calendar year the amount of any expenses of the provider which are paid by a State or local government in such year (or, if higher, an amount of the expenses of such provider equal to the amount of the expenses of such provider which were paid by a State or local government in the calendar year 1973).

"(9) Following publication of final regulations governing the method or methods of determining prospective rates or amounts under this subsection each provider shall have a period of 60 days within which to select one of the prospective payment methods for the first fiscal year beginning more than 120 days after the end of such 60-day period.

"(10) The Administration shall submit to the Congress annually a full report on the impact of prospective payment methods on the efficiency and effectiveness of provider operations. It shall include in its report an evaluation of the effects of the method of payment on the utilization and quality of the services of providers.

"(c)(1) The Administration shall promulgate a system of incentive payments as appropriate in accordance with the provisions of this subsection.

"(2) The Administration shall award on an annual basis quality management payments to any provider of services under this title whenever either the percentage amount or the dollar amount of increase in such provider's prospective rate (as defined by the Administration) for a fiscal year is less than the average annual increase in such rate for the three previous fiscal years for all providers in the same class as defined in accordance with paragraph (4).

"(3) The quality management payment to any provider under this subsection shall be equal to 50 percent of the difference between such provider's total costs to the program and what its costs to the program would have been had they increased at the class average rate as computed for the purpose of paragraph (2).

"(4) For purposes of comparing similar classes of hospitals under paragraph (2), the Administration shall develop and utilize a comparison methodology for grouping and comparing similar providers of services. Prior to the implementation of this paragraph the Administration shall consult with organizations of providers of services, third party payors for hospital care, and other interested parties.

"(5) Where a provider's increase, as computed under paragraph (2), exceeds the class average (as computed under paragraph (2)) with respect to a fiscal year, one-half of the difference between such provider's increase and the class average shall be added to such provider's increase in the subsequent fiscal year for purposes of computing any future entitlement to any quality management payment under this subsection.

"(6)(A) In recognition of the significant contribution to improved management practices by staff personnel and members of the medical staff, each provider which receives a quality management payment under this subsection shall distribute at least one-half of the amount of such payment to the employees and members of the medical staff under a plan approved by the governing board of such provider and made known to such employees and such members of the medical staff.

"(B) Any amounts paid to employees under the provisions of subparagraph (A) shall not be considered costs for the purposes of the computation required under paragraph (2), and the Administration shall promulgate annually the names (and other identifying information) of all providers which receive quality management payments under this subsection.

"(7) Quality management payments under this subsection shall be made in appropriate part from the Federal Hospital Insurance Trust Fund, the Federal Supplementary Medical Insurance Trust Fund, and the National Health Insurance Trust Fund. The Administration shall submit to the Congress annually a full report on the quality management payments made under this subsection. The Administration shall include in its report an evaluation of the impact of such payments on the efficiency and effects of these payments on the utilization and quality of hospital services.

"AGREEMENTS WITH PROVIDERS OF SERVICES

"SEC. 2043. (a)(1) Any provider of services shall be qualified to participate under this title and shall be eligible for payments under this title if it files with the Administration an agreement—

"(A) not to charge, except as provided in paragraph (2), any individual or any other person for items or services for which such individual is entitled to have payment made under this title (or for which he would be so entitled if such provider of services had complied with the procedural and other re-

quirements under or pursuant to this title or for which such provider is paid pursuant to the provisions of section 2041(d)), and

"(B) not to charge any individual or any other person for items or services for which such individual is not entitled to have payment made under this title because payment for expenses incurred for such items or services may not be made by reason of the provisions of section 2011(a)(2) (A) or (G), but only if (i) such individual was without fault in incurring such expenses and (ii) the Administration's determination that such payment may not be made for such items and services was made after the third year following the year in which notice of such payment was sent to such individual; except that the Administration may reduce such three-year period to not less than one year if he finds such reduction is consistent with the objectives of this title, and

"(C) to make adequate provision for return (or other disposition, in accordance with regulations) of any moneys incorrectly collected from such individuals or other person. An agreement under this paragraph with an extended care facility shall be for a term of not exceeding 12 months, except that the Administration may extend such terms for a period not exceeding 2 months, where the health and safety of patients will not be jeopardized thereby, if he finds that such extension is necessary to prevent irreparable harm to such facility or hardship to the individuals being furnished items or services by such facility or if he finds it impracticable within such 12-month period to determine whether such facility is complying with the provisions of this title and regulations thereunder.

"(2)(A) A provider of services may charge such individual or other person (i) the amount of any deduction or coinsurance amount imposed pursuant to section 2011(c) with respect to such items and services (not in excess of the amount customarily charged for such items and services by such provider), (ii) the amount of any copayment obligation and excess above the reasonable allowance consistent with section 2051(bb)(4), (iii) an amount equal to 20 per centum of the reasonable charges for such items and services (not in excess of 20 per centum of the amount customarily charged for such items and services by such provider) for which payment is made under this title.

"(B) Where a provider of services has furnished, at the request of such individual, items or services which are in excess of or more expensive than the items or services with respect to which payment may be made under this title, such provider of services may also charge such individual or other person for such more expensive items or services to the extent that the amount customarily charged by it for the items or services furnished at such request exceeds the amount customarily charged by it for the items or services with respect to which payment may be made under this title.

"(b) An agreement with the Administration under this section may be terminated (and in the case of a skilled nursing facility, prior to the end of the term specified in subsection (a)(1))—

"(1) by the provider of services at such time and upon such notice to the Administration and the public as may be provided in regulations, except that notice of more than 6 months shall not be required, or

"(2) by the Administration at such time and upon such reasonable notice to the provider of services and the public as may be specified in regulations, but only after the Administration has determined (A) that such provider of services is not complying substantially with the provisions of such agreement, or with the provisions of this title and regulations thereunder, or (B) that such provider of services no longer substantially meets the applicable provisions of section 2051, or (C) that such provider of services has failed to provide such information as the Administration finds necessary to determine whether payments are or were due under this title and the amounts thereof, or has refused to permit such examination of its fiscal and other records by or on behalf of the Administration as may be necessary to verify such information, or (D) that such provider has made, or caused to be made, any false statement or representation of a material fact for use in an application for payment under this title or for use in determining the right to a payment under this title, or (E) that such provider has submitted, or caused to be submitted, requests for payment under this title of amounts for rendering services substantially in excess of the costs incurred by such provider for rendering such services, or (F) that such provider has furnished services or supplies which are determined by the Administration, with the concurrence of the members of an appropriate program review team who are physicians or other professional personnel in the health care field, to be substantially in excess of the needs of individuals or to be harmful to individuals or to be of a grossly inferior quality.

Any termination shall be applicable—

"(3) in the case of inpatient hospital services (including tuberculosis hospital services and inpatient psychiatric hospital services) or post-hospital extended care services, with respect to services furnished after the effective date of such termination, except that payment may be made for up to thirty days with respect to inpatient institutional services furnished to any eligible individual who was admitted to such institution prior to the effective date of such termination,

"(4)(A) with respect to home health services furnished to an individual under a plan therefor established on or after the effective date of such termination, or (B) if a plan is established before such effective date, with respect to such services furnished to such individual after the calendar year in which such termination is effective, and

"(5) with respect to any other items and services furnished on or after the effective date of such termination.

"(c)(1) Where an agreement filed under this title by a provider of services has been terminated by the Administration, such provider may not file another agreement under this title unless the Administration finds that the reason for the termination has been removed and that there is reasonable assurance that it will not recur.

"(2) In the case of a skilled nursing facility participating in the programs established by this title and title XVIII, the Administration may enter into an agreement under this section only if such facility has been approved for purposes of title XVIII, and the term of any such agreement shall be in accordance with the period of approval of eligibility specified by the Administration for such purposes.

"(d) If the Administration finds that there is a substantial failure to make timely review in accordance with section 2051(k) of long-stay cases in a hospital or skilled nursing facility, it may, in lieu of terminating its agreement with such hospital or facility, decide that, with respect to any individual admitted to such hospital or facility after a subsequent date specified by it, no payment shall be made under this title for inpatient hospital services (including inpatient tuberculosis hospital services and inpatient psychiatric hospital services) after the twentieth day of a continuous period of such services or for post-hospital extended care services after such day of a continuous period of such care as is prescribed in or pursuant to regulations, as the case may be. Such decision may be made effective only after such notice to the hospital, or (in the case of a skilled nursing facility) to the facility and the hospital or hospitals with which it has a transfer agreement, and to the public, as may be prescribed by regulations, and its effectiveness shall terminate when the Administration finds that the reason therefor has been removed and that there is reasonable assurance that it will not recur. The Administration shall not make any such decision except after reasonable notice and opportunity for hearing to the institution or agency affected thereby.

"(e) For purposes of this section, the term 'provider of services' shall include a clinic, rehabilitation agency or public health agency if, in the case of a clinic or rehabilitation agency, such clinic or agency meets the requirements of section 2051(o)(4)(A), or if, in the case of a public health agency, such agency meets the requirements of section 2051(o)(4)(B), but only with respect to the furnishing of outpatient physical therapy services (as therein defined).

"USE OF PUBLIC AGENCIES OR PRIVATE ORGANIZATIONS TO FACILITATE PAYMENT TO PROVIDERS OF SERVICES

"SEC. 2044. (a) If any group or association of providers of services wishes to have payments under this title to such providers made through a national, State, or other public or private agency or organization and nominates such agency or organization for this purpose, the Administration is authorized to enter into an agreement with such agency or organization providing for the determination by such agency or organization (subject to the provisions of section 2060 and to such review by the Administration as may be provided for by the agreement) of the amount of the payments required pursuant to this title to be made to such providers, and for the making of such payments by such agency or organization to such providers. Such agreement may also include provision for the agency or organization to do all or any part of the following: (1) to provide consultative services to institutions or agencies to enable them to establish and maintain fiscal records necessary for purposes of this title and otherwise to qualify as hospitals, extended care facilities, or home health agencies, and (2) with respect to the providers of services which are to receive payments through it (A) to serve as a center for, and communicate to providers, any information or instructions furnished to it by the Administration, and serve as a channel of communication from providers to the Administration; (B) to make such audits of the records of providers as may be necessary to insure that proper payments are made under this title; and (C) to perform such other functions as are necessary to carry out this subsection.

"(b) The Administration shall not enter into an agreement with any agency or organization under this section unless (1) he finds (A) that to do so is consistent with the effective and efficient administration of this title, and (B) that such agency or organization is willing and able to assist the providers to which payments are made through it under this title in the application of safeguards against unnecessary utilization of services furnished by them to individuals entitled to benefits under this title, and the agreement provides for such assistance, and (2) such agency or organization agrees to furnish to the Administration such of the information acquired by it in carrying out its agreement under this section as the Administration may find necessary in performing its functions under this title.

"(c) An agreement with any agency or organization under this section may contain such terms and conditions as the Administration finds necessary or appropriate, may provide for advances of funds to the agency or organization for the making of payments by it under subsection (a), and shall provide for payment of so much of the cost of administration of the agency or organization as is determined by the Administration to be necessary and proper for carrying out the functions covered by the agreement.

"(d) If the nomination of an agency or

organization as provided in this section is made by a group or association of providers of services, it shall not be binding on members of the group or association to notify the Administration of their election to that effect. Any provider may, upon such notice as may be specified in the agreement under this section with an agency or organization, withdraw its nomination to receive payments through such agency or organization. Any provider which has withdrawn its nomination, and any provider which has not made a nomination, may elect to receive payments from any agency or organization which has entered into an agreement with the Administration under this section if the Administration and such agency or organization agree to it.

"(e) An agreement with the Administration under this section may be terminated—

"(1) by the agency or organization which entered into such agreement at such time and upon such notice to the Administration, to the public, and to the providers as may be provided in regulations, or

"(2) by the Administration at such time and upon such notice to the agency or organization, to the providers which have nominated it for purposes of this section, and to the public, as may be provided in regulations, but only if it finds, after reasonable notice and opportunity for hearing to the agency or organization, that (A) the agency or organization has failed substantially to carry out the agreement, or (B) the continuation of some or all of the functions provided for in the agreement with the agency or organization is disadvantageous or is inconsistent with the efficient administration of this title.

"(f) An agreement with an agency or organization under this section may require any of its officers or employees certifying payments or disbursing funds pursuant to the agreement, or otherwise participating in carrying out the agreement to give surety bond to the United States in such amount as the Administration may deem appropriate.

"(g)(1) No individual designated pursuant to an agreement under this section as a certifying officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payments certified by him under this section.

"(2) No disbursing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by him under this section if it was based upon a voucher signed by a certifying officer designated as provided in paragraph (1) of this subsection.

"(3) No such agency or organization shall be liable to the United States for any payments referred to in paragraph (1) or (2).

"USE OF CARRIERS FOR ADMINISTRATION OF NONINSTITUTIONAL BENEFITS

"SEC. 2045. (a)(1) In order to provide for the administration of the benefits furnished under this title by persons other than providers of services with maximum efficiency and convenience for individuals entitled to benefits under this title and for providers of services and other persons furnishing services to such individuals, the Administration is authorized, in the manner provided in subsection (c), to enter into contracts with carriers (as defined in section 2051(x)), including carriers with which agreements under section 2044 are in effect, which qualify under subsection (b) and will perform some or all of the following functions (or, to the extent provided in such contracts, will secure performance thereof by other organizations); and, with respect to any of the following functions, the Administration shall to the extent possible enter into such contracts:

"(A) receive, disburse, and account for funds in making payments for services furnished under this title by persons other than providers of services;

"(B) serve as a channel of communication of information relating to the administration of this title; and

"(C) otherwise assist, in such manner as the contract may provide, in discharging administrative duties necessary to carry out the purposes of this title.

"(b) A carrier is qualified for purposes of subsection (a) only if—

"(1) during the calendar year 1973 at least 3 percent of the total dollar value of health insurance outstanding in the United States was written or underwritten by such carrier, and

"(2) such carrier demonstrates to the satisfaction of the Administration, in such manner and form as the Administration may require, that it is capable of efficient and effective claims operations, and agrees to utilize standard claims processing forms and procedures established by the Administration under subsection (c)(4).

"(c)(1) The Administration shall establish, keep current, and make public a complete list of all qualified carriers in the United States.

"(2) The Administration shall divide the United States into geographic regions for purposes of this section, taking into account the outstanding contracts entered into by employers under paragraph (3), the locations of the various qualified carriers and their principal offices, and the probable demand or need for health care and services under this title in each such region. Any qualified carrier on the list established under paragraph (1) which maintains one or more offices in any region may submit to the Administration an offer to enter into a contract under subsection (a) for the administration of the noninstitutional benefits under this title within that region; and the carrier with which the Administration enters into such a contract with respect to that region shall (subject to paragraph (3)) have full responsibility for the administration of such benefits in that region in accordance with this section.

"(3) Notwithstanding any other provision of this section, any corporation, firm, or other person which employed an average of one thousand or more individuals in the conduct of its trade or business during the preceding calendar year may select any carrier on the list established under paragraph (1) (or, alternately, may elect to deal directly with the Administration) for the administration of benefits under this title with respect to its employees.

"(4) The Administration shall establish standard claims forms and processing procedures designed to minimize administrative burdens on physicians and others who furnish services covered under this title.

"(d)(1) Contracts with carriers under subsection (a) shall be subject to section 3709 of the Revised Statutes and to any other provision of law requiring competitive bidding.

"(2) No such contract shall be entered into with any carrier unless the Administration finds that such carrier will perform its obligations under the contract efficiently and effectively and will meet such requirements as to financial responsibility, legal authority, and other matters as he finds pertinent.

"(3) Each such contract shall provide that the carrier—

"(A) will make all payments authorized by this title for noninstitutional services, as provided in this section;

"(B) will take such action as may be necessary to assure that payment under this title for noninstitutional services will be in accordance with subsection (b); and

"(C) will furnish to the Administration such timely information and reports as it may find necessary in performing its functions under this title; and

"(D) will maintain such records and afford such access thereto as the Administration finds necessary to assure the correctness and verification of the information and reports under subparagraph (D) and otherwise to carry out the purposes of this title;

and shall contain such other terms and conditions not inconsistent with this section as the Administration may find necessary or appropriate.

"(4) Each contract under this section shall be for a term of at least two years, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term; except that the Administration may terminate any such contract at any time (after such reasonable notice and opportunity for hearing to the carrier involved as it may provide in regulations) if he finds that the carrier has failed substantially to carry out the contract or is carrying out the contract in a manner inconsistent with the efficient and effective administration of the insurance program established by this title.

"(e) Any contract entered into with a carrier under this section shall provide for advances of funds to the carrier for the making of payments by it under this title, and, in the case of a carrier selected by an employer under subsection (c)(3), shall provide for payment of the cost of administration of the carrier, as determined by the Administration to be necessary and proper for carrying out the functions covered by the contract.

"(f) Any contract with a carrier under this section may require such carrier or any of its officers or employees certifying payments or disbursing funds pursuant to the contract, or otherwise participating in carrying out the contract to give surety bond to the United States in such amount as the Administration may deem appropriate.

"(g)(1) No individual designated pursuant to a contract under this section as a certifying officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payments certified by him under this section.

"(2) No disbursing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by him under this section if it was based upon a voucher signed by a certifying officer designated as provided in paragraph (1) of this subsection.

"(3) No such carrier shall be liable to the United States for any payments referred to in paragraph (1) or (2).

"PAYMENT TO PHYSICIANS AND OTHER HEALTH PROFESSIONALS

"SEC. 2046. (a) Payment under this title for services rendered by a physician within any area established under section 1152 shall be made in accordance with a single fee schedule applicable throughout that area, as described in subsection (b).

"(b) The fee schedule described in subsection (a) which is applicable with respect to services rendered in any area shall be determined as follows:

"(1) The schedule to be in effect in such area for the twelve-month period beginning on the effective date of this title shall be proposed by the medical societies or equivalent organizations in such area; and the schedule so proposed shall be approved by the Administration if it finds (utilizing professional actuarial expertise) that the total costs of the services involved in such area, adjusted to the extent that the Administration finds (on the basis of appropriate economic index data) to be justified by economic changes, would have been no higher for the calendar year 1973 than they were in fact had such schedule been in effect throughout that year.

"(2) Except as provided in paragraphs (3)

and (4), the schedule to be in effect in such area for any twelve-month period beginning on July 1 after the period specified in paragraph (1) shall be the schedule which was in effect in such area for the period specified in paragraph (1), adjusted to the extent that the Administration finds (on the basis of appropriate economic index data) to be justified by economic changes.

"(3) A new or modified schedule to be in effect in such area for any twelve-month period may be proposed at any time by the medical societies or equivalent organizations in such area; and any schedule so proposed shall be approved by the Administration (in lieu of a schedule under paragraph (2)) if it finds (utilizing professional actuarial expertise) that the total costs of the services involved under the new or proposed schedule will be no higher for such twelve-month period than they would have been had the schedule been determined under paragraph (2) for such period.

"(4) In any case where no schedule is proposed to be in effect in such area for any period as provided in the preceding paragraphs of this subsection, or where the Administration is unable to approve the schedule so proposed, the Administration shall establish and place in effect in such area for that period a fee schedule, which shall be equivalent to the fee schedule theretofore proposed and approved under such paragraphs or another area which is determined by the Administration to be similar to such area.

"(c) All physicians may elect, in such manner and form as the Administration shall by regulations prescribe, whether to participate or not to participate, in the manner provided in subsection (d)(1), in the program under this title. Any such physician desiring to participate may do so upon giving thirty days' written notice to the Administration that he will accept payment of the fee schedule amount as payment in full for the services he provides to all individuals eligible for benefits under this title. Any participating physician desiring to rescind his participation may do so upon giving 90 days' written notice to the Administration and to all of his current patients, but may again participate in such programs only upon the expiration of six months after his most recent participation ceased (and upon giving thirty days' written notice (during or after such six-month period) to the Administration).

"(d)(1) Any physician electing to participate in the program under this title as provided in subsection (c) shall receive payment for any services furnished by him in the State, under this title, on the basis of regular billings (which shall be submitted on the same type of claims form) in accordance with the fee schedule which is effective in the area for the period involved, and shall receive pursuant to section 2032 such payment in the full amounts specified in such schedule, without offset for deductible or coinsurance amounts. At the option of the physician, such billings and the payments made pursuant thereto may be made on a consolidated basis under which the physician uses a single form to list all of the services involved under both programs over such period (not less than a week) as shall be specified by the Administration, and receives a single check including payment for all of the services so listed.

"(2) Payments under this title to physicians who have not elected to participate in such programs as provided in subsection (c), and to patients of such physicians, for services specified in the fee schedule which is effective in the area for the period involved, shall be made in the amounts specified in such schedule subject to any applicable deductibles and coinsurance.

"(e) Each fee schedule in effect under the preceding provisions of this subsection, and the names and addresses of all participating physicians within the meaning of subsection (c) shall be made available to the public throughout the State involved, in such manner and at such times as the Administration may consider appropriate, by the Administration or by the appropriate State agency with the approval of the Administration.

"(f) The amount payable under this title in the case of other medical services, supplies, and equipment (including equipment servicing) which, in the judgment of the Administration, do not generally vary significantly in quality from one supplier to another, may not exceed the lowest charge levels at which such services, supplies, and equipment are widely and consistently available in the locality involved except to the extent and under the circumstances specified by the Administration.

"SPECIAL PROVISIONS RELATING TO OUTPATIENT DRUGS AND BIOLOGICALS

"National Health Insurance Formulary Committee

"SEC. 2047. (a)(1)(A) There is hereby established, within the Social Security Administration a National Health Insurance Formulary Committee (hereinafter referred to as the 'Committee'), a majority of whose members shall be physicians and which shall consist of the Commissioner of Food and Drugs and of four individuals (not otherwise in the employ of the Federal Government) who do not have a direct or indirect financial interest in the compensation of the Formulary established under this section and who are of recognized professional standing and distinction in the fields of medicine, pharmacology, or pharmacy, to be appointed by the Administration without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The Chairman of the Committee shall be elected annually from the appointed members thereof, by majority vote of the members of the Committee.

"(B) Each appointed member of the Committee shall hold office for a term of five years, except that 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, and except that the terms of office of the members first taking office shall expire, as designated by the Administration at the time of appointment, one at the end of each of the first five years. A member shall not be eligible to serve continuously for more than two terms.

"(2) Appointed members of the Committee, while attending meetings or conferences thereof otherwise serving on business of the Committee, shall be entitled to receive compensation at rates fixed by the Administration (but not in excess of the daily rate paid under GS–18 of the General Schedule under section 5332 of title 5, United States Code), including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, as authorized by section 5703 of title 5, United States Code, for persons in the Government service.

"(3)(A) The Committee is authorized, with the approval of the Administration, to engage or contract for such technical assistance as may be required to carry out its functions, and the Administration shall, in addition, make available to the Committee such secretarial, clerical, and other assistance as the Formulary Committee may require to carry out its functions.

"(B) The Administration shall furnish to the Committee such office space, materials, and equipment as may be necessary for the Formularly Committee to carry out its functions.

"Formulary

"(b)(1)(A) The Committee shall compile, publish, and make available a National Health Insurance Formulary (hereinafter in this section referred to as the 'Formulary').

"(B) The Committee shall periodically revise the Formulary and the listing of drugs so as to maintain currency in the contents thereof.

"(2)(A) The Formulary shall contain an alphabetically arranged listing, by established name, of those drug entities within the following therapuetic categories:

"Adrenocorticoids
"Anti-anginals
"Anti-arrhythmics
"Anti-coagulants
"Anti-convulsants (excluding phenobarbital)
"Anti-hypertensives
"Anti-neoplastics
"Anti-Parkinsonism agents
"Anti-rheumatics
"Bronchodilators
"Cardiotonics
"Cholinesterase inhibitors
"Diuretics
"Gout suppressants
"Hypoglycemics
"Miotics
"Oral contraceptives
"Thyroid hormones
"Tuberculostatics

which the Committee decides are necessary for individuals using such drugs. The Committee shall exclude from the Formulary any drug entities (or dosage forms and strengths thereof) which the Committee decides are not necessary for proper patient care, taking into account other drug entities (or dosage forms and strengths thereof) which are included in the Formulary.

"(B) Such listing shall include the specific dosage forms and strengths of each drug entity (included in the Formulary in accordance with subparagraph (A)) which the Committee decides are necessary for individuals using such drugs.

"(C) Such list shall include the prices at which the products (in the same dosage form and strength) of such drug entities are generally sold by the suppliers thereof and the limit applicable under subsection (e) for purposes of determining the reasonable allowance.

"(D) The Committee may also include in the Formulary, either as a separate part (or parts) thereof or as a supplement (or supplements) thereto, any or all of the following information:

"(i) A supplemental list or lists, arranged by diagnostic, prophylactic, therapeutic, or other classifications, of the drug entities (and dosage forms and strengths thereof) included in the listing referred to in subparagraph (A).

"(ii) The proprietary names under which products of a drug entity listed in the Formulary by established name (and dosage form and strength) are sold and the names of each supplier thereof.

"(iii) Any other information with respect to eligible drug entities which in the judgment of the Committee would be useful in carrying out the purposes of this part.

"(3) In considering whether a particular drug entity (or strength or dosage form thereof) shall be included in or excluded from the Formulary, the Committee is authorized to obtain (upon request therefor) any record pertaining to the characteristics of such drug entity which is available to any other department, agency, or instrumentality of the Federal Government, and to request suppliers or manufacturers of drugs and other knowledgeable persons or organizations to make available to the Committee information relating to such drug. If any such record or information (or any information contained in such record) is of a confidential nature, the Committee shall respect the confidentiality of such record or information and shall limit its usage thereof to the proper exercise of its authority.

"(4)(A) The Committee shall establish such procedures as it determines to be necessary in its evaluation of the appropriateness of the inclusion in or exclusion from the Formulary of any drug entity (or dosage form or strength thereof). For purposes of inclusion in or exclusion from the Formulary, the principal factors in the determination of the Committee shall be:

"(i) the factor of clinical equivalence in the case of the same dosage forms in the same strengths of the same drug entity, and

"(ii) the factor of relative therapeutic value in the case of similar, or dissimilar drug entities in the same therapeutic category.

"(B) The Committee, prior to making a final decision to remove from listing in the Formulary any drug entity (or dosage forms or strengths thereof) which is included therein, shall afford a reasonable opportunity for a formal or informal hearing on the matter to any person engaged in manufacturing, preparing, compounding, or processing such drug entity who shows reasonable ground for such a hearing.

"(C) Any person engaged in the manufacture, preparation compounding, or processing of any drug entity (or dosage forms or strengths thereof) not included in the Formulary which such person believes to possess the requisite qualities to entitle such drug to be included in the Formulary pursuant to subsection (a), may petition for inclusion of such drug entity and, if such petition is denied by the Formulary Committee, shall, upon request therefor, showing reasonable grounds for a hearing, be afforded a formal or informal hearing on the matter in accordance with rules and procedures established by such Committee.

"Limitations on Payment for Charges of Providers of Services

"(c)(1) Any provider whose services are otherwise reimbursable, under this title or under any other program under this Act in which there is Federal financial participation on the basis of 'reasonable cost', shall not be entitled to a professional fee or dispensing charge or reasonable billing allowance as determined pursuant to this section.

"(2) A fee, charge, or billing allowance shall not be payable under this section with respect to any drug entity that (as determined in accordance with regulations) is furnished as an incident to a physician's professional service, and is of a kind commonly furnished in physicians' offices and commonly either rendered without charge or included in the physicians' bills.

"Reasonable Allowance for Outpatient Drugs and Biologicals

"(d)(1) For purposes of this section, the term 'reasonable allowance' when used with respect to outpatient drugs and biologicals means—

"(A) when used with respect to a reimbursable drug other than insulin the amount determined under paragraph (2) of this section, and

"(B) when used with respect to an insulin product, an amount determined by the Board, including a reasonable billing allowance.

"(2) The amount applicable under paragraph (1)(A) shall be the sum of—

"(A) an amount equal to the price of such reimbursable drug as ascertained under paragraph (1), and

"(B) the pharmaceutical srevice charge as determined under paragraph (4).

"(3)(A) From time to time (but not less often than annually), the Administration shall, subject to subparagraph (B), ascertain the prices of a drug, however named, at which the ultimate dispensers thereof acquire such drug. Any drug, however named, the price of which exceeds 150 per centum of the average price of such drug shall not be a reimbursable drug for purposes of this part.

"(B) Whenever the price at which a drug is generally available for sale to the ultimate dispensers thereof varies significantly among the various regions of the United States, or among classes of ultimate dispensers, the Secretary may determine an average price with respect to such drug for various regions or for various classes of its ultimate dispensers.

"(4)(A) Each participating licensed pharmacy shall file annually, in such form as may be prescribed by the Administration, a statement of its pharmaceutical service charge with the Administration.

"(B) The pharmaceutical service charge for purposes of paragraph (2)(A) with respect to any participating licensed pharmacy shall be the pharmaceutical service charge filed under subparagraph (A), except that any such charge which exceeds 90 per centum of the average such charge for licensed participating pharmacies in the same locality shall be reduced to the 90 per centum level.

"(C) With respect to years after the first year for which a pharmaceutical service charge is filed, the 90 per centum amount under subparagraph (B) shall be increased by the Administration to the extent necessary on the basis of appropriate economics index data.

"Special Provisions for Physicians Dispensing Outpatient Drugs and Biologicals

"(e)(1) This subsection shall apply, notwithstanding any other provisions in this title, where the Administration determines that no participating licensed pharmacies exist in a community.

"(2) Any physician practicing in a community with respect to which the Administration has made a determination is deemed to be a licensed participating pharmacy for purposes of this title if such physician files the required agreement and statement with the Administration.

"(3) In cases where a licensed participating pharmacy exists in a community only because of paragraph (2), the reasonable allowance for an outpatient drug or biological under this section shall be no larger than the amount specified in subsection (d)(2)(A).

"NATIONAL HEALTH INSURANCE TRUST FUND

"SEC. 2048. (a) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the 'National Health Insurance Trust Fund' (hereinafter in this section referred to as the 'Trust Fund'). The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 201(i)(1), and such amounts as may be deposited in, or appropriated to, such fund as provided in this title (and in section 102(e) of the Comprehensive National Health Insurance Act of 1974). There are hereby appropriated to the Trust Fund for each fiscal year, out of any money in the Treasury not otherwise appropriated, amounts equivalent to 100 per centum of—

"(1) the taxes imposed by sections 301(c) and 3111(c) of the Internal Revenue Code of 1954 with respect to wages reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of such Code (including unearned income treated as wages pursuant to section 3126(c) of such Code), as determined by the Secretary of the Treasury by applying the applicable rates of tax under such sections to such wages, which wages shall be certified by the Board of the Social Security Administration on the basis of records of wages established and maintained by the Board of the Social Securtiy Administration in accordance with such reports; and

"(2) the taxes imposed by section 1401(c) of the Internal Revenue Code of 1954 with respect to self-employment income reported to the Secretary of the Treasury or his delegate on tax returns under subtitle F of such Code (including unearned income treated as wages pursuant to section 3126(c) of such Code), as determined by the Secretary of the Treasury by applying the applicable rate of tax under such section to such self-employment income, which self-employment income shall be certified by the Secretary of Health, Education, and Welfare on the basis of records of self-employment established and maintained by the Secretary of Health, Education, and Welfare in accordance with such returns.

The amounts appropriated by the preceding sentence shall be transferred from time to time from the general fund in the Treasury to the Trust Fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the taxes, specified in the preceding sentence, paid to or deposited into the Treasury; and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the taxes specified in such sentence.

"(b) With respect to the Trust Fund, there is hereby created a body to be known as the Board of Trustees of the Trust Fund (hereinafter in this section referred to as the 'Board of Trustees') composed of the Secretary of the Treasury, the Secretary of Labor, the Chairman of the Board of the Social Security Administration, and the Secretary of Health, Education, and Welfare, all ex officio. The Secretary of the Treasury shall be the Managing Trustee of the Board of Trustees (hereinafter in this section referred to as the 'Managing Trustee'). The Executive Director of the Social Security Administration shall serve as the Secretary of the Board of Trustees. The Board of Trustees shall meet not less frequently than once each calendar year. It shall be the duty of the Board of Trustees to—

"(1) hold the Trust Fund;

"(2) report to the Congress not later than the first day of April of each year on the operation and status of the Trust Fund during the preceding fiscal year and on its expected operation and status during the current fiscal year and the next 2 fiscal years;

"(3) report immediately to the Congress whenever the Board is of the opinion that the amount of the Trust Fund is unduly small; and

"(4) review the general policies followed in managing the Trust Fund, and recommend changes in such policies, including necessary changes in the provisions of law which govern the way in which the Trust Fund is to be managed.

The report provided for in paragraph (2) shall include a statement of the assets of, and the disbursements made from, the Trust Fund during the preceding fiscal year, an estimate of the expected income to, and disbursements to be made from, the Trust Fund during the current fiscal year and each of the next 2 fiscal years, and a statement of the actuarial status of the Trust Fund. Such report shall be printed as a House document of the session of the Congress to which the report is made.

"(c) It shall be the duty of the Managing Trustee to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of

public-debt obligations for purchase by the Trust Fund. Such obligations issued for purchase by the Trust Fund shall have maturities fixed with due regard for the needs of the Trust Fund and shall bear interest at a rate equal to the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of the calendar month next preceding the date of such issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of 4 years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 percent, the rate of interest on such obligations shall be the multiple of one-eighth of 1 percent nearest such market yield. The Managing Trustee may purchase other interest-bearing obligations of the United States or obligations guaranteed as to both principal and interest by the United States, on original issue or at the market price, only where he determines that the purchase of such other obligations is in the public interest.

"(d) Any obligations acquired by the Trust Fund (except public-debt obligations issued exclusively to the Trust Fund) may be sold by the Managing Trustee at the market price, and such public-debt obligations may be redeemed at par plus accrued interest.

"(e) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

"(f)(1) The Managing Trustee is directed to pay from time to time from the Trust Fund into the Treasury the amount estimated by him as taxes imposed under section 3101(c) which are subject to refund under section 6413(d) of the Internal Revenue Code of 1954. Such taxes shall be determined on the basis of the records of wages established and maintained by the Secretary of Health, Education, and Welfare in accordance with the wages reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of the Internal Revenue Code of 1954, and the Secretary of Health, Education, and Welfare shall furnish the Managing Trustee such information as may be required by the Managing Trustee for such purpose. The payments by the Managing Trustee shall be covered into the Treasury as repayments to the account for refunding internal revenue collections.

"(2) Repayments made under paragraph (1) shall not be available for expenditures but shall be carried to the surplus fund of the Treasury. If it subsequently appears that the estimates under such paragraph in any particular period were too high or too low, appropriate adjustments shall be made by the Managing Trustee in future payments.

"(g) There shall be transferred periodically (but not less often than once each fiscal year) to the Trust Fund from the other Trust Funds established by this Act amounts equivalent to the amounts not previously so transferred which the Secretary of Health, Education, and Welfare shall have certified as overpayments pursuant to section 2056 of this Act.

"(h) There are authorized to be appropriated to the Trust Fund from time to time such sums as the Administration deems necessary for any fiscal year, on account of—

"(1) payments made or to be made during such fiscal year from the Trust Fund for items and services furnished to individuals who (by reason of section 2033) are not billed for (and are not required to pay) the full deductibles and coinsurance amounts otherwise required by section 2011(c),

"(2) the additional administrative expenses resulting or expected to result from making such payments without collecting such deductibles and coinsurance amounts, and

"(3) any loss of interest to such Trust Fund resulting therefrom,

in order to place the Trust Fund in the same position at the end of such fiscal year in which it would have been if the individuals described in paragraph (1) had been billed for, and had paid, the full deductibles and coinsurance amounts required under section 2011(c) with respect to the items and services involved.

"(i) There shall be transferred periodically (but not less often than once each fiscal year) from the Trust Fund to the Health Resources Development Board for purposes of title XIV of the Public Health Service Act the following amounts:

"(1) For the fiscal year ending June 30, 1977, an amount equivalent to 2 percent of the total of all amounts deposited in the Trust Fund in the fiscal year ending June 30, 1976.

"(2) For the fiscal year ending June 30, 1978, an amount equivalent to 1½ percent of the total of all amounts deposited in the Trust Fund in the fiscal year ending June 30, 1977.

"(3) For the fiscal year ending June 30, 1979, and each succeeding fiscal year, an amount equal to 1 percent of the total of all amounts deposited in the Trust Fund in the preceding fiscal year.

"(j) The Managing Trustee shall also pay from time to time from the Trust Fund such amounts as the Secretary of Health, Education, and Welfare certifies are necessary to make (1) the payments provided for by this title, and (2) the payments with respect to administrative expenses provided for by section 201(g)(1).

"PART E—MISCELLANEOUS PROVISIONS

"DEFINITIONS

"SEC. 2051. For purposes of this title—

"Inpatient Hospital Services

"(a) The term 'inpatient hospital services' means the following items and services furnished to an inpatient of a hospital and (except as provided in paragraph (3)) by the hospital—

"(1) bed and board;

"(2) such nursing services and other related services, such as use of hospital facilities, and such medical social services as are ordinarily furnished by the hospital for the care and treatment of inpatients, and such drugs, biologicals, supplies, appliances, and equipment, for use in the hospital, as are ordinarily furnished by such hospital for the care and treatment of inpatients; and

"(3) such other diagnostic or therapeutic items or services, furnished by the hospital or by others under arrangements with them made by the hospital, as are ordinarily furnished to inpatients either by such hospital or by others under such arrangements;

excluding, however—

"(4) medical or surgical services provided by a physician who is not an employee of the hospital; and

"(5) the services of a private-duty nurse or other private-duty attendant.

"Hospital

"(b) The term 'hospital' means, except with respect to emergency services provided outside the United States, an institution which—

"(1) is primarily engaged in providing, by or under the supervision of physicians, to inpatients (A) diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or (B) rehabilitation services for the rehabilitation of injured, disabled, or sick persons;

"(2) maintains clinical records on all patients;

"(3) has bylaws in effect with respect to its staff or physicians;

"(4) has a requirement that every patient must be under the care of a physician;

"(5) provides 24-hour nursing service rendered or supervised by a registered professional nurse, and has a licensed practical nurse or registered professional nurse on duty at all times;

"(6) has in effect a hospital utilization review plan which meets the requirements of subsection (k);

"(7) in the case of an institution in any State in which State or applicable local law provides for the licensing of hospitals, (A) is licensed pursuant to such law or (B) is approved, by the agency of such State or locality responsible for licensing hospitals, as meeting the standards established for licensing; and

"(8) meets such other requirements as the Secretary finds necessary in the interest of the health safety of the individuals who are furnished services in the institution.

Notwithstanding the preceding provisions of this subsection, such term shall not include any institution which is primarily for the care and treatment of mental diseases or tuberculosis unless it is a psychiatric hospital (as defined in subsection (c)) or unless it is a tuberculosis hospital (as defined in subsection (d)). The term 'hospital' also includes a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts, but only with respect to items and services ordinarily furnished by such institution to inpatients, and payment may be made with respect to services provided by or in such an institution only to such extent and under such conditions, limitations, and requirements (in addition to or in lieu of the conditions, limitations, and requirements otherwise applicable) as may be provided in regulations.

"Psychiatric Hospital

"(c) The term 'psychiatric hospital' means an institution which—

"(1) is primarily engaged in providing, by or under the supervision of a physician, psychiatric services for the diagnosis and treatment of mentally ill persons;

"(2) satisfies the requirements of paragraphs (3) through (8) of subsection (b);

"(3) maintains clinical records on all patients and maintains such records as the Secretary finds to be necessary to determine the degree and intensity of the treatment provided to individuals;

"(4) meets such staffing requirements as the Secretary finds necessary for the institution to carry out an active program of treatment for individuals who are furnished services in the institution; and

"(5) is accredited by the Joint Commission on Accreditation of Hospitals.

In the case of an institution which satisfies paragraphs (1) and (2) of the preceding sentence and which contains a distinct part which also satisfies paragraphs (3) and (4) of such sentence, such distinct part shall be considered to be a "psychiatric hospital" if the institution is accredited by the Joint Commission on Accreditation of Hospitals or if such distinct part meets requirements equivalent to such accreditation requirements as determined by the Secretary.

"Tuberculosis Hospital

"(d) The term 'tuberculosis hospital' means an institution which—

"(1) is primarily engaged in providing, by or under the supervision of a physician, medical services for the diagnosis and treatment of tuberculosis;

"(2) satisfies the requirements of paragraphs (3) through (8) of subsection (b);

"(3) maintains clinical records on all patients and maintains such records as the Secretary finds to be necessary to determine the degree and intensity of the treatment provided to individuals;

"(4) meets such staffing requirements as the Secretary finds necessary for the institution to carry out an active program of treatment for individuals who are furnished services in the institution; and

"(5) is accredited by the Joint Commission on Accreditation of Hospitals.

In the case of an institution which satisfies paragraphs (1) and (2) of the preceding sentence and which contains a distinct part which also satisfies paragraphs (3) and (4) of such sentence, such distinct part shall be considered to be a 'tuberculosis hospital' if the institution is accredited by the Joint Commission on Accreditation of Hospitals or if such distinct part meets requirements equivalent to such accreditation requirements as determined by the Secretary.

"Physicians' Services

"(e) The term 'physicians' services' means professional services performed by physicians, including surgery, consultation, and home, office, and institutional calls.

"Physician

"(f) The term 'physician' when used in connection with the performance of any function or action, means, except with respect to emergency services provided outside the United States, (1) a doctor of medicine or osteopathy, other than an intern, resident, or fellow, legally authorized to practice medicine and surgery by the State in which he performs such function or action (including a physician within the meaning of section 1101(a)(7), (2) a doctor of dentistry or of dental or oral surgery who is legally authorized to practice dentistry by the State in which he performs such function but only with respect to (A) surgery related to the jaw or any structure continguous to the jaw or (B) the reduction of any fracture of the jaw or any facial bone, (3) a doctor of optometry who is legally authorized to practice optometry by the State in which he performs such function, but only with respect to establishing the necessity for prosthetic lenses, or (4) except for the purposes of subsections (j), (k), (m), and (n), a doctor of podiatry or surgical chiropody, but (unless clause (1) of this subsection also applies to him) only with respect to functions which he is legally authorized to perform in the State in which he performs them.

"Medical and Other Health Services

"(g) The term 'medical and other health services' means any of the following items or services—

"(1) physicians' services;

"(2)(A) services, other than physician extender services, and supplies (including drugs and biologicals which cannot, as determined in accordance with regulations, be self-administered) furnished as an incident to a physician's professional service, of kinds which are commonly furnished in physicians' offices and are commonly either rendered without charge or included in the physicians' bills;

"(B) hospital services (including drugs and biologicals which cannot, as determined in accordance with regulations, be self-administered) other than physician extender services, incident to physicians' services rendered to outpatients;

"(C) diagnostic services which are—

"(i) furnished to an individual as an outpatient by a hospital or by others under arrangements with them made by a hospital, and

"(ii) ordinarily furnished by such hospital (or by others under such arrangements) to its out-patients for the purpose of diagnostic study;

"(D) outpatient physical therapy services; and

"(E) physician extender services;

"(3) diagnostic X-ray tests (including tests under the supervision of a physician, furnished in a place of residence used as the patient's home, if the performance of such tests meets such conditions relating to health and safety as the Administration may find necessary), diagnostic laboratory tests, and other diagnostic tests;

"(4) X-ray, radium, and radioactive isotope therapy, including materials and services of technicians;

"(5) surgical dressings, and splints, casts, and other devices used for a reduction of fractures and dislocations;

"(6) durable medical equipment, including dialysis equipment and supplies, iron lungs, oxygen tents, hospital beds, and wheelchairs used in the patient's home (including an institution used as his home other than an institution that meets the requirements of subsection (b)(1) or (j)(1) of this section), whether furnished on a rental basis or purchased;

"(7) ambulance service where the use of other methods of transportation is contraindicated by the individual's condition, but only to the extent provided in regulations;

"(8) prosthetic devices (other than dental) which replace all or part of an internal body organ (including colostomy bags and supplies directly related to colostomy care) including replacement of such devices; and

"(9) leg, arm, back, and neck braces, and artificial legs, arms, and eyes, including replacements if required because of a change in the patient's physical condition.

No diagnostic tests performed in any laboratory which is independent of a physician's office or a hospital shall be included within paragraph (3) unless such laboratory—

"(10) if situated in any State in which State or applicable local law provides for licensing of establishments of this nature, (A) is licensed pursuant to such law, or (B) is approved, by the agency of such State or locality, responsible for licensing establishments of this nature, as meeting the standards established for such licensing; and

"(11) meets such other conditions relating to the health and safety of individuals with respect to whom such tests are performed as the Secretary may find necessary.

There shall be excluded from the diagnostic services specified in paragraph (2)(C) any item or service (except services referred to in paragraph (1)) which—

"(12) would not be included under subsection (a) if it were furnished to an inpatient of a hospital; or

"(13) is furnished under arrangements referred to in such paragraph (2)(C) unless furnished in the hospital or in other facilities operated by or under the supervision of the hospital or its organized medical staff.

"Extended Care Services

"(h) The term 'extended care services' means the following items and services furnished to an inpatient of a skilled nursing facility and (except as provided in paragraphs (3) and (6)) by such skilled nursing facility—

"(1) nursing care provided by or under the supervision of a registered professional nurse;

"(2) bed and board in connection with the furnishing of such nursing care;

"(3) physical, occupational, or speech therapy furnished by the skilled nursing facility or by others under arrangements with them made by the facility;

"(4) medical social services;

"(5) such drugs, biologicals, supplies, appliances, and equipment, furnished for use in the skilled nursing facility as are ordinarily furnished by such facility for the care and treatment of inpatients;

"(6) medical services provided by an intern, resident-in-training, or fellow of a hospital with which the facility has in effect a transfer agreement (meeting the requirements of subsection (l)), under a teaching program of such hospital, and other diagnostic or therapeutic services provided by a hospital with which the facility has such an agreement in effect; and

"(7) such other services necessary to the health of the patients as are generally provided by skilled nursing facilities;

excluding however, any item or service if it would not be included under subsection (a) or furnished to an inpatient of a hospital.

"Post-Hospital Extended Care Services

"(i) The term 'post-hospital extended care services' means extended care services furnished an individual after transfer from a hospital in which he was an inpatient for not less than 3 consecutive days before his discharge from the hospital in connection with such transfer, and for so long as he remains in the skilled nursing facility providing the services and is not discharged from it. For purposes of the preceding sentence, items and services shall be deemed to have been furnished to an individual after transfer from a hospital, and he shall be deemed to have been an inpatient in the hospital immediately before transfer therefrom, if he is admitted to the skilled nursing facility—

"(A) within 14 days after discharge from such hospital, or

"(B) within 28 days after such discharge, in the case of an individual who was unable to be admitted to a skilled nursing facility within such 14 days because of a shortage of appropriate bed space in the geographic area in which he resides, or

"(C) within such time as it would be medically appropriate to begin an active course of treatment, in the case of an individual whose condition is such that skilled nursing facility care would not be medically appropriate within 14 days after discharge from a hospital.

An individual shall be deemed not to have been discharged from a skilled nursing facility if, within 14 days after discharge therefrom, he is admitted to such facility or any other skilled nursing facility.

"Skilled Nursing Facility

"(j) The term 'skilled nursing facility' means an institution (or a distinct part of an institution) which has in effect a transfer agreement (meeting the requirements of subsection (l)) with one or more certified hospitals, which is under the direction of an administrator licensed under the laws of the State in which it is located, and which—

"(1) is primarily engaged in providing to inpatients (a) skilled nursing care and related services for patients who require medical or nursing care, or (B) rehabilitation services for the rehabilitation of injured, disabled, or sick persons;

"(2) has policies, which are developed with the advice of (and with provision of review of such policies from time to time by) a group of professional personnel, including one or more physicians and one or more registered professional nurses, to govern the skilled nursing care and related medical or other services it provides;

"(3) has a physician, a registered professional nurse, or a medical staff responsible for the execution of such policies;

"(4)(A) has a requirement that the health care of every patient must be under the supervision of a physician, and (B) provides for having a physician available to furnish necessary medical care in case of emergency;

"(5) maintains clinical records on all patients;

"(6) provides 24-hour nursing service which is sufficient to meet nursing needs in accordance with the policies developed as provided in paragraph (2), and has at least one registered professional nurse employed full time;

"(7) provides appropriate methods and procedures for the dispensing and administering of drugs and biologicals;

"(8) has in effect a utilization review plan which meets the requirements of subsection (k);

"(9) in the case of an institution in any State in which State or applicable local law

provides for the licensing of institutions of this nature, (A) is licensed pursuant to such law, or (B) is approved, by the agency of such State or locality responsible for licensing institutions of this nature, as meeting the standards established for such licensing;

"(10) cooperates in an effective program which provides for a regular program of independent medical evaluation and audit of the patients in the facility to the extent required by the programs in which the facility participates (including medical evaluation of each patient's need for skilled nursing facility care);

"(11) meets such provisions of the Life Safety Code of the National Fire Protection Association (21st edition, 1967) as are applicable to nursing homes; except that, for such periods as are appropriate, specific provisions of such Code which if rigidly applied would result in unreasonable hardship upon a nursing home may be waived, but only if such waiver will not adversely affect the health and safety of the patients; except that the provisions of such Code shall not apply in any State if the Administration finds that in such State there is in effect a fire and safety code, imposed by State law, which adequately protects patients in nursing facilities; and

"(12) meets such other conditions relating to the health and safety of individuals who are furnished services in such institution or relating to the physical facilities thereof as the Administration may find necessary, except that the Administration shall not require as a condition of participation that medical social services be furnished in any such institution.

The term 'skilled nursing facility' also includes a Christian Science Sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts, but only with respect to items and services ordinarily furnished by such an institution to inpatients.

"To the extent that paragraph (6) of this subsection may be deemed to require that any skilled nursing facility engage the services of a registered professional nurse for more than 40 hours a week, the Administration is authorized to waive such requirements if it finds—

"(A) such facility is located in a rural area and the supply of skilled nursing facility services in such area is not sufficient to meet the needs of individuals residing therein,

"(B) such facility has one full-time registered professional nurse who is regularly on duty at such facility 40 hours a week, and

"(C) such facility (i) has only patients whose physicians have indicated (through physicians' orders or admission notes) that each such patient does not require the services of a registered nurse or a physician for a 48-hour period, or (ii) has made arrangements for a registered professional nurse or a physician to spend such time at such facility as may be indicated as necessary by the physician to provide necessary skilled nursing services on days when the regular full-time registered professional nurse is not on duty.

"Utilization Review

"(k) A utilization review plan of a hospital or skilled nursing facility shall be considered sufficient if it is applicable to services furnished by the institution to individuals entitled to insurance benefits under this title and if it provides—

"(1) for the review of admissions to the institution, the duration of stays therein, and the professional services (including drugs and biologicals) furnished, (A) with respect to the medical necessity of the services, and (B) for the purpose of promoting the most efficient use of available health facilities and services;

"(2) for such review to be made by either (A) a staff committee of the institution composed of two or more physicians with or without participation of other professional personnel, or (B) a group outside the institution which is similarly composed and (i) which is established by the local medical society and some or all of the hospitals and skilled nursing facilities in the locality or (ii) if (and for as long as) there has not been established such a group which serves such institution, which is established in such other manner as may be approved by the Administration;

"(3) for such review, in each case of inpatient hospital services or extended care services furnished to such an individual during a continuous period of extended duration, as of such days of such period (which may differ for different classes of cases) as may be specified in regulations, with such review to be made as promptly as possible, after each day so specified, and in no event later than one week following such day; and

"(4) for prompt notification to the institution, the individual, and his attending physician of any finding (made after opportunity for consultation to such attending physician) by the physician members of such committee or group that any further stay in the institution is not medically necessary.

The review committee must be composed as provided in clause (B) of paragraph (2) rather than as provided in clause (A) of such paragraph in the case of any hospital or skilled nursing facility where, because of the small size of the institution, or (in the case of a skilled nursing facility) because of lack of an organized medical staff, or for such other reason or reasons as may be included in regulations, it is impracticable for the institution to have a properly functioning staff committee for the purposes of this subsection.

"Agreements for Transfer Between Skilled Nursing Facilities and Hospitals

"(l) A hospital and a skilled nursing facility shall be considered to have a transfer agreement in effect if, by reason of a written agreement between them or (in case the two institutions are under common control) by reason of a written undertaking by the person or body which controls them, there is reasonable assurance that—

"(1) transfer of patients will be effected between the hospital and the skilled nursing facility whenever such transfer is medically appropriate as determined by the attending physician; and

"(2) there will be interchange of medical and other information necessary or useful in the care and treatment of individuals transferred between the institutions, or in determining whether such individuals can be adequately cared for otherwise than in either of such institutions.

Any skilled nursing facility which does not have such an agreement in effect, but which has attempted in good faith to enter into such an agreement with a hospital sufficiently close to the facility to make feasible the transfer between them of patients and the information referred to in paragraph (2), shall be considered to have such an agreement in effect if and for so long as to do so is in the public interest and essential to assuring extended care services for persons in the community who are eligible for payments with respect to such services under this title.

"Home Health Services

"(m) The term 'home health services' means the following items and services furnished to an individual, confined to his home (except when receiving items and services referred to in clause (7)) and in need of skilled nursing care on an intermittent basis, or physical or speech therapy, who is under the care of a physician, by a home health agency or by others under arrangements with them made by such agency, under a plan (for furnishing such items and services to such individual) established and periodically reviewed by a physician, which items and services are, except as provided in paragraph (7), provided on a visiting basis in a place of residence used as such individual's home—

"(1) part-time or intermittent nursing care provided by or under the supervision of a registered professional nurse;

"(2) physical, occupational, or speech therapy;

"(3) medical social services under the direction of a physician;

"(4) to the extent permitted in regulations, part-time or intermittent services of a home health aide;

"(5) medical supplies (other than drugs and biologicals), and the use of medical appliances, while under such a plan;

"(6) in the case of a home health agency which is affiliated or under common control with a hospital, medical services provided by an intern or resident-in-training of such hospital under a teaching program of such hospital; and

"(7) any of the foregoing items and services which are provided on an outpatient basis, under arrangements made by the home health agency, at a hospital or skilled nursing facility, or at a rehabilitation center which meets such standards as may be prescribed in regulations, and—

"(A) the furnishnig of which involves the use of equipment of such a nature that the items and services cannot readily be made available to the individual in such place of residence, or

"(B) which are furnished at such facility which he is there to receive any such item or service described in clause (A), but not including transportation of the individual in connection with any such item or service; excluding, however, any item or service if it would not be included under subsection (a) if furnished to an inpatient of a hospital.

"Home Health Agency

"(n) The term 'home health agency' means a public agency or private organization, or a subdivision of such an agency or organization which—

"(1) is primarily engaged in providing skilled nursing services and other therapeutic services;

"(2) has policies, established by a group of professional personnel (associated with the agency or organization), including one or more physicians and one or more registered professional nurses, to govern the services (referred to in paragraph (1)) which it provides, and provides for supervision of such services by a physician or registered professional nurse;

"(3) maintains clinical records on all patients;

"(4) in the case of an agency or organization in any State in which State or applicable local law provides for the licensing of agencies or organizations of this nature, (A) is licensed pursuant to such law, or (B) is approved, by the agency of such State or locality responsible for licensing agencies or organizations of this nature, as meeting of the standards established for such licensing; and

"(5) meets such other conditions as the Administration may find necessary in the interest of the health and safety of individuals who are furnished services by such agency or organization;

"(6) meets such other standards and requirements as the Administration may by regulation provide.

"Outpatient Physical Therapy Services

"(o) The term 'outpatient physical therapy services' means physical therapy services furnished by a hospital, skilled nursing facility, home health agency, clinic, rehabilitation agency, or a public health agency, or by others under an arrangement with, and under the supervision of, such hospital, skilled nursing facility, home health agency, clinic,

rehabilitation agency, or public health agency to an individual as an outpatient—

"(1) who is under the care of a physician, and

"(2) with respect to whom a plan prescribing the type, amount, and duration of physical therapy services that are to be furnished such individual has been established, and is periodically reviewed, by a physician (as so defined);

excluding, however—

"(3) any item or service if it would not be included under subsection (a) if furnished to an inpatient of a hospital; and

"(4) any such service—

"(A) if furnished by a clinic or rehabilitation agency, or by others under arrangements with such clinic or agency, unless such clinic or rehabilitation agency—

"(i) provides an adequate program of physical therapy services for outpatients and has the facilities and personnel required for such program or required for the supervision of such a program, in accordance with such requirements as the Administrator may specify,

"(ii) has policies, established by a group of professional personnel, including one or more physicians (associated with the clinic or rehabilitation agency) and one or more qualified physical therapists, to govern the services (referred to in clause (i)) it provides,

"(iii) maintains clinical records on all patients,

"(iv) if such clinic or agency is situated in a State in which State or applicable local law provides for the licensing of institutions of this nature, (I) is licensed pursuant to such law, or (II) is approved by the agency of such State or locality responsible for licensing institutions of this nature, as meeting the standards established for such licensing; and

"(v) meets such other conditions relating to the health and safety of individuals who are furnished services by such clinic or agency on an outpatient basis, as the Administration may find necessary, or

"(B) if furnished by a public health agency, unless such agency meets such other conditions relating to health and safety of individuals who are furnished services by such agency on an outpatient basis, as the Administration may find necessary. In addition, such term includes physical therapy services which meet the requirements of the first sentence of this subsection except that they are furnished to an individual as an inpatient of a hospital or skilled nursing facility. The term 'outpatient physical therapy services' also includes speech pathology services furnished by a hospital, skilled nursing facility, home health agency, clinic, rehabilitation agency, or by a public health agency, or by others under an arrangement with, and under the supervision of, such hospital, skilled nursing facility, home health agency, clinic, rehabilitation agency, or public health agency to an individual as an outpatient, subject to the conditions prescribed in this subsection.

"Drugs and Biologicals

"(p) The term 'drugs' and the term 'biologicals', except for purposes of subsection (m)(5) of this section, include only such drugs and biologicals, respectively, as are required by section 503(b) of the Federal Food, Drug, and Cosmetic Act to be dispensed only upon prescription, and such other drugs and biologicals as the Administration may by regulation provide.

"Outpatient Drugs and Biologicals

"(q) The term 'outpatient drugs and biologicals' means any drug or biological which (1) can be self-administered, (2) requires a physician's prescription (except for insulin), (3) is prescribed when the individual requiring such drug is not an inpatient in a hospital or extended care facility, during a period of covered care, (4) is included by strength and dosage forms among the drugs and biologicals approved by the Formulary Committee, (5) is dispensed (except as provided by section 2041(g)), by a pharmacist from a participating pharmacy, and (6) is dispensed in quantities consistent with proper medical practice and reasonable professional discretion.

"Routine Dental Services

"(r) The term 'routine dental services' means in connection with the examination, care, treatment, filling, removal, or replacement of teeth or structures directly supporting teeth provided by a dentist or an assistant to a dentist working under his supervision, except that it does not include orthodontic services.

"Dentist

"(s) The term 'dentist', when used in connection with the performance of any function, means a doctor of dentistry or of dental or oral surgery who is legally authorized to practice dentistry by the State in which he performs such function.

"Eyeglasses

"(t) The term 'eyeglasses' means lenses for the correction of a vision defect, other than contact lenses, provided on the basis of an eye examination.

"Eye and Vision Examination

"(u) The term 'eye and vision examination' means an examination for the purpose of determining the need for eyeglasses or vision care, or prescribing, fitting, or changing eyeglasses, performed by an individual who may legally perform such examination in the State in which it is performed.

"Hearing Aids and Examinations

"(v) The term 'hearing aids and examinations' means devices for the correction of hearing defects and examinations for the purpose of determining the need for such a device, subject to such limitations and restrictions as the Secretary may by regulation provide.

"Physician Extender Services

"(w) The term 'physician extender services' means services performed under the supervision and control of a physician by a physician's assistant, nurse practitioner, or other individual, whether or not performed in the office of such physician or at a place at which he is present, if—

"(1) the services are related to the practice by the supervising physician of general medicine, family medicine, internal medicine, geriatrics, or such other medical specialties as the Administration may by regulation prescribe,

"(2) the individual has—

"(A) successfully completed an appropriate training program approved by the Administration or by an accrediting organization approved by the Administration, or

"(B) passed a physician extender certification examination conducted by a certifying organization approved by the Administration which does not have as a prerequisite graduation from an accredited training program, or

"(C) met such other proficiency requirements as the Administration may by regulation prescribe,

"(3) the individual may legally perform the services in the State in which the services are performed,

"(4) under the law of the State in which the services are performed, the individual acts, in performing the services, as the agent or otherwise on behalf of the supervising physician or organization which employs the individual, and

"(5) the charges for such services are included in the bills of the supervising physician or the employing organization.

"Carrier

"(x) The term 'carrier' means a voluntary association, corporation, partnership, or other nongovernmental organization which is lawfully engaged in providing, paying for, or reimbursing the cost of health services under group insurance policies or contracts, medical or hospital service agreements, membership or subscription contracts, or similar group arrangements, in consideration of premiums or other periodic charges payable to the carrier, other than a self-insured employer, and also includes (1) a health benefits plan duly sponsored or underwritten by an employee organization, and (2) with respect to providers of services only, any agency or organization (not described in the preceding provisions of this subsection) with which an agreement is in effect under section 2044.

"Arrangements for Certain Services

"(y) The term 'arrangements' is limited to arrangements under which receipt of payment by the hospital, a skilled nursing facility, or home health agency (whether in its own right or as agency), with respect to services for which an individual is entitled to have payment made under this title, discharges the liability of such individual or any other person to pay for the services.

"State and United States

"(z) The terms 'State' and 'United States' have the meaning given to them by subsections (h) and (i), respectively, of section 210.

"Provider of Services

"(aa) The term 'provider of services' means a hospital, skilled nursing facility, or home health agency, and includes a neighborhood health center (as defined in regulations), a community mental health center (as defined in the Community Mental Health Centers Act), or a health maintenance organization meeting the requirements of section 1301 of the Public Health Service Act.

"Participating Pharmacy

"(bb) The term 'participating pharmacy' means a pharmacy, or other establishment (including the outpatient department of a hospital) providing pharmaceutical services (1) which is licensed as such under the laws of the State (where such State requires such licensure) or which is otherwise lawfully providing pharmaceutical services in which outpatient drugs and biologicals are provided or otherwise dispensed in accordance with this title, (2) which has agreed with the Administration to act as a provider of services in accordance with the requirements of this section, and which complies with such other requirements as may be established by the Administration in regulations to assure the proper economical, and efficient administration of this title, (3) which has agreed to submit, at such frequency and in such form as may be prescribed in regulations, bills for amounts payable under this title for such drugs and biologicals furnished under this title, and (4) which has agreed not to charge beneficiaries under this title any amounts in excess of those allowable under this title with respect to outpatient drugs and biologicals except as is provided under section 2012(a), and except for so much of the charge for a prescription (in the case of a drug product prescribed by a physician, of a drug entity in a strength and dosage form included in the Formulary where the price at which such product is sold by the supplier thereof exceeds the reasonable allowance) as is in excess of the reasonable allowance established for such drug entity in accordance with section 2012(e).

"Well-Child Care

"(cc) The term 'well-child care' means neonatal care (including supervision of normal new born infants, and diagnosis and treatment of low-birth-weight or preterm infants and other ill infants in the neonatal period), periodic assessment of health status,

immunizations, anticipatory guidance and conseling relating to the preventation of illness, and screening for intellectual development and specific diseases where such tests are indicated.

"CONSULTATION WITH STATE AGENCIES AND OTHER ORGANIZATIONS TO DEVELOP CONDITIONS OF PARTICIPATION FOR PROVIDERS OF SERVICES

"SEC. 2052. In carrying out its functions relating to determination of conditions of participation by providers of services, the Administration shall consult with appropriate State agencies and recognized national listing or accrediting bodies, and may consult with appropriate local agencies. Such conditions prescribed under any of such subsections may be varied for different areas or different classes of institutions or agencies and may, at the request of a State, provide higher requirements for such State than for other States; except that, in the case of any State or political subdivision of a State which imposes higher requirements on institutions as a condition to the purchase of services (or of certain specified services), the Administration shall impose like requirements as a condition to the payment for services (or for the services specified by the State or subdivision) in such institutions in such State or subdivision.

"USE OF STATE AGENCIES TO DETERMINE COMPLIANCE BY PROVIDERS OF SERVICES WITH CONDITIONS OF PARTICIPATION

"SEC. 2053. (a) The Administration shall make an agreement with any State which is able and willing to do so under which the services of the State health agency or other appropriate State agency (or the appropriate local agencies) will be utilized by the Administration for the purpose of determining whether an institution therein is a hospital or skilled nursing facility, or whether an agency therein is a home health agency, or whether a laboratory meets the requirements of paragraph (10) and (11) of section 2051 (g), or whether a clinic, rehabilitation agency or public health agency meets the requirements of subparagraph (A) or (B), as the case may be, of section 2051(o)(4). To the extent that the Administration finds it appropriate, an institution or agency which such a State or local agency certifies is a hospital, skilled nursing facility, or home health agency (as those terms are defined in section 2051) may be treated as such by the Administration. Any State agency which has such an agreement may (subject to approval of the Administration) furnish to an extended care facility, after proper request by such facility, such specified consultative services (which such agency is able and willing to furnish in a manner satisfactory to the Administration) as such facility may need to meet one or more of the conditions specified in section 2051(j). Any such services furnished by a State agency shall be deemed to have been furnished pursuant to such agreement. Within 90 days following the completion of each survey of any health care facility, laboratory, clinic, agency, or organization by the appropriate State or local agency described in the first sentence of this subsection, the Administration shall make public in readily available form and place the pertinent findings of each such survey relating to the compliance of each such health care facility, laboratory, clinic, agency, or organization with (1) the statutory conditions of participation imposed under this title and (2) the major additional conditions which the Administration finds necessary in the interest of health and safety of individuals who are furnished care or services by any such facility, laboratory, clinic, agency, or organization.

"(b) The Administration shall pay any such State, in advance or by way of reimbursement, as may be provided in the agreement with it (and may make adjustments in such payments on account of overpayments or underpayments previously made), for the reasonable cost of performing the functions specified in subsection (a), and for the National Health Insurance Trust Fund's fair share of the costs attributable to the planning and other efforts directed toward coordination of activities in carrying out its agreement and other activities related to the provision of services similar to those for which payment may be made under this title, or related to the facilities and personnel required for the provision of such services, or related to improving the quality of such services.

"(c) The Administration is authorized to enter into an agreement with any State under which the appropriate State or local agency which performs the certification function described in subsection (a) will survey, on a selective sample basis (or where the Administration finds that a survey is appropriate because of substantial allegations of the existence of a significant deficiency or deficiencies which would, if found to be present, adversely affect health and safety of patients), hospitals which have an agreement with the Administration under section 2043 and which are accredited by the Joint Commission on the Accreditation of Hospitals. The Administration shall pay for such services in the manner prescribed in subsection (b).

"EFFECT OF ACCREDITATION

"SEC. 2054. (a) Except as provided in subsection (b) and the second sentence of section 2043, if—

"(1) an institution is accredited as a hospital by the Joint Commission on Accreditation of Hospitals, and

"(2) such institution (if it is included within a survey described in section 2053 (c)) authorizes the Commission to release to the Administration (on a confidential basis) upon its request (or such State agency as the Administration may designate) a copy of the most current accreditation survey of such institution made by such Commission,

then, such institution shall be deemed to meet the requirements of the numbered paragraphs of section 2051(b); except—

"(3) paragraph (6) thereof, and

"(4) any standard, promulgated by the Administration pursuant to paragraph (8) thereof, which is higher than the requirements prescribed for accreditation by such Commission.

If such Commission, as a condition for accreditation of a hospital, requires a utilization review plan (or imposes another requirement which serves substantially the same purpose) or imposes a standard which the Administration determines is at least equivalent to the standard promulgated by the Administration as described in paragraph (4) of this subsection, the Administration is authorized to find that all institutions so accredited by such Commission comply also with section 2051(b)(6) or the standard described in such paragraph (4), as the case may be. In addition, if the Administration finds that accreditation of an institution or agency by the American Osteopathic Association or any other national accreditation body provides reasonable assurance that any or all of the conditions of section 2051 (b), (j), or (n), as the case may be, are met, it may, to the extent it deems it appropriate, treat such institution or agency as meeting the condition or conditions with respect to which it made such finding.

"(b) Notwithstanding any other provision of this title, if the Administration finds following a survey made pursuant to section 2053(c) that an institution has significant deficiencies (as defined in regulations pertaining to health and safety), such institution shall, after the date of notice of such finding to the hospital and for such period as may be prescribed in regulations, be deemed not to meet the requirements of the numbered paragraphs of section 2051(b).

"DETERMINATIONS; APPEALS

"SEC. 2055. (a) The determination of whether an individual is entitled to benefits under this title, and the determination of the amount of such benefits, shall be made by the Administration in accordance with regulations prescribed by it.

"(b)(1) Any individual dissatisfied with any determination under subsection (a) as to—

"(A) whether he meets the conditions of eligibility for benefits under this title, or

"(B) the amount of benefits under this title (including a determinaton where such amount is determined to be zero),

shall be entitled to a hearing thereon by the Administration to the same extent as is provided in section 205(b) and to judicial review of the Administration's final decision after such hearing as is provided in section 205(g).

"(2) Notwithstanding the provisions of subparagraph (B) of paragraph (1) of this subsection, a hearing shall not be available to an individual by reason of such subparagraph (B) if the amount in controversy is less than $100; nor shall judicial review be available to an individual by reason of such subparagraph (B) if the amount in controversy is less than $1,000.

"(c) Any institution or agency dissatisfied with any determination by the Administration that it is not a provider of services, or with any determination described in section 2043(b)(2), shall be entitled to a hearing thereon by the Administration (after reasonable notice and opportunity for hearing) to the same extent as is provided in section 205 (b), and to judicial review of the Administration's final decision after such hearing as is provided in section 205(g).

"OVERPAYMENTS ON BEHALF OF INDIVIDUALS AND SETTLEMENT OF CLAIMS FOR BENEFITS ON BEHALF OF DECEASED INDIVIDUALS

"SEC. 2056. (a) Any payment under this title to any provider of services or other person with respect to any items or services furnished any individual shall be regarded as a payment to such individual.

"(b) Where—

"(1) more than the correct amount is paid under this title to a provider of services or other person for items or services furnished an individual and the Administration determines (A) that, within such period as it may specify, the excess over the correct amount cannot be recouped from such provider of services or other person, or (B) that such provider of services or other person was without fault with respect to the payment of such excess over the correct amount, or

"(2) any payment has been made under section 2041(d) to a provider of services or other person for items or services furnished an individual,

proper adjustment shall be made, under regulations prescribed by the Administration, by decreasing subsequent payments—

"(3) to which such individual is entitled under title II of this Act, or

"(4) if such individual dies before such adjustment has been completed, to which any other individual is entitled under title II of this Act with respect to the wages and self-employment income or the compensation constituting the basis of the benefits of such deceased individual under title II of this Act.

As soon as practicable after any adjustment under paragraph (3) or (4) is determined to be necessary, the Administration, for purposes of this section and section 2046(g), shall certify the amount of the overpayment as to which the adjustment is to be made. For

purposes of clause (B) of paragraph (1), such provider of services or such other person shall, in the absence of evidence to the contrary, be deemed to be without fault if the Administration's determination that more than such correct amount was paid was made subsequent to the third year following the year in which notice was sent to such individual that such amount had been paid; except that the Administration may reduce such three-year period to not less than one year if it finds such reduction is consistent with the objectives of this title.

"(c) There shall be no adjustment as provided in subsection (b) (nor shall there be recovery) in any case where the incorrect payment has been made (including payments under section 2041(d)) with respect to an individual who is without fault or where the adjustment (or recovery) would be made by decreasing payments to which another person who is without fault is entitled as provided in subsection (b)(4), if such adjustment (or recovery) would defeat the purposes of title II or this title or would be against equity and good conscience. Adjustment or recovery of an incorrect payment (or only such part of an incorrect payment as the Administration determines to be inconsistent with the purposes of this title) against an individual who is without fault shall be deemed to be against equity and good conscience if (A) the incorrect payment was made for expenses incurred for items or services for which payment may not be made under this title by reason of the provisions of section 2011(a)(2)(A) or (G), and (B) the Administration's determination that such payment was incorrect was made subsequent to the third year following the year in which notice of such payment was sent to such individual; except that the Administration may reduce such three-year period to not less than one year if it finds such reduction is consistent with the objectives of this title.

"(d) No certifying or disbursing officer shall be held liable for any amount certified or paid by him to any provider of services or other person where the adjustment or recovery of such amount is waived under subsection (c) or where adjustment under subsection (b) is not completed prior to the death of all persons against whose benefits such adjustment is authorized.

"(e) If an individual, who received services for which payment may be made to such individual under this title, dies, and payment for such services was made (other than under this title), and the individual died before any payments due him under this title with respect to such services was completed, payment of the amount due (including the amount of any unnegotiated checks) shall be made—

"(1) if the payment for such services was made (before or after such individual's death) by a person other than the deceased individual, to the person or persons determined by the Administration under regulations to have paid for such services, or if the payment for such services was made by the deceased individual before his death, to the legal representative of the estate of such deceased individual, if any;

"(2) if there is no person who meets the requirements of paragraph (1), to the person, if any, who is determined by the Administration to be the surviving spouse of the deceased individual and who was either living in the same household with the deceased at the time of his death or was, for the month in which the deceased individual died (entitled to a monthly benefit on the basis of the same wages and self-employment income as was the deceased individual;

"(3) if there is no person who meets the requirements of paragraph (1) or (2), or if the person who meets such requirements dies before the payment due him under this title is completed, to the child or children, if any, of the deceased individual who were, for the month in which the deceased individual died, entitled to monthly benefits on the basis of the same wages and self-employment income as was the deceased individual (and, in case there is more than one such child, in equal parts to each such child);

"(4) if there is no person who meets the requirements of paragraph (1), (2), or (3), or if each person who meets such requirements dies before the payment due him under this title is completed, to the parent or parents, if any, of the deceased individual who were, for the month in which the deceased individual died, entitled to monthly benefits on the basis of the same wages and self-employment income as was the deceased individual (and, in case there is more than one such parent, in equal parts to each such parent);

"(5) if there is no person who meets the requirements of paragraph (1), (2), (3), or (4), or if each person who meets such requirements dies before the payment due him under this title is completed, to the person, if any, determined by the Administration to be the surviving spouse of the deceased individual;

"(6) if there is no person who meets the requirements of paragraph (1), (2), (3), (4), or (5), or if each person who meets such requirements dies before the payment due him under this title is completed, to the person or persons, if any, determined by the Administration to be the child or children of the deceased individual (and, in case there is more than one such child, in equal parts to each such child);

"(7) if there is no person who meets the requirements of paragraph (1), (2), (3), (4), (5), or (6), or if each person who meets such requirements dies before the payment due him under this title is completed, to the parent or parents, if any, of the deceased individual (and, in case there is more than one such parent, in equal parts to each such parent); or

"(8) if there is no person who meets the requirements of paragraph (1), (2), (3), (4), (5), (6), or (7), or if each person who meets such requirements dies before the payment due him under this title is completed, to the legal representatives of the estate of the deceased individual, if any.

"(f) If an individual who received medical and other health services for which payment may be made under this title dies, and—

"(1) no assignment of the right to payments was made by such individual before his death, and

"(2) payment for such services has not been made, payment for such services shall be made to the physician or other person who provided such services, but payment shall be made under this subsection only in such amount and subject to such conditions as would have been applicable if the individual who received the services had not died, and only if the person or persons who provided the services agrees that the reasonable charge is the full charge for the services.

"APPLICATION OF CERTAIN PROVISIONS OF TITLE II

"SEC. 2057. The provisions of sections 206 and 216(j), and of subsections (a), (d), (e), (f), (h), (i), (j), (k), and (l) of section 205, shall also apply with respect to this title to the same extent as they are applicable with respect to title II.

"DESIGNATION OF ORGANIZATION OR PUBLICATION BY NAME

"SEC. 2058. Designation in this title, by name, of any nongovernmental organization or publication shall not be affected by change of name of such organization or publication, and shall apply to any successor organization or publication which the Administration finds serves the purpose for which such designation is made.

"PENALTIES

"SEC. 2059. (a) Whoever—

"(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit or payment under this title,

"(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to any such benefits or payment,

"(3) having knowledge of the occurrence of any event affecting (A) his initial or continued right to any such benefit or payment, or (B) the initial or continued right to any such benefit or payment of any other individual in whose behalf he has applied for or is receiving such benefit or payment, conceals or fails to disclose such event with an intent fraudulently to secure such benefit or payment either in a greater amount or quantity than is due or when no such benefit or payment is authorized, or

"(4) having made application to receive any such benefit or payment for the use and benefit of another and having received it, knowingly and willfully converts such benefit or payment or any part thereof to a use other than for the use and benefit of such other person,

shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

"(b) Whoever furnishes items or services to an individual for which payment is or may be made under this title and who solicits, offers, or receives any—

"(1) kickback or bribe in connection with the furnishing of such items or services or the making or receipt of such payment, or

"(2) rebate of any fee or charge for referring any such individual to another person for the furnishing of such items or services,

shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

"(c) Whoever knowingly and willfully makes or causes to be made, or induces or seeks to induce the making of, any false statements or representation of a material fact with respect to the conditions or operation of any institution or facility in order that such institution or facility may qualify (either upon initial certification or upon recertification) as a hospital, skilled nursing facility, or home health agency (as those terms are defined in section 2051), shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $2,000 or imprisoned for not more than six months, or both.

"PROVIDER REIMBURSEMENT REVIEW BOARD

"SEC. 2060. The Provider Reimbursement Review Board established under section 1878 shall have the same functions with respect to providers of services under this title as it has with respect to providers of services under title XVIII; and the provisions of such section 1878 shall apply with respect to providers of services under this title in the same manner and to the same extent as they apply with respect to providers of services under title XVIII.

"NATIONAL HEALTH INSURANCE BENEFITS ADVISORY COUNCIL

"SEC. 2061. (a) There is hereby created a National Health Insurance Benefits Advisory Council which shall consist of 19 persons, not otherwise in the employ of the United States, appointed by the Board without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The Administration shall from time to time appoint one of the members to serve as Chairman. The members shall include per-

sons who are outstanding in fields related to hospital, medical, and other health activities, and persons who are representative of organizations and associations of professional personnel in the field of medicine. At least six persons who are representative of the general public shall be on the Council. Each member shall hold office for a term of four years, except that 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. A member shall not be eligible to serve continuously for more than two terms. Members of the Advisory Council, while attending meetings or conferences thereof or otherwise serving on business of the Advisory Council, shall be entitled to receive compensation at rates fixed by the Administration, but not exceeding $100 per day, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently. The Advisory Council shall meet as the Administration deems necessary, but not less than annually.

"(b) It shall be the function of the Advisory Council to provide advice and recommendations for the consideration of the Administration on matters of general policy with respect to this title.

"(c) Section 14(a)(2) of the Federal Advisory Committee Act shall not apply with respect to the Advisory Council.

"REGULATIONS

"SEC. 2062. The Administration shall prescribe such regulations as may be necessary to carry out the administration of the insurance program under this title. When used in this title, the term 'regulations' means, unless the context otherwise requires, regulations prescribed by the Administration."

TAXES AND COVERAGE FOR HEATH INSURANCE PURPOSES

SEC. 102. (a)(1) Section 1401 of the Internal Revenue Code of 1954 (relating to rate of tax on self-employment income) is amended by adding at the end thereof the following new subsection:

"(c) NATIONAL HEALTH INSURANCE.—In addition to the taxes imposed by the preceding subsections, there shall be imposed for each taxable year, on the self-employment income of every individual (including unearned income of such individual to the extent provided in section 3126(c)(1)), a tax for purposes of the national health insurance program under title XX of the Social Security Act in an amount equal to 2½ percent of the amount of the self-employment income (and unearned income) for such taxable year.".

(2) Section 3101 of such Code (relating to rate of tax on employees) is amended by adding at the end thereof the following new subsection:

"(c) NATIONAL HEALTH INSURANCE.—In addition to the taxes imposed by the preceding subsections, there is hereby imposed on the income of every individual (including unearned income of such individual to the extent provided in section 3126(c)(1)) a tax for purposes of the national health insurance program under title XX of the Social Security Act in an amount equal to 1 percent of the wages (as defined in section 3121(a) and modified by section 3126(a)) received by him with respect to employment as defined in section 3126(b), (including any such unearned income).".

(3) Section 3111 of such Code (relating to tax on employers) is amended by adding at the end thereof the following new subsection:

"(c) NATIONAL HEALTH INSURANCE.—In addition to the taxes imposed by the preceding subsections, there is hereby imposed on every employer an excise tax with respect to having individuals in his employ, for purposes of the national health insurance program under title XX of the Social Security Act, equal to 3 percent of the wages (as defined in section 3121(a) and modified by section 3126(a)) paid by him with respect to employment as defined in section 3126(b) (including unearned income of such individuals to the extent provided in section 3126(c)(1)).".

(b)(1) Subchapter C of chapter 21 of such Code (general provisions under Federal Insurance Contributions Act) is amended by redesignating section 3126 as section 3127, and by inserting immediately after section 3125 the following new section:

"SEC. 3126. SPECIAL COVERAGE PROVISIONS FOR PURPOSES OF NATIONAL HEALTH INSURANCE TAXES.

"(a) CONTRIBUTION AND BENEFIT BASE.—The contribution and benefit base for purposes of the taxes imposed by sections 3101(c) and 3111(c) (as a limitation or maximum under sections 3121(a)(1), 3122, 3125, 6413, and 6654) shall, subject to section 230 of the Social Security Act, be $20,000. Such sections 3121(a)(1), 3122, 3125, 6413, and 6654 shall be applied with respect to the contribution and benefit base for purposes of those taxes separately from the corresponding contribution and benefit base for purposes of the other taxes imposed by sections 3101 and 3111. The contribution and benefit base specified in the first sentence of this subsection shall (under regulations prescribed by the Secretary or his delegate) apply with respect to the combined wages and the self-employment income (and unearned income) of any husband and wife who are eligible to file a joint return (for the taxable year involved) under section 6013 as well as with respect to the wages and self-employment income (and unearned income) of an individual (other than such a husband or wife).

"(b) COVERED EMPLOYMENT.—For purposes of the taxes imposed by sections 3101(c) and 3111(c), the term 'employment' has the meaning given it by section 3121(b) except that—

"(1) paragraph (5) of such section (exclusion for certain federally related service), paragraph (7) of such section (exclusion for State or local employment), paragraph (8)(B) of such section (exclusion for employment by certain nonprofit organizations), and paragraph (9) of such section (exclusion for service covered by Railroad Retirement Act) shall not apply;

"(2) paragraph (6) of such section (exclusion for Federal employment) shall apply only with respect to service performed by an individual as a member of a uniformed service on active duty; and

"(3) section 3121(m) (inclusion of service as member of uniformed service on active duty) shall not apply.

"(c) INCLUSION OF UNEARNED INCOME WITHIN CONTRIBUTION AND BENEFIT BASE IN CERTAIN CASES.—

"(1) IN GENERAL.—In any case where the total of an individual's wages and net earnings from self-employment income for a taxable year (determined without regard to this subsection) is less than the applicable contribution and benefit base as determined under subsection (a), and such individual has any unearned income (as defined in paragraph (2)) for such year, so much of such unearned income as does not exceed the difference between such total and such contribution and benefit base—

"(A) shall be included in such base as 'wages', and treated as subject to the taxes imposed by sections 3101(c) and 3111(c), to the extent that it consists of payments of aid to families with dependent children under a State plan approved under section 402 of the Social Security Act or supplemental security income benefits under title XVI of such Act, and

"(B) shall, to the extent that it consists of unearned income in any other form (and that any part of such difference remains after the application of subparagraph (A)), be included in such base as 'self-employed income' and treated as subject to the tax imposed by section 1401(c).

"(2) DEFINITION OF UNEARNED INCOME.—As used in paragraph (1), the term 'unearned income' with respect to any individual means—

"(A) the amount of such individual's adjusted gross income for the taxable year, including payments of aid to families with dependent children under a State plan approved under section 402 of the Social Security Act, supplemental security income benefits under title XVI of such Act, and any amounts referred to in subparagraphs (B) and (F) of section 1612(a)(2) of such Act to the extent not otherwise includible in such income, reduced by

"(B) any part of such income (whether from wages or any other source) in excess of the amount of the contribution and benefit base for purposes of the taxes under sections 3101(c) and 3111(c) for such year (as determined under subsection (a)), and further reduced by

"(C) any part of the remaining adjusted gross income which consists of—

"(i) wages taxable under section 3101(c), or

"(ii) self-employment income taxable under section 1401(c), or

"(iii) remuneration for services performed as a member of a uniformed service on active duty, or

"(iv) remuneration (not taxable under section 3101(c)) for service performed by an alien in the employ of a foreign government, or an instrumentality of a foreign government, or an international organization.

"(3) EXCLUSION FOR THE AGED AND DISABLED.—This subsection shall not apply with respect to any individual who, at any time during the taxable year, satisfies paragraph (1) (or (2) of section 226(b) or is under the age of 18."

(2) The table of sections for such subchapter C is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 3126. Special coverage provisions for purposes of national health insurances taxes.

"Sec. 3127. Short title.".

(c)(1) Section 1402(b) of the Internal Revenue Code of 1954 (relating to definition of self-employment income) is amended by adding at the end thereof the following new sentence: "The contribution and benefit base for purposes of the tax imposed by section 1401(c) (as a limitation or maximum under this subsection) shall, subject to section 230 of the Social Security Act, be $20,000."

(2)(A) Section 3121(b) of such Code (relating to definition of employment) is amended by striking out "such term shall not include" in the matter preceding paragraph (1) and inserting in lieu thereof "such term (subject to section 3126(b)) shall not include".

(B) Section 3121(m) of such Code (relating to service in the uniformed services) is amended by inserting after "chapter" in the matter preceding paragraph (1) the following: "(subject to section 3126(b))".

(3) Section 230(c) of the Social Security Act is amended by striking out "shall be $13,200" and inserting in lieu thereof "shall be $20,000 (for an individual or for a husband and wife) in a case to which section

3126(a) of the Internal Revenue Code of 1954 applies and $13,200 of any other case,".

(d)(1) Section 3102 of the Internal Revenue Code of 1954 (relating to deduction of tax from wages) is amended by adding at the end thereof the following new subsection:

"(d) HEALTH INSURANCE TAX ON CERTAIN UNEARNED INCOME TREATED AS WAGES.—The tax imposed by section 3101(c) with respect to payments of aid to families with dependent children or supplemental security income benefits (and treated as a tax on wages under section 3126(c)(1)(A)) shall be collected by the State agency making such payments or the Federal agency paying such benefits by deducting and withholding the amount of the tax from such payments or benefits as and when paid; and thereafter for all of the purposes of this title and title XX of the Social Security Act (1) such agency and the recipient of any such payment or benefit shall be considered to have been employer and employee, respectively, and (2) such payment or benefit shall be treated as constituting remuneration paid by such agency to the recipient for employment. Any amount deducted and withheld from a payment or benefit under the preceding sentence shall be separately shown and clearly identified as the tax imposed by section 3101(c) for purposes of the national health insurance program.".

(2) Section 1403 of such Code (miscellaneous provisions) is amended by redesignating subsection (b) as subsection (c), and by inserting after subsection (a) the following new subsection:

"(b) ARRANGEMENTS FOR DEDUCTION AND WITHHOLDING OF TAX ON CERTAIN UNEARNED INCOME TREATED AS SELF-EMPLOYMENT INCOME.—The Secretary or his delegate, in consultation with the Board of the Social Security Administration, is authorized to enter into appropriate arrangements with public and private agencies and organizations making payments to individuals which (under subsections (c)(1)(B) and (c)(2)(A) of section 3126) constitute unearned income of such individuals subject to the tax imposed by section 1401(c), for the collection of such tax by such agencies and organizations on behalf of such individuals by deduction and withholding from such payments."

(e) If during any calendar year after 1975 the total amount of the taxes paid by any State under section 3111 (c) of the Internal Revenue Code of 1954 with respect to payments of aid to families with dependent children made under its plan approved under section 402 of the Social Security Act is less than the total amount of the expenditures made by such State and its agencies in carrying out its plan for medical assistance under title XIX of such Act during the calendar year 1973 (other than expenditures for skilled nursing facility services as defined in section 1905(a)(4) and intermediate care facility services as defined in section 1905(a)(15)) reduced by the Federal payments to such State under section 1903 of such Act for quarters in 1973, as determined by the Board of the Social Security Administration in consultation with the Secretary of the Treasury or his delegate, the difference shall be—

(1) paid by such State to the Board for deposit in the National Health Insurance Trust Fund, in such manner as the Board shall prescribe, or (if not so paid)

(2) deducted from the amount which is otherwise payable to such State under section 403 of the Social Security Act with respect to quarters in such calendar year after 1975 and deposited in such Trust Fund.

TAX REFUNDS FOR CERTAIN SERVICEMEN

SEC. 103. (a)(1)(A) Section 6413 of the Internal Revenue Code of 1954 (special rules applicable to certain employment taxes) is amended by redesignating subsection (d) as subsection (e), and by inserting after subsection (c) the following new subsection:

"(d) SPECIAL REFUNDS OF HEALTH INSURANCE TAX UPON APPLICATION BY SERVICEMAN PERFORMING OTHER EMPLOYMENT.—

"(1) IN GENERAL.—If an individual performing service as a member of a uniformed service on active duty (excluded from health insurance coverage under section 3126(b)(3)) also performs service which constitutes employment for purposes of the tax imposed by section 3101(c), such individual shall upon application be entitled (subject to the provisions of section 31(b)) to a credit or refund of any amount of tax, with respect to the wages paid for such employment, imposed by such section 3101(c) and deducted from the individual's wages (whether or not paid to the Secretary or his delegate).

"(2) NOTIFICATION TO SECRETARY OF HEALTH, EDUCATION, AND WELFARE.—The Secretary of his delegate shall promptly notify the Secretary of Health, Education, and Welfare of such special refund allowed under this subsection.

For denial of health insurance coverage upon credit or refund, see section 2021(d) of the Social Security Act.".

(B) Section 6413(c) of such Code (relating to special refunds) is amended—

(i) by inserting "Based on Multiple Employment" after "Refunds" in the heading; and

(ii) by inserting after "during such year" where it appears in clauses (G) and (H) of paragraph (1) the following: "(after the application of subsection (d) in any case to which it applies)".

(2) Section 31(b) of such Code (relating to credit for special refunds of social security tax) is amended—

(A) by inserting "or 6413(d)" after "section 6413(c)" in paragraph (1); and

(B) by inserting after "to which paragraph (1) applies" in paragraph (2) the following: "and which represents a special refund allowable under section 6413(c)".

(b) The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1974.

PROFESSIONAL STANDARDS REVIEW

SEC. 104. Section 1155 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(h) Beginning no later than two years after the effective date of title XX, each Professional Standards Review Organization shall perform the same functions with respect to the review of professional activities involving items and services for which payment may be made under title XX, in the area which it serves, as such organization performs (in such area) with respect to professional activities involving items and services for which payment may be made under other provisions of this Act."

REPEAL OF MEDICAID PROGRAM

SEC. 105. (a) Title XIX of the Social Security Act is repealed.

(b) For technical and conforming amendments and transitional provisions in connection with such repeal, see section 505.

TITLE II—CHANGES IN MEDICARE PROGRAM

ESTABLISHMENT OF MEDICARE LONG-TERM CARE PROGRAM

SEC. 201. (a) Title XVIII of the Social Security Act is amended by adding at the end thereof the following new part:

"PART D—LONG-TERM CARE SERVICES PROGRAM

"ESTABLISHMENT OF PROGRAM

"SEC. 1881. There is hereby established a voluntary program to provide long-term care benefits in accordance with this part for aged and disabled individuals who elect to enroll under such program, financed from premium payments by enrollees together with contributions from funds appropriated by the Federal Government and contributions by the States.

"ELIGIBILITY FOR LONG-TERM CARE SERVICE BENEFITS

"SEC. 1882. (a) Every individual who—

"(1)(A) is entitled to hospital insurance benefits under part A, or

"(B) has attained age 65 and is a resident of the United States, and is either—

"(i) a citizen,

"(ii) an alien lawfully admitted for permanent residence who has resided in the United States continuously during the 5 years immediately preceding the month in which he applies for enrollment under this part, or

"(iii) an individual eligible for supplemental security income benefits under title XVI, and

"(2) is entitled to supplementary medical insurance benefits under part B,

is eligible to enroll in the program established by this part.

"(b)(1) An individual may enroll in the program established by this part only in such manner and form as may be prescribed by regulations, and only during an enrollment period prescribed in and under this subsection.

"(2) No individual may enroll under this part more than once.

"(3) In the case of individuals who first satisfy paragraph (1)(A) or (1)(B) of subsection (a) before April 1, 1976, the initial general enrollment period shall begin on January 1, 1976, and end at the close of March 31, 1976.

"(4) In the case of an individual who first satisfies paragraph (1)(A) or (1)(B) of subsection (a) on or after April 1, 1976, his initial enrollment period shall begin on the first day of the third month before the month in which he first satisfies such paragraph and shall end 7 months later.

"(5) There shall be a general enrollment period, after the period described in paragraph (3), during the period beginning on January 1 and ending on March 31 of each year beginning with 1977.

"(c) The period during which an individual is entitled to benefits under the program established by this part (hereinafter referred to as his 'coverage period') shall begin on whichever of the following is the latest:

"(1) July 1, 1976; or

"(2)(A) in the case of an individual who enrolls pursuant to subsection (b)(1) before the month in which he first satisfies paragraph (1)(A) or (1)(B) of subsection (a), the first day of such month; or

"(B) in the case of an individual who enrolls pursuant to subsection (b)(1) in the month in which he first satisfies such paragraph (1)(A) or (1)(B), the first day of the month following the month in which he so enrolls; or

"(C) in the case of an individual who enrolls pursuant to subsection (b)(1) in the month following the month in which he first satisfies such paragraph (1)(A) or (1)(B), the first day of the second month following the month in which he so enrolls; or

"(D) in the case of an individual who enrolls pursuant to subsection (b)(1) more than one month following the month in which he satisfies such paragraph (1)(A) or (1)(B), the first day of the third month following the month in which he so enrolls; or

"(E) in the caes of an individual who enrolls pursuant to subsection (b)(5), the July 1 following the month in which he so enrolls.

"(d)(1) An individual's coverage period

shall continue until his enrollment has been terminated—

"(A) by the filing of notice that the individual no longer wishes to participate in the program established by this part, or

"(B) for nonpayment of premiums.

"(2) No payment may be made under this part with respect to the expenses of an individual unless such expenses are incurred by such individual during a period which, with respect to him, is a coverage period.

"(e) The monthly premium of each individual enrolled under this part for each month shall be $6.

"SCOPE OF BENEFITS

"SEC. 1883. The benefits provided to an individual by the program established by this part shall consist of—

"(1) home health services,

"(2) homemaker services,

"(3) nutrition services,

"(4) long-term institutional care services,

"(5) day care and foster home services, and

"(6) community mental health center outpatient services.

"STATE LONG-TERM CARE AGENCY

"SEC. 1884. The benefits provided under this part shall not go into effect in a State unless the Administration makes a certification that such State has an agency (either a separate agency, or a major division of the health department if there is an adequate coordinating arrangement between such health department and the State social welfare agency) which—

"(1) designates service areas in the State in which community long-term care centers (as defined in section 1889(a)) would provide the benefits covered by this part; except that any service area so designated (if not coterminous with an area designated by the Administration under section 1152) shall be wholly within an area designated under section 1152;

"(2) certifies, under regulations, the conditions of participation for a community long-term care center (as so defined);

"(3) promotes and assists in the organization of new community long-term care centers in areas where they do not exist;

"(4) in any case where such a community long-term care center has not been certified for an area designated under paragraph (1), will establish a local office in such area for the purpose of performing the functions of such a center; except that such local office shall not be used for such purposes longer than 2 years unless—

"(A) there has been established a system of local government offices throughout the State to perform the functions of community long-term care centers, or

"(B) the Governor certifies to the Administration that additional time is needed to establish a nongovernmental community long-term care center with respect to such area;

"(5) monitors the activities of all community long-term care centers in the State and reports to the Governor and to the Administration whenever it finds that a community long-term care center either—

"(A) no longer meets the conditions of participation for a community long-term care center, or

"(B) is no longer effectively providing the benefits covered under this part;

"(6) certifies to the Administration and makes payments to community long-term care centers in the State under the prospective reimbursement system required pursuant to section 1890; and

"(7) files an annual report with the Governor of the State and the Administration on the operation in such State of the program established under this part.

"PAYMENT OF PREMIUMS

"SEC. 1885. (a)(1) In the case of an individual who is entitled to monthly benefits under section 202 or 223, his monthly premiums under this part shall (except as provided in subsections (b)(1) and (c)) be collected by deducting the amount thereof from the amount of such monthly benefits. Such deduction shall be made in such manner and at such times as shall be prescribed in regulations.

"(2) The Secretary of the Treasury shall, from time to time, transfer from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund to the Federal Long-Term Care Trust Fund the aggregate amount deducted under paragraph (1) for the period to which such transfer relates from benefits under section 202 or 223 which are payable from such Trust Fund. Such transfer shall be made on the basis of a certification by the Administration and shall be appropriately adjusted to the extent that prior transfers were too great or too small.

"(b)(1) In the case of an individual who is entitled to receive for a month an annuity or pension under the Railroad Retirement Act of 1937 (whether or not such individual is also entitled for such month to a monthly insurance benefit under section 202 or 223), his monthly premiums under this part shall (except as provided in subsection (c)) be collected by deducting the amount thereof from such annuity or pension. Such deduction shall be made in such manner and at such times as shall be prescribed in regulations by the Secretary after consultation with the Railroad Retirement Board.

"(2) The Secretary of the Treasury shall, from time to time, transfer from the railroad retirement account to the Federal Long-Term Care Trust Fund the aggregate amount deducted under paragraph (1) for the period to which such transfer relates. Such transfers shall be made on the basis of a certification by the Railroad Retirement Board and shall be appropriately adjusted to the extent that prior transfers were too great or too small.

"(c) If an individual to whom subsection (a) or (b) applies estimates that the amount which will be available for deduction under such subsection for any premium payment period will be less than the amount of the monthly premiums for such period, he may (under regulations) pay to the Administration such portion of the monthly premiums for such period as he desires.

"(d)(1) In the case of an individual receiving an annuity under subchapter III of chapter 83 of title 5, United States Code, or any other law administered by the Civil Service Commission providing retirement or survivorship protection, to whom neither subsection (a) nor subsection (b) applies, his monthly premiums under this part (and the monthly premium of the spouse of such individual under this part if neither subsection (a) nor subsection (b) applies to such spouse and if such individual agrees) shall, upon notice from the Administration to the Civil Service Commission, be collected by deducting the amount thereof from each installment of such annuity. Such deduction shall be made in such manner and at such times as the Civil Service Commission may determine. The Commission shall furnish such information as the Administration may reasonably request in order to carry out its functions under this part with respect to individuals to whom this subsection applies. A plan described in section 8903 of title 5, United States Code, may reimburse each annuitant enrolled in such plan in an amount equal to the premiums paid by him under this part if such reimbursement is paid entirely from funds of such plan which are derived from sources other than the contributions described in section 8906 of such title.

"(2) The Secretary of the Treasury shall from time to time, but not less often than quarterly, transfer from the Civil Service Retirement and Disability Fund, or the account (if any) applicable in the case of such other law administered by the Civil Service Commission, to the Federal Long-Term Trust Fund, the aggregate amount deducted under paragraph (1) for the period to which such transfer relates. Such transfer shall be made on the basis of a certification by the Civil Service Commission and shall be appropriately adjusted to the extent that prior transfers were too great or too small.

"(e)(1) In the case of an individual receiving benefits under title XVI of this Act to whom neither subsection (a), subsection (b), or subsection (d) applies, his monthly premiums shall be collected by deducting the amount thereof from the amount of such benefits. Such deduction shall be made in such manner and at such times as shall be prescribed in regulations.

"(2) Amounts deducted by the Administration under paragraph (1) shall be deposited in the Treasury to the credit of the Federal Long-Term Care Trust Fund.

"(f) In the case of an individual who participates in the program established by this part but with respect to whom none of the preceding provisions of this section applies, or with respect to whom subsection (c) applies, the premiums shall be paid to the Administration at such times, and in such manner, as shall be prescribed in regulations.

"(g) Amounts paid to the Administration under subsection (c) or (f) shall be deposited in the Treasury to the credit of the Federal Long-Term Care Trust Fund.

"(h) In the case of an individual who participates in the program established by this part, premiums shall be payable for the period commencing with the first month of his coverage period and ending with the month in which he dies or, if earlier, in which his coverage under such program terminates.

"FEDERAL LONG-TERM CARE TRUST FUND

"SEC. 1886. (a) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the 'Federal Long-Term Care Trust Fund' (hereinafter in this section referred to as the 'Trust Fund'). The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 201(i)(1), and such amounts as may be deposited in, or appropriated to, such fund as provided in this part.

"(b) With respect to the Trust Fund, there is hereby created a body to be known as the Board of Trustees (hereinafter in this section referred to as the 'Board of Trustees') composed of the Secretary of the Treasury, the Secretary of Labor, the Chairman of the Board of the Social Security Administration, *and* the Secretary of Health, Education, and Welfare, all ex officio. The Secretary of the Treasury shall be the Managing Trustee of the Board of Trustees (hereinafter in this section referred to as the 'Managing Trustee'). The Executive Director of the Social Security Administration shall serve as the Secretary of the Board of Trustees. The Board of Trustees shall meet not less frequently than once each calendar year. It shall be the duty of the Board of Trustees to—

"(1) hold the Trust Fund;

"(2) report to the Congress not later than the first day of April of each year on the operation and status of the Trust Fund during the preceding fiscal year and on its expected operation and status during the current fiscal year and the next 2 fiscal years;

"(3) report immediately to the Congress whenever the Board is of the opinion that the amount of the Trust Fund is unduly small; and

"(4) review the general policies followed in managing the Trust Fund, and recommend changes in such policies, including necessary changes in the provisions of law which govern the way in which the Trust Fund is to be managed.

The report provided for in paragraph (2) shall include a statement of the assets of, and the disbursements made from, the Trust Fund during the preceding fiscal year, an estimate of the expected income to, and the

disbursements to be made from, the Trust Fund during the current fiscal year and each of the next 2 fiscal years, and a statement of the actuarial status of the Trust Fund. Such report shall be printed as a House document of the session of the Congress to which the report is made.

"(c) It shall be the duty of the Managing Trustee to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act are hereby extended to authorize the issuance at par of public debt obligations for purchase by the Trust Fund. Such obligations issued for purchase by the Trust Fund shall have maturities fixed with due regard for the needs of the Trust Fund and shall bear interest at a rate equal to the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of the calendar month next preceding the date of such issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of 4 years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum the rate of interest on such obligations shall be the multiple of one-eighth of 1 per centum nearest such market yield. The Managing Trustee may purchase other interest-bearing obligations of the United States or obligations guaranteed as to both principal and interest by the United States, on original issue or at the market price, only where he determines that the purchase of such other obligations is in the public interest.

"(d) Any obligations acquired by the Trust Fund (except public debt obligations issued exclusively to the Trust Fund) may be sold by the Managing Trustee at the market price, and such public debt obligations may be redeemed at par plus accrued interest.

"(e) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

"(f) There shall be transferred periodically (but not less often than once each fiscal year) to the Trust Fund from the Federal Old-Age and Survivors Insurance Trust Fund and from the Federal Disability Insurance Trust Fund amounts equivalent to the amounts not previously so transferred which the Administration shall have certified as overpayments (other than amounts so certified to the Railroad Retirement Board) pursuant to section 1870(b) and amounts equivalent to the amounts made nonpayable under section 1894(b). There shall be transferred periodically (but not less often than once each fiscal year) to the Trust Fund from the Railroad Retirement Account amounts equivalent to the amounts not previously so transferred which the Administration shall have certified as overpayments to the Railroad Retirement Board pursuant to section 1870(b).

"(g) The Managing Trustee shall pay from time to time from the Trust Fund such amounts as the Administration certifies are necessary to make the payments provided for by this part.

"(h) The Managing Trustee shall pay from time to time from the Trust Fund such amounts as the Administration certifies are necessary to make the payments provided for in sections 1890 and 1893(c).

"FUNCTIONS OF COMMUNITY LONG-TERM CARE CENTERS

"SEC. 1887. (a)(1) The functions which a community long-term care center must perform in order to meet the conditions of section 1889(a)(4) shall be those described in paragraph (2).

"(2) A community long-term care center shall—

"(A) provide (directly or through arrangements with other persons) the items and services listed in section 1883 to each individual (i) who is eligible for benefits under this part, (ii) who resides in the area served by such center (as determined under section 1883(a)), and (iii) who is certified as requiring such services as determined under subparagraph (B).

"(B) evaluate and certify (through a team composed of individuals with the skills necessary for such evaluation and certification) the long-term care needs of an individual for whom such care may be required in order to maintain such individual in an independent living arrangement which is reasonable given such individual's state of health and other circumstances (but not including such individual's economic circumstances);

"(C) maintain a continuous relationship with (and periodically evaluate not less than annually) each individual who is receiving any of the items and services listed in section 1883 (including institutional services provided to inpatients) in order to assure (i) that such individual has access to the services provided by such center, including the provision of assistance in connection with any problems such individual may have in the course of receiving such services, and (ii) that such center is continuously informed about the status of such individual and the need for any changes in the services being received by such individual;

"(D) in carrying out its functions under subparagraphs (B) and (C), provide full opportunity for such individual and his family to participate in the determinations and functions under such subparagraphs;

"(E) provide an organized system for making its existence and location known to all individuals in its service area (as defined in section 1884(a)) who are eligible for benefits under this part, and for making known to such individuals the method or methods by which they (or persons interested in them) may most efficiently obtain and use the services which it makes available (including services not listed in section 1883); and

"(F) performs such other functions as the Administration may by regulation prescribe in order to have such center most effectively carry out the purposes of this part.

In carrying out its functions under subparagraph (B), a community long-term care center shall not certify the need for inpatient institutional services for an individual unless a determination has been made that the needs of such individual cannot be met through the provision of the services covered under section 1883 or other community resources available to such individual.

"PAYMENT TO STATES FOR REIMBURSEMENT OF COMMUNITY LONG-TERM CARE CENTERS

"SEC. 1888. (a) From sums in the Federal Long-Term Care Trust Fund, the Administration shall pay to each State which has a State long-term care agency certified under section 1884, for each quarter beginning with the quarter commencing July 1, 1976, an amount equal to—

"(1) the total amount expended during such quarter as payment to community long-term care centers in such State under the applicable provisions of this part, minus

"(2) 10 per centum of such total amount.

"(b)(1) Prior to the beginning of each quarter, the Secretary shall estimate the amount to which a State will be entitled under subsection (a) for such quarter. Such estimates will be based on (A) a report filed by the State containing its estimates of the total sum to be expended in such quarter in accordance with the provisions of this part, and (B) such other investigations as the Secretary may find necessary.

"(2) The Administration shall then pay to the State, in such installments as he may determine, the amount so estimated, reduced or increased to the extent of any overpayment or underpayment which the Administration determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

"DEFINITION OF TERMS USED IN THIS PART

"Community Long-Term Care Center

"SEC. 1889. (a) The term 'community long-term care center' for purposes of this part means an organization (or a distinct part of an organization) which—

"(1) is primarily engaged in providing (directly or through arrangements with other persons) the items and services listed in section 1883 (other than institutional services furnished to inpatients) to individuals residing in its service area (as defined in section 1884);

"(2) has policies, established by a group of professional personnel (associated with such organization) and concurred in by the governing board (as defined in subsection (b)) of such organization;

"(3) maintains medical and other records on all individuals receiving any of the items or services listed in section 1883 (including institutional services);

"(4) performs the functions described in section 1885;

"(5) has in effect an overall plan and budget which (under regulations) places the organization in a position to participate effectivey and efficiently in the prospective reimbursement system required under section 1890;

"(6) is located so as to be easily accessible to individuals residing in its service area;

"(7) meets such other conditions of participation as the Administration may find necessary in the interest of the health and safety of individuals who are furnished services by or through such organization; and

"(8) agrees not to impose any charges with respect to items or services furnished to an individual during such individual's coverage period for which such organization is paid under this part;

except that such term shall not include any nonpublic organization which is not a nonprofit organization exempt from Federal income taxation under section 501 of the Internal Revenue Code of 1954 (or any subdivision of such an organization); and except that such term shall not include any organization which has not been certified by the State agency referred to in section 1883 as meeting the requirements of this subsection.

"Governing Board

"(b) For purposes of subsection (a), the term 'governing board', with respect to any community long-term care center, means a body of individuals—

"(1) at least half the members of which are individuals eligible under section 1882 who reside in the service area of such center,

"(2) which changes its entire membership at least as often as every 6 years,

"(3) which does not have members who have served more than 2 terms,

"(4) at least one-quarter of the members of which are individuals who have been elected (under terms set in regulations) to such membership by individuals eligible under section 1882 who live in such service area, and

"(5) at least one-quarter of the members of which are individuals who have been appointed to such membership by locally elected government officials (as determined by the Governor of the State in which such service area is located).

"Nutrition Services

"(c) The term 'nutrition services' for purposes of this part shall include only—

"(1) meals on wheels and similar programs (but only with respect to an individual eligible under section 1882 who needs and is receiving one or more of the covered items and services other than institutional services which are listed in section 1883); and

"(2) services provided in the place of residence of such individual by a professional nutritionist (but only if the need for such services has been certified to by such individual's physician).

"Homemaker Services

"(d) The term 'homemaker services' for purposes of this part shall include—

"(1) services provided in the home of an individual designed to maintain the home (not including the structure of the home) in a condition which supports the objectives of the other covered services which such individual needs and is receiving, and

"(2) preparing and serving meals in the home of an individual (not to exceed one per day);

but only with respect to an individual eligible under section 1882 who needs and is receiving two or more of the covered items and services listed in section 1883.

"Institutional Services

"(e)(1) The term 'institutional services' for purposes of this part means (A) extended care services as defined in section 1861(h), (B) intermediate care services as defined in paragraph (2), and (C) institutional day care services as defined in paragraph (3).

"(2) The term 'intermediate care services' for purposes of paragraph (1) means the following items and services furnished to an inpatient of an intermediate care facility (as defined in subsection (i)) and (except as provided in subparagraphs (C) and (F)) by such intermediate care facility—

"(A) nursing services;

"(B) bed and board;

"(C) physical, occupational, or speech therapy furnished by the intermediate care facility or by others under arrangements with them made by the facility;

"(D) social services certified as necessary (in the individual case) by the community long-term care center responsible for the care of such individual;

"(E) drugs, biologicals, supplies, appliances, and equipment, furnished for use in the facility for the care and treatment of inpatients;

"(F) medical services provided by an intern or resident-in-training of a hospital with which the facility has in effect a transfer agreement (meeting the requirements of subsection 1861(l)) under a teaching program of such hospital approved as provided in the last sentence of subsection 1861(h); and

"(G) such other services necessary to the health or well-being of the patients as are generally provided by intermediate care facilities.

"(3) The term 'institutional day care services' for purposes of paragraph (1) means intermediate care services (other than items or services, except meals, described in subparagraphs (B) and (E) of paragraph (2)) which are provided to outpatients.

"Home Health Services

"(f) The term 'home health services' for purposes of this part shall have the meaning given it in section 1861(m).

"Day Care; Foster Home Care

"(g)(1) The term 'day care' for purposes of this part means care (other than care with a primary objective of providing medical or physical services) provided to an individual, on a regular (but less than 24-hour-a-day) basis, in a place other than such individual's usual place of abode, by a person or institution licensed or approved by the State long-term care agency, but only if such care is part of the services certified by the community long-term care agency under section 1887.

"(2) The term 'foster home care' for purpose of this part means placement of an individual on a full-time basis in a family setting, except that such term shall not include care in a foster home which is not licensed or approved by the State long-term care agency or which has more than three individuals unrelated by blood or marriage to such family.

"Community Mental Health Center Outpatient Services

"(h) The term 'community mental health center outpatient services' for purposes of this part means outpatient services provided by community mental health centers as defined in the Community Mental Health Centers Act.

"Intermediate Care Facility

"(i) The term 'intermediate care facility' for purposes of this part means an institution which has in effect a transfer agreement (meeting the requirements of subsection 1861(i)(2)) with the community long-term care center designated (under section 1884(a)) for the area where such institution is located, which is under the direction of an administrator licensed under the laws of the State where it is located, and which—

"(1) is licensed under State law to provide, on a regular basis, health-related care or other services to individuals who do not require the degree of care and treatment which a hospital or skilled nursing facility is designed to provide, but who because of their mental or physical condition require care and services (above the level of room and board), over and above the items and services listed in section 1883, which can be made available to them only through institutional services;

"(2) meets such standards provided by the Secretary as he finds appropriate for the proper provision of such care;

"(3) has adequate arrangements for handling medical emergencies;

"(4) meets such provisions of the Life Safety Code of the National Life Protection Association (22nd edition, 1973) as are applicable to nursing homes; and

"(5) meets such standards of safety, health, and sanitation as are established under regulations in addition to those applicable to nursing homes under State law.

The term 'intermediate care facility' also includes (A) any skilled nursing home or hospital which meets the requirements of the preceding sentence, (B) a Christian Science Sanitorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts, but only with respect to institutional services, and (C) any institution which is located on an Indian reservation and is certified by the Secretary as meeting the requirements of this subsection.

"PAYMENT METHOD FOR COMMUNITY LONG-TERM CARE CENTERS

"SEC. 1890. (a) The Administration, after consultation with organizations representing the chief executives of the various States, and other interested parties, shall develop and make available to community long-term care centers one or more methods of obtaining payment for the benefits covered under this part on a prospective basis. Once a community long-term care center elects a particular prospective method, it may not alter its election without the prior approval of the Administration. Whenever the Administration finds that the number of community long-term care centers electing a particular prospective payment method promulgated in accordance with this section is not sufficient to provide an adequate basis for either the operation or evaluation of that method, the Administration shall withdraw that method and allow the community long-term care centers which have elected such method to select another method within 30 days of notice of such withdrawal.

"(b) Whenever the Governor of a State certifies to the Administration a method of prospective payment other than those promulgated under subsection (a), the Administration shall make available the method certified by the Governor to community long-term care centers situated in such State, but only if the Administration finds that the use of such method will not increase the costs of the program established under this part over what the costs would be if such method were not so available.

"(c) Prospective payment methods authorized under this part shall include provisions for (1) financial incentives for efficiency and effectiveness equal to the potential difference between the prospective rates or amounts incurred by a community long-term care center, (2) financial incentives for using noninstitutional services in lieu of inpatient institutional services, and (3) maintaining independent management discretion and responsibility in community long-term care centers.

"(d)(1) Any payment method which the Administration promulgates under this section shall not be modified once established with respect to a community long-term care center, during any accounting period, except under the circumstances described in paragraph (2).

"(2) The Administration by regulation shall provide for adjustment to the agreed-upon rate or amount in the case of any community long-term care center for (A) unforeseeable events such as catastrophes, and (B) significant and unexpected changes in demand for services or significant and unexpected changes in patient mix not under control of such center.

"(e) Following publication of final regulations governing the method or methods of determining prospective rates or amounts under this part, each community long-term care center shall have a period of 60 days within which to elect to participate in one of the prospective payment methods made available during the first fiscal year beginning more than 120 days after the end of such 60-day period.

"MISCELLANEOUS PROVISIONS

"SEC. 1891. (a) Notwithstanding any other provision of this part, any item or service which is covered under part A or B of this title shall not be a covered service under this part.

"(b) Notwithstanding any other provision of this Act, beginning with the seventh month of any period of consecutive months during all of which an individual eligible for benefits under this part is receiving institutional services (as defined in section 1889(c)) as an inpatient or receiving foster home care (as defined in section 1889(g)(2), benefits to such individual under title II of this Act shall be reduced by 66⅔ percent (rounded to the next lower multiple of $0.10). Such reduction shall no longer be imposed beginning with the month following the first month following the first month thereafter during all of which such individual is no longer receiving such institutional services as an inpatient or such foster home care.

"(c) The Administration shall pay to any State long-term care agency certified under section 1884, in advance or by way of reimbursement, amounts equal to 60 per centum of the costs incurred by such agency in carrying out the functions described in section 1885 (and may make adjustments in such payments on account of overpayments or underpayments previously made).

"(d) The provisions of paragraphs (2), (3), (4), (5), (8), (10), (11), (12), and (13) of section 1862(a) shall apply with respect to

this part to the same extent as they apply with respect to parts A and B.

"DETERMINATIONS AND APPEALS

"SEC. 1892. (a) The determination of whether an individual is entitled to benefits under this part shall be made by the Administration in accordance with regulations prescribed by him.

"(b) Any individual dissatisfied with any determination under subsection (a) as to (1) whether he is eligible to enroll or has enrolled pursuant to this part, or (2) the amount of his benefits under this part (including a determination where such amount is determined to be zero), shall be entitled to a hearing thereon by the Administration to the same extent as is provided in section 205 (b) and to judicial review of the Administration's final decision after such hearing as is provided in section 205(g)."

(b)(1) Section 1861 of the Social Security Act is amended by striking out "title" the first time it appears and inserting in lieu thereof "parts A, B, and C of this title".

(2) Section 1611(e)(1)(B) of such Act is amended to read as follows:

"(B) In any case where an eligible individual or his eligible spouse (if any) is, throughout any month, in a skilled nursing facility or intermediate care facility receiving payments (with respect to such individual or spouse) under part D of title XVIII, the benefit under this title for such individual or such spouse for such month shall be payable—

"(i) at a rate not in excess of $300 per year (reduced by the amount of any income not excluded pursuant to section 1612(b));

"(ii) at a rate not in excess of the sum of the applicable rate specified in subsection (b)(1) and the rate of $300 per year (reduced by the amount of any income not excluded pursuant to section 1612(b)) in the case of an individual who has an eligible spouse, if only one of them is in such facility throughout such month; and

"(iii) at a rate not in excess of $600 per year (reduced by the amount of any income not excluded pursuant to section 1612(b)), in the case of an individual who has an eligible spouse, if both of them are in such a facility throughout such month."

(3)(A) Section 1861(e) of such Act is amended by striking out "means an institution which" in the matter preceding paragraph (1) and inserting in lieu thereof "means an institution which has in effect a transfer agreement (meeting the requirements of subsection (l)(2)) with the community long-term care center designated under section 1884(a) for the area in which such institution is located, and which".

(B) Section 1861(j) of such Act is amended by striking out "and which" in the matter preceding paragraph (1) and inserting in lieu thereof "and has in effect a transfer agreement (meeting the requirements of subsection (l)(2) with the community long-term care center designated under section 1884(a) for the area in which such institution is located, and which".

(C) Section 1861(o) of such Act is amended by striking out the word "which" in the matter preceding paragraph (1) and inserting in lieu thereof "which has in effect a transfer agreement (meeting the requirements of subsection (e)(2) with the community long-term care center designated under section 1884(a) for the area in which such agency or organization is located, and which".

(D)(i) Section 1861(e) of such Act is amended by inserting "(1)" immediately after "(e)", and by striking out "(1)" and "(2)" and inserting in lieu thereof "(A)" and "(B)", respectively.

(ii) Section 1861(e) of such Act is further amended by adding at the end thereof the following new paragraph:

"(2) A hospital, skilled nursing facility, or home health agency, shall be considered to have in effect a transfer agreement with a community long-term care center if, by reason of a written agreement between such hospital, facility, or agency and such center or a written undertaking by the person or body which controls them, there is reasonable assurance that—

"(A) transfer of patients will be effected between such hospital, facility, or agency and such center whenever such transfer is medically appropriate as determined by the attending physician; and

"(B) there will be an interchange of medical and other information necessary or useful in the care and treatment of individuals transferred between such hospital, facility, or agency and such center, or in determining whether such patients can be adequately cared for otherwise than in a hospital or skilled nursing facility."

(4) Section 1870(g) of such Act is amended by striking out "or under section 1837" and inserting in lieu thereof ", under section 1837, or under section 1882".

(5) Section 201(g)(1)(A) of such Act is amended by striking out "and the Federal Supplementary Medical Insurance Trust Fund" and inserting in lieu thereof ", the Federal Supplementary Medical Insurance Trust Fund, and the Federal Long-Term Care Trust Fund".

(6) Section 201(i)(1) of such Act is amended by striking out "and the Federal Supplementary Medical Insurance Trust Fund" and inserting in lieu thereof "the Federal Supplementary Medical Insurance Trust Fund, and the Federal Long-Term Care Trust Fund".

(c)(1) Notwithstanding any other provision of this section, or part D of title XVIII of the Social Security Act as added by this section, such part D shall not be in effect in a State with respect to the fiscal year 1977, the fiscal year 1978, or the fiscal year 1979 unless such State transmits to the Secretary for deposit in the Federal Long-Term Care Trust Fund prior to the beginning of such year an amount equal to 50 percent, 30 percent, or 10 percent, respectively, of the amount specified in paragraph (2).

(2) The amount to which paragraph (1) applies with respect to any fiscal year shall be equal to the amount spent for the calendar year 1973 by such State, under title XIX of the Social Security Act, for skilled nursing facility services under subsection 1905(a)(4)(A) of the Social Security Act and intermediate care facility services under section 1905(a)(15) of such Act.

(d)(1) The amendment made by subsection (a) of this section shall be effective upon the enactment of this Act; except that no payment shall be made for services covered under section 1882 of the Social Security Act (as added by such amendment) which are furnished before July 1, 1977.

(2) The amendments made by subsection (b) of this section shall be effective on July 1, 1977.

COVERAGE OF PRESCRIPTION DRUGS

SEC. 202. (a) Section 1832(a)(2) of the Social Security Act is amended by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and", and by adding after subparagraph (C) the following new subparagraph:

"(D) outpatient drugs and biologicals, as defined in section 1861(bb)."

(b)(1) Section 1833(a) of such Act is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(3) in the case of services described in section 1832(a)(2)(D), the reasonable allowance for outpatient drugs and biologicals as determined in accordance with section 1845."

(2) Section 1833(a)(2) of such Act is amended by striking out "in section 1832(a)(2)" and inserting in lieu thereof "in subparagraphs (A), (B), and (C) of section 1832(a)(2)".

(c) Section 1833(b) of such Act is amended by inserting ", or expenses incurred for outpatient drugs and biologicals" before the period at the end of the first sentence.

(d)(1) Section 1835(a) of such Act is amended by striking out "and (e)," and inserting in lieu thereof "(e), and (f),".

(2) Section 1835 of such Act is amended by adding at the end thereof the following new subsection:

"(f) In the case of outpatient drugs and biologicals referred to in section 1833(a)(3), payment shall be made only to a participating licensed pharmacy (as defined in section 1861(aa)), and only if such pharmacy has in its records a prescription for such drugs or some other record of such prescription satisfactory to the Administration."

(e) Section 1839(b)(2) of such Act is amended by inserting after "costs" in the second sentence the following: "(except for benefits and related administrative costs for outpatient drugs and biologicals."

(f) Section 1840(f) of such Act is amended by striking out "(e)" and inserting in lieu thereof "(e), or collection under section 1846,".

(g) Section 1840 of such Act is amended by adding at the end thereof the following new subsection:

"(i) The Secretary of the Treasury shall from time to time transfer, from the general fund in the Treasury to the Federal Supplementary Medical Insurance Trust Fund, such amounts as the Board certifies as necessary to pay for outptaient drug benefits (and related administrative costs) under this part, less the amounts collected pursuant to section 1846."

(h) Section 1842(a) of such Act is amended by inserting "(except in the case of outpatient drug benefits)" immediately after "authorized" in the matter preceding paragraph (1).

(i) Section 1861 of such Act is amended by adding at the end thereof the following new subsection:

"Participating Licensed Pharmacy

"(aa) The term 'participating licensed pharmacy' (with respect to any outpatient drug or biological) shall have the same meaning as when used in title XX.

(j) Part B of title XVIII of such Act is further amended by adding after section 1844 the following new sections:

"DETERMINATION OF COPAYMENTS FOR OUTPATIENT DRUGS AND BIOLOGICALS

"SEC. 1845. (a) Subject to subsection (b), the prescription copayment which shall be applicable for the purposes of section 2832(a)(2)(D) shall be $1.

"SPECIAL PROVISIONS FOR PHYSICIANS DISPENSING REIMBURSABLE DRUGS

"SEC. 1846. (a) This section shall apply, notwithstanding any other provisions in this title, where the Administration determines that no participating licensed pharmacies exist in a community.

"(b) Any physician (as defined in section 1861(r)(1)) practicing in a community with respect to which the Administration has made a determination under subsection (a) is deemed to be a licensed participating pharmacy for purposes of this title if such physician files the agreement and statement specified 1861(aa)(3) with the Administration.

"(c) In cases where a licensed participating pharmacy exists in a community only because of subsection (b), the reasonable charge for a reimbursable drug under section 1845 shall be no larger than the amount specified in section 1845(b)(1)."

(k) Section 1155(g) of such Act is amended by striking out "by or in institutions" and inserting in lieu thereof "by or in institutions and reimbursable drugs".

(1) The amendments made by this section shall become effective July 1, 1976.

TERMINATION OF DEDUCTIBLE AND COINSURANCE OBLIGATION IN CASES OF CATASTROPHIC ILLNESS OR INJURY

SEC. 203. (a) Section 1813 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding any other provision of this title, no further deductible or coinsurance requirement shall be imposed under this part with respect to items or services furnished to or for any individual in any calendar year after the total of the deductibles and coinsurance paid by or on behalf of such individual and the other members of his family under this section and section 1833 in that year equals $1,000."

(b) Section 1833 of such Act is amended by adding at the end thereof the following new subsection:

"(h) Notwithstanding any other provision of this title, no further deductible or coinsurance requirement shall be imposed under this part with respect to items or services furnished to or for any individual in any calendar year after the total of the deductibles and coinsurance paid by or on behalf of such individual and the other members of his family under this section and section 1813 in that year equals $1,000."

(c) The amendments made by this section shall apply with respect to calendar years beginning after December 1976, and shall also apply with respect to the 6-month period beginning July 1, 1976, as though such period were a calendar year and the dollar amount specified in such amendments were $500.

ELIMINATION OF POSTHOSTPITAL REQUIREMENT FOR HOME HEALTH SERVICES UNDER PART A OF MEDICARE

SEC. 204. (a) Section 226(c)(1) of the Social Security Act is amended by striking out "post-hospital" immediately before "home health services" each place it appears.

(b) Section 1811 of such Act is amended by striking out "post-hospital".

(c) Section 1812(a)(3) of such Act is amended—

(1) by striking out "post-hospital", and

(2) by striking out all that follows "100 visits" and inserting in lieu thereof "during a calendar year."

(d) Section 1812(d) of such Act is amended—

(1) by striking out "post-hospital", and

(2) by striking out "only during" and all that follows down through the period at the end of the first sentence and inserting in lieu thereof "only for 100 visits in a calendar year."

(e) Section 1812(e) of such Act is amended by striking out "post-hospital" immediately before "home health services".

(f) Section 1814(a)(2)(D) of such Act is amended—

(1) by striking out "post-hospital" where it first appears, and

(2) by striking out "for any of the conditions" and all that follows down through "extended care services".

(g)(1) The heading of section 1814(i) of such Act is amended by striking out "Post-hospital".

(2) Section 1814(i)(1) of such Act is amended by striking out "posthospital".

(h)(1) Section 1861(n) of such Act is repealed.

(2) Section 1861(e) is amended by striking out "subsections (i) and (n)" in the sentence immediately following paragraph (9) and inserting in lieu thereof "subsection (i)".

(i) Section 21(a) of the Railroad Retirement Act of 1937 is amended by striking out "post-hospital" immediately before "home health services".

(j) The amendments made by this section shall apply with respect to periods after June 1976.

ELIMINATION OF DURATIONAL LIMITS ON INPATIENT HOSPITAL SERVICES

SEC. 205. (a) Section 1812(a)(1) of the Social Security Act is amended by striking out "for up to 150 days" and all that follows and inserting in lieu thereof a semicolon.

(b) Section 1812(b) of such Act is amended by striking out paragraph (1).

(c) Section 1812(c) of such Act is amended by strking out "shall be included" and all that follows and inserting in lieu thereof "shall not be included in determining the 190-day limit under subsection (b)(3)."

(d) Section 1812(e) of such Act is amended by striking out "inpatient hospital services,".

(e) Section 1813(a)(1)(B) of such Act is amended by striking out the parenthetical phrase.

(f) The amendments made by this section shall apply with respect to services furnished on and after July 1, 1976.

ELIMINATION OF BLOOD DEDUCTIBLES

SEC. 206. (a) Section 1813(a)(2) of the Social Security Act is repealed.

(b) Section 1833(b) of such Act is amended by striking out the second sentence.

(c) Section 1866(a) of such Act is amended by striking out paragraph (2)(C), and by striking out the unnumbered paragraph following paragraph (2)(D).

(d) The amendments made by this section shall apply with respect to amounts payable for services furnished on and after July 1, 1976.

CHANGES IN PAYMENT PROCEDURES AND ADMINISTRATIVE MECHANISMS UNDER MEDICARE PROGRAM

SEC. 207. Part C of title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

"CHANGES IN PAYMENT PROCEDURES AND ADMINISTRATIVE MECHANISMS

"SEC. 1880. Notwithstanding any other provision of this title, effective on and after July 1, 1976, the provisions of sections 2031 and 2032 relating to payment for covered items and services, the provisions of section 2042 relating to prospective determination of payment of providers, the provisions of section 2045 relating to carriers, the provisions of section 2046 relating to payment to physicians, and all of the other payments procedures, administrative mechanisms, and conditions of payment and participation contained in title XX shall apply and be utilized (in lieu of the corresponding procedures, mechanisms, and conditions contained in this title) for purposes of the programs under parts A and B of this title."

TITLE III—INDEPENDENT SOCIAL SECURITY ADMINISTRATION

DECLARATION OF PURPOSE

SEC. 301. (a) The purpose of this title is to strengthen the fiscal and administrative structure of the contributory social security programs. These programs constitute a retirement and group-insurance plan that provides nearly all American workers and their families with protection designed to partly make up for the loss of earned income during retirement, during periods of extended and total disability before retirement age, or because of death, and provide protection against the costs of medical care. In conjunction with the program of supplemental security income to the needy, designed to fill the gaps in insurance protection, these contributory social insurance programs form a universal structure of economic security. It is essential that we take every practical step to assure the long-range fiscal integrity of these programs and to provide for nonpolitical, objective, and skilled program administration.

(b) In creating the contributory social security and health insurance programs, the Congress has undertaken a fiscal obligation which differs in essential respects from its obligations under programs financed in other ways. The distinctive nature of this obligation results from (1) the contributory character of the programs which gives to nearly every American a personal financial stake in future benefit rights, (2) the concomitant obligation of Government to assure beyond peradventure that these rights earned by compulsory contributions and based on past earnings will, in fact, be honored when they fall due whether in the near or the distant future, (3) the dependence of the programs, if this assurance is to be fully credible, on adequate long-term sources of income dedicated exclusively to these programs, (4) the need that changes in these systems which may be required to meet changing economic and social conditions be developed on a long-range basis and in the context of their interrelated benefit and financial structures. In order to assure more completely the full recognition of the fiscal obligations inherent in these programs, this title separates the transactions of the self-financed social insurance programs from the transactions of the general budget.

(c) The magnitude of these social insurance programs and of the supplemental security income program—in terms of the number of people affected by them, the volume of income and expenditures, the number of persons engaged in their operation, the nationwide network of local offices, and the complexity of these huge operations—demands the utmost in skillful, nonpolitical administration. To help assure such administration and continuously high levels of service to the beneficiaries of and contributors to the programs, this title constitutes the Social Security Administration as an independent agency in the executive branch, responsible directly to the President. The independence accorded by this change will also serve to emphasize to the public that the Government's role in the insurance programs is essentially that of trustee and manager for those who have worked in covered employment and contributed to the support of the programs, a role which is markedly different and carries different obligations from the Government's role in programs financed in other ways.

SOCIAL SECURITY ADMINISTRATION

SEC. 302. (a) Title VII of the Social Security Act is amended by inserting immediately before section 702 the following new section:

"SOCIAL SECURITY ADMINISTRATION

"SEC. 701. (a)(1) There is hereby established, as an independent agency of the executive branch of the Government, a Social Security Administration (hereinafter in this section referred to as the 'Administration'). The Administration shall be headed by a Board which shall consist of three members who shall be appointed by the President, by and with the advice and consent of the Senate. The President shall, from time to time, designate one of the members as Chairman of the Board.

"(2) No individual shall, during the time that he holds the office as a member of the Board, engage in any business, vocation, or employment, other than the discharge of his duties and the exercise of his authority as a member of the Board.

"(3) Not more than two of the members of the Board shall be members of the same political party.

"(4) Each member of the Board shall hold office for a term of five years, except that (A) a 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, and (B) the terms of office of the members first taking office after the date of enactment of the Act to establish the Social Security Administration as an independent

agency shall expire, as designated by the President at the time of appointment, one at the end of two years, one at the end of four years, and one at the end of five years, after the date of enactment of such Act.

"(5) Actions taken, and decisions made, by members of the Board shall be by majority vote; and any action so taken, or decision so made, shall be the action or decision of the Administration.

"(b)(1) It shall be the duty of the Administration to administer the programs established by titles II, XVI, XVIII, and XX of this Act, and to discharge the duties and responsibilities imposed on the Secretary of Health, Education, and Welfare in connection with the administration of the program established by title IV of the Federal Coal Mine Health and Safety Act of 1969.

"(2) The Administration shall also have the duty of studying and making recommendations as to the most effective methods of providing economic security through social insurance, and as to legislation and matters of administrative policy concerning the programs referred to in paragraph (1), and to other programs having similar objectives.

"(3) The Administration shall prepare and submit to the Congress an annual report on its activities, which report shall include the recommendations of the Administration made pursuant to paragraph (2).

"(c)(1) There shall be in the Administration an Executive Director, who shall be appointed by and serve at the pleasure of the Administration, and who shall perform such functions concerning the programs administered by the Administration as the Administration may prescribe.

"(2) There shall be in the Administration a General Counsel, who shall be appointed by and serve at the pleasure of the Administration, and who shall be the principal legal counsel in the Administration. The Administration may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.".

(b) Section 702 of such Act is amended by inserting immediately before the period at the end thereof the following: "; except that nothing in this section shall be construed to require the Secretary to make studies of or recommendations with respect to programs administered by the Social Security Administration".

(c) Section 706 of such Act is amended—

(1) by striking out "Secretary" wherever is appears and inserting in lieu thereof "Social Security Administration",

(2) by striking out "Department of Health, Education, and Welfare" in subsection (c)(1) and inserting in lieu thereof "Social Security Administration", and

(3) by striking out "the public assistance programs under this Act" in subsection (a) and inserting in lieu thereof "the program established by title XVI of this Act".

(d) Section 201(c) of such Act is amended—

(1) by inserting "the Chairman of the Board of the Social Security Administration," immediately after "Secretary of Labor," in the first sentence, and

(2) by striking out "Commissioner of Social Security" in the third sentence and inserting in lieu thereof "Executive Director of the Social Security Administration".

(e) The last sentence of section 205(g) of such Act is amended by striking out "in the person occupying the office of Secretary or any vacancy in such office" and inserting in lieu thereof "in the membership of the Board of the Social Security Administration or any vacancy in the membership of such Board".

(f) Section 1817(b) of such Act is amended—

(1) by inserting ", the Chairman of the Board of the Social Security Administration," immediately after "the Secretary of Labor," in the first sentence, and

(2) by striking out "Commissioner of Social Security" in the third sentence and inserting in lieu thereof "Executive Director of the Social Security Administration."

(g) Section 1841(b) of such Act is amended—

(1) by inserting ", the Chairman of the Board of the Social Security Administration," after "Secretary of Labor" in the first sentence, and

(2) by striking out "Commissioner of Social Security" in the third sentence and inserting in lieu thereof "Executive Director of the Social Security Administration".

(h) Title II (except the first sentence of section 201(c) and the last sentence of section 205(g)), part B of title XI, title XVI (as enacted by section 301 of the Social Security Amendments of 1972), and title XVIII (except the first sentence of section 1817(b) and the first sentence of section 1841(b)) of the Social Security Act are each amended—

(1) by striking out "Secretary of Health, Education, and Welfare" wherever it appears and inserting in lieu thereof "Social Security Administration",

(2) by striking out "Department of Health, Education, and Welfare" wherever it appears and inserting in lieu thereof "Social Security Administration",

(3) by striking out "Department" wherever it appears (but only if it is not immediately succeeded by the words "of Health, Education, and Welfare", and only if it is used in reference to the Department of Health, Education, and Welfare) and inserting in lieu thereof "Social Security Administration", and

(4) by striking out each of the following words wherever it appears (but, in the case of any such word, only if it refers to the Secretary of Health, Education, and Welfare): "Secretary", "Secretary's", "his", "him", and "he", and by inserting in lieu thereof (in the case of the word "Secretary") "Social Security Administration", (in the case of the word "Secretary's") "Social Security Administration's", (in the case of the word "his") "the Social Security Administration's", (in the case of the word "him") "the Social Security Administration", and (in the case of the word "he") "the Social Security Administration".

(i) Section 1101(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(9) The term 'Administration', except when the context otherwise requires, means the Social Security Administration established by section 701."

(j) This title and the amendment made by this title shall take effective January 1, 1975.

TRANSITIONAL PROVISIONS

SEC. 303. (a)(1) Except as provided in paragraph (2), the term "Secretary of Health, Education, and Welfare" and the term "Secretary", when used to refer to the Secretary of Health, Education, and Welfare, shall be deemed to refer to the Social Security Administration when (and to the extent that) such term is employed in any provision of law which imposes any duty or responsibility on, confers any authority on, or imposes any limitation on the exercise of authority by, the Secretary of Health, Education, and Welfare with respect to the administration of the programs established by (A) title II, XVI (as enacted by section 301 of the Social Security Amendments of 1972), XVIII, or XX of the Social Security Act, or (B) part IV of the Federal Coal Mine Health and Safety Act of 1969.

(2) The provisions of paragraph (1) shall not apply to any provision of law which is contained in (A) title II, XVI (as enacted by section 301 of the Social Security Amendments of 1972), XVIII, or XX of the Social Security Act, (B) title IV of the Federal Coal Mine Health and Safety Act, or (C) and (B) such other investigations as the section 1122 of the Social Security Act, or part B of title XI of such Act.

(b)(1) There are transferred to the Social Security Administration (as established by section 701 of the Social Security Act under the amendment made by section 302(a) of this Act) all functions carried out by the Secretary of Health, Education, and Welfare with respect to the administration of programs and activities the administration of which is vested in such Administration by reason of this Act and the amendments made thereby.

(2) There are transferred to the Social Security Administration (as established by section 701 of the Social Security Act under the amendment made by section 302(a) of this Act) all personnel, assets, liabilities, contracts, property, and records which the Director of the Office of Management and Budget determines to be employed, held, or used by the Secretary of Health, Education, and Welfare primarily in connection with the functions, activities, and programs which, by reason of this Act and the amendments made thereby, are vested in or become the responsibility of such Administration.

(3) The position of Commissioner of Social Security is abolished.

(c)(1) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(A) which have been issued, made, promulgated, granted, or allowed to become effective, in the exercise of functions (i) which were exercised by the Secretary of Health, Education, and Welfare (or his delegate), and (ii) which relate to functions which, by reason of this Act and the amendments made thereby, are vested in the Social Security Administration (as established by section 701 of the Social Security Act under the amendment made by section 302(a) of this Act), and

(B) which are in effect at the time this title takes effect,

shall (to the extent that they relate to functions described in subparagraph (A)(ii)) continue in effect according to their terms until modified, terminated, suspended, set aside, or repealed by the Social Security Administration (as so established).

(2) The provisions of this title (including the amendments made thereby) shall not affect any proceeding pending at the time this title takes effect before the Secretary of Health, Education, and Welfare with respect to functions vested (by reason of this title and the amendments made thereby) in the Social Security Administration (as established by section 701 of the Social Security Act under the amendment made by section 302(a) of this Act), except that such proceedings, to the extent that they relate to such functions, shall continue before the Social Security Administration (as so established). Orders shall be issued under any such proceeding, appeals taken therefrom, and payments shall be made pursuant to such orders, in like manner as if this title had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or repealed by the Social Security Administration (as so established), by a court of competent jurisdiction, or by operation of law.

(3) Except as provided in this paragraph—

(1) the provisions of this title shall not affect suits commenced prior to the date this title takes effect; and

(2) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this title had not been enacted.

No cause of action, and no suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer

of the Department of Health, Education, and Welfare, shall abate by reason of the enactment of this title. Causes of actions, suits, or other proceedings may be asserted by or against the United States and the Social Security Administration (as established by section 701 of the Social Security Act under the amendment made by section 302(a) of this Act), or such official of such Administration as may be appropriate, and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of a party, enter an order which will give effect to the provisions of this subsection (including, where appropriate, an order for substitution of parties).

(4) This title shall not have the effect of releasing or extinguishing any criminal prosecution, penalty, forfeiture, or liability incurred as a result of any function which (by reason of this title) is vested in the Social Security Administration.

(5) Orders and actions of the Social Security Administration in the exercise of functions vested in such Administration under this title (and the amendments made thereby) shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been taken by the Secretary of Health, Education, and Welfare in the exercise of such functions immediately preceding the effective date of this title. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function so vested in the Social Security Administration shall continue to apply to the exercise of such function by such Administration.

(6) In the exercise of the functions vested in it under this title (and the amendments made thereby), the Social Security Administration shall have the same authority as that vested in the Secretary of Health, Education, and Welfare with respect to the exercise of such functions immediately preceding the vesting of the same in such Administration, and actions of such Administration shall have the same force and effect as when exercised by such Secretary.

MISCELLANEOUS AND CONFORMING AMENDMENTS

SEC. 304. Title IV of the Federal Coal Mine Health and Safety Act of 1969 is amended—

(1) in section 402(c), by striking out "where used in part B means the Secretary of Health, Education, and Welfare, and", and

(2) in all the provisions thereof (other than section 402(c) and section 427)—

(A) by striking out "Secretary of Health, Education, and Welfare" wherever it appears and inserting in lieu thereof "Social Security Administration", and

(B) by striking out each of the following words wherever it appears (but, in the case of any such word, only if such word refers to the Secretary of Health, Education, and Welfare): "Secretary", "Secretary's", "his", "him", and "he", and by inserting in lieu thereof (in the case of the word "Secretary") "Social Security Administration", (in the case of the word "Secretary's") "Social Security Administration's", (in the case of the word "his") "Social Security Administration's", (in the case of the word "him") "the Social Security Administration", and (in the case of the word "he") "the Social Security Administration".

SEC. 305. (a) Section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11), is amended—

(1) by striking out "The Budget" in the second sentence of subsection (a) and inserting in lieu thereof "Except as provided in subsection (d), the Budget"; and

(2) by adding at the end thereof the following new subsection:

"(d) The Budget shall set forth the items referred to in paragraphs (4), (5), (6), (7), (8), (9), and (12) of subsection (a) which are attributable to receipts of and expenditures from the general fund of the Treasury (commonly referred to as the 'administrative budget'), and shall set forth separately such items which are attributable to receipts of and expenditures from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, the Federal Supplementary Medical Insurance Trust Fund, the Federal Long-Term Care Trust Fund, and the National Health Insurance Trust Fund."

(b) The amendments made by subsection (a) shall apply with respect to the Budget for the fiscal year ending June 30, 1976, and for each fiscal year thereafter.

SEC. 306. (a) Section 5313 of title 5, United States Code (relating to level II of the Executive Schedule), is amended by adding at the end thereof the following new paragraph:

"(22) Chairman of the Board of the Social Security Administration.".

(b) Section 5314 of such title (relating to level III of the Executive Schedule) is amended by adding at the end thereof the following new paragraphs:

"(60) Member of the Board of the Social Security Administration.

"(61) Executive Director, Social Security Administration.".

(c) Section 5315 of such title (relating to level IV of the Executive Schedule) is amended by striking out—

"(97) Commissioner of Social Security, Department of Health, Education, and Welfare.",

and by inserting in lieu thereof—

"(97) General Counsel, Social Security Administration.".

EFFECTIVE DATE

SEC. 307. (a) This title, and the amendments made by this title, shall take effect on the first day of the first calendar month which begins not less than ninety days after the date of enactment of this title.

(b) Notwithstanding the provisions of subsection (a), the members of the Board of the Social Security Administration may be appointed prior to the effective date of this title, but after the date of enactment of this title; and the Executive Director and the General Counsel of such Administration may be appointed by such Administration at any time after all members of the Board of such Administration have been appointed. The officers referred to in the preceding sentence shall be compensated from the date they first take office, at the rates provided for in the amendments to title 5, United States Code, made by section 306 of this Act. Such compensation and related expenses of such officers shall be paid from funds available for the functions vested in the Social Security Administration by this title and the amendments made thereby.

TITLE IV—AMENDMENT TO PUBLIC HEALTH SERVICE ACT

PURPOSE

SEC. 401. The purpose of the amendment made by this title is—

(1) to establish responsibility under the Secretary of Health, Education, and Welfare for assuring through programs of Federal assistance that health services covered under titles V, XVIII, and XX of the Social Security Act are accessible to every American;

(2) prior to the effective date of the health insurance benefits authorized by amendments made by this Act to the Social Security Act, to accelerate and broaden Federal programs, designed to strengthen the Nation's resources of health personnel, facilities, and services and its system of delivery of health services, in order to enable the providers of health services better to meet the demands on them when such benefits become available, and especially (A) to expand and intensify the health planning process throughout the United States, with primary emphasis on preparation of the health delivery system to meet the demands generated by the national health insurance program, and (B) to provide financial and other assistance (i) for alleviating shortages and maldistributions of health personnel, facilities, and services in order to increase the supply of services, (ii) for improving the organization of health services in order to increase their accessibility and effective delivery, and (iii) for improving the quality of health services; and

(3) after the effective date of the national health insurance program established under the Social Security Act by the amendments made by this Act, to reinforce the operation of the health insurance program providing such benefits as a mechanism for the continuing improvement of the supply and distribution of health personnel, facilities, and services and the organization of health services, and to that end (A) to coordinate the health planning process throughout the United States with a view to the continuing development of plans for maximizing capabilities for the effective delivery of services covered under such program, and (B) to assist in meeting those costs of improvement of personnel, facilities, services, and organization that are not met either through the normal operation of such program or from other sources of public or private assistance.

HEALTH RESOURCES DEVELOPMENT

SEC. 402. The Public Health Service Act is amended by adding at the end thereof the following new title:

"TITLE XIV—HEALTH RESOURCES DEVELOPMENT BOARD

"PART A—ADMINISTRATIVE PROVISIONS RESPECTING BOARD

"ESTABLISHMENT OF BOARD

"SEC. 1401. (a) There is established in the Department of Health, Education, and Welfare the Health Resources Development Board (hereinafter in this title referred to as the 'Board') which shall be composed of three members to be appointed by the President, by and with the advice and consent of the Senate. During his term of membership on the Board, no member shall engage in any other business, vocation, or employment. Not more than two members of the Board shall be members of the same political party.

"(b) Members of the Board shall be appointed for terms of five years, except that (1) a member appointed to fill a vacancy occurring during the term for which his predecessor was appointed shall be appointed for the remainder of that term, and (2) the terms of office of the members first appointed shall expire, as designated by the President at the time of their appointment, at the end of one, three, and five years. A member who has served on the Board for two consecutive five-year terms shall not be eligible for reappointment to the Board until two years after the expiration of his last term of office as a member of the Board.

"(c) The President shall designate one of the members of the Board to serve, at the pleasure of the President (but not beyond the expiration of his term of office as a member of the Board), as Chairman of the Board.

"EXECUTIVE DIRECTOR; DELEGATION OF AUTHORITY

"SEC. 1402. (a) The Board shall have an Executive Director who shall be appointed by the Board and who shall perform such duties in the administration of this title as the Board may assign to him.

"(b) The Board is authorized to delegate to the Executive Director or to any other officer or employee of the Board or, with the approval of the Secretary (and subject to reimbursement of identifiable costs), to any other officer or employee of the Department, any of its functions or duties under this title other than (1) the issuance of regulations, or (2) the determination of the availability of funds and their allocation.

"PERSONNEL

"SEC. 1403. (a) The Civil Service Commission, in consultation with the Board, shall to the greatest extent practicable facilitate recruitment, for employment by the Board in the competitive service, of qualified persons experienced in the administration or operation of private health insurance and health prepayment plans, or experienced in other fields pertinent to the national health insurance program established under the Social Security Act by the Comprehensive National Health Insurance Act of 1974.

"(b) The Board may establish and fix the compensation for not more than one hundred positions in the professional, scientific, and executive service, each such position being established to effectuate those activities of the Board which require the services of specially qualified scientific, professional, and administrative personnel. Subject to the approval of the Civil Service Commission, the rates of compensation for positions established pursuant to the provisions of this subsection shall not be less than the minimum rate in effect for grade 16 of the General Schedule or more than the rate in effect for grade 18 of the General Schedule. Positions created pursuant to this subsection shall be included in the classified civil service of the United States, but appointments to such positions shall be made without competitive examination upon approval of the proposed appointee's qualifications by the Civil Service Commission or such officers or agents as it may designate for his purpose.

"INFORMATION

"SEC. 1404. The Board may secure directly from the Secretary or from any department or agency of the United States information necessary to enable it to carry out its functions. Upon request of the Chairman of the Board, the Secretary or the head of such department or agency shall furnish such information to the Board.

"ANNUAL REPORT

"SEC. 1405. The Board shall make an annual report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committee on Labor and Public Welfare of the United States Senate which shall include—

"(1) for the period prior to the effective date of the national health insurance program established under the Social Security Act by the Comprehensive National Health Insurance Act of 1974, an evaluation by the Board of progress in preparing health resources for the initiation of such benefits, and

"(2) for periods after such effective date, an evaluation of the adequacy of health resources for providing services to individuals entitled to such benefits and of the effectiveness of measures to improve efficiency and economy in the organization and delivery of health services.

"PART B—FUNCTIONS OF THE BOARD

"GENERAL PROVISIONS

"SEC. 1411. (a) In carrying out the functions assigned to it by this title, the Board shall consult with the Secretary. The Board may, without the prior approval of the Secretary, take such action as it determines is required to carry out such functions. If the Secretary determines that an action taken by the Board is not authorized by this title, he may require the Board to take such corrective action as he determines is appropriate. The Secretary shall publish in the Federal Register each such direction to take corrective action and the reasons for such direction.

"(b) The Board shall, in regular consultation with the Social Security Board, have the duty of continuous study of the adequacy of health resources available to provide the items and services covered by benefits under titles V, XVIII, and XX of the Social Security Act and of the most effective methods of creating resources needed to provide comprehensive personal health services to all persons within the United States and of making recommendations on legislation and matters of administrative policy with respect thereto.

"STUDIES AND EVALUATIONS, SYSTEMS DEVELOPMENT, TESTS AND DEMONSTRATIONS

"SEC. 1412. (a) The Board is authorized, either directly or by contract—

"(1) to make statistical and other studies, on an international, national, regional, State, or local basis, of any aspect of the health care delivery system which supplies services reimbursed by the national health insurance program established under the Social Security Act by the Comprehensive National Health Insurance Act of 1974, including studies of the effect of the system upon the health of the people of the United States in comparison to other countries and the effect of comprehensive health services upon the health of persons receiving such services. As one such study, the Board is directed to review the need for and effects of a system of national licensure of health professionals (including new categories of personnel or professional specialties) on the accessibility, quality, and costs of health services covered under titles V, XVIII, and XX of the Social Security Act;

"(2) to develop and test, for use by the Board, records and information retrieval systems and budget systems for health services administration, and develop and test model systems for use by providers of services;

"(3) to develop and test, for use by providers of services, records and information retrieval systems useful in the furnishing of health services, and equipment useful in the furnishing of preventive or diagnostic services; and

"(4) to make such other studies as it may consider necessary or promising for the evaluation, or for the improvement, of the operation of such system.

"(b) The Board is authorized to develop, and to test and demonstrate through agreements with providers of services or otherwise, methods designed to achieve, through additional incentives or in any other manner, improvement in the coordination of services furnished by providers, improvement in the adequacy, quality, or accessibility of services, or decrease in their cost.

"RESEARCH

"SEC. 1413. The Board shall, through its staff or by contract (or both), conduct a program of research with the objectives of—

"(1) improving the technology of assessing the quality of health care, with regard for both the service input and the outcomes of such care;

"(2) comparing the quality of health care furnished under different systems of delivery and methods of payment; and

"(3) analyzing the effects of consumer health education, and of utilization of preventive health services.

"PLANNING

"SEC. 1414. (a) In consultation with comprehensive health planning agencies designated under State plans approved under section 314(a), and with other health planning agencies, the Board shall promote and support, and as necessary shall conduct within the Department, a continuous process of health resources development planning for the purpose of improving the supply and distribution of health personnel, facilities, and services and the organization of health services. Except for planning with respect to the national supply of professional, technical, and skilled administrative health personnel, the planning shall proceed on a State-by-State basis, but with more particularized planning for areas, or with respect to health facilities, health manpower development, or other particular aspects of health care. If a section 314(a) comprehensive health planning agency for a State does not undertake and carry out the responsibility for utilizing and coordinating all health planning activities within the State (including coordination with planning for interstate areas), and for coordinating health planning with planning in related fields, the Board shall assume the responsibility for coordinating such planning activities within the State. The Board shall make periodic review of activities of the State agency in this regard.

"(b) Prior to the effective date of the national health insurance program established under the Social Security Act by the Comprehensive National Health Insurance Act of 1974, the planning process shall give first consideration to identification of the most acute shortages and maldistributions of health personnel, facilities, and services and the most serious deficiencies in the organization for delivery of services covered by such benefits, and to means for the speedy alleviation of these shortcomings. Thereafter, it shall be directed to the continuing development of plans for maximizing capabilities for the effective delivery of such services.

"GENERAL POLICIES AND PRIORITIES

"SEC. 1415. (a) In providing assistance under this title, the Board shall give priority to improving and expanding the available resources for, and assuring the accessibility of, services to ambulatory patients which are furnished as part of coordinated systems of comprehensive care and which are consistent with State and area planning. To this end the Board shall encourage and assist (1) the development or expansion of health maintenance organizations meeting the requirements of section 1301; (2) the development or expansion of—

"(A) public or other nonprofit entities (including hospitals) which furnish all of the services covered under title XX of the Social Security Act (other than some or all institutional services, mental health services, or dental services for which they assure referral of their patients to providers of such services when medically appropriate and maintain arrangements with such providers for the availability of the services to their patients); and

"(B) public or other nonprofit centers (including satellite centers established by a hospital) which (i) furnish, as a minimum, the services of two or more physicians engaged in general or family practice, the services of nurses and supporting personnel, and basic laboratory services, which the Board finds sufficient for the primary medical care of a substantial population living in the vicinity of the centers, and (ii) have arrangements with other providers of services which the Board finds assure to the populations served by the centers, on a coordinated basis, all components of the health services covered under title XX of the Social Security Act,

to furnish services to persons in urban or rural areas who lack ready access to such services; (3) the recruitment and training of professional personnel to staff the organizations, entities, and centers referred to in clauses (1) and (2); (4) the recruitment and training of subprofessional and nonprofessional personnel (including the development and testing of new kinds of health personnel) to assist in the furnishing of such services, to engage in education for personal health maintenance, and to furnish liaison between such organizations, entities, or centers and the people they serve; (5) the strengthening of coordination and linkages among institutional services (including linkages with educational institutions), among noninstitutonal servces, and between services of the two kinds, in order to improve the continuity of care and the assurance that patients will be referred to such services and at such times as may be medically

appropriate; (6) the strengthening of coordination and cooperation between hospital medical staffs and hospital administrators; and (7) the inclusion of dental services in systems of comprehensive health care.

"(b) In administering financial assistance under this title the Board shall be guided by findings and recommendations of appropriate health planning agencies.

"ORGANIZATIONS FOR THE CARE OF AMBULATORY PATIENTS

"SEC. 1416. (a) The Board is authorized to assist, in accordance with this section, the establishment, expansion, and operation of (1) health maintenance organizations which meet or will meet the requirements of section 1301, (2) public or other nonprofit entities and centers described in section 1415(a)(2), and (3) nonprofit organizations furnishing comprehensive dental services, which meet requirements set forth in regulations of the Board.

"(b) The Board is authorized to make grants (1) to any public or nonprofit organization, entity, or center (whether or not it is a provider of health services), for not more than 90 per centum of the cost (excluding costs of construction of planning, developing, and establishing an organization, entity, or center described in subsection (a) of this section; or (2) to an existing organization, entity, or center described in subsection (a), for not more than 80 per centum of the cost (excluding costs of construction) of planning and developing an enlargement of the scope of its services or an expansion of its resources to enable it to serve more enrollees or a larger clientele. In addition to grants under this subsection, or in lieu of such grants, the Board is authorized to provide technical assistance for the foregoing purposes.

"(c) The Board is authorized to make loans to organizations, entities, and centers described in subsection (a) of this section to assist in meeting the cost of constructing (or otherwise acquiring, or improving or equipping) facilities which the Board finds will be essential to the effective and economical delivery, or to the ready accessibility, of covered services to persons eligible for benefits under title V, XVIII, or X of the Social Security Act. No loan to a newly established organization, entity, or center shall exceed 90 per centum and no loan to any other organization, entity, or center shall exceed 80 per centum of such cost, or of the non-Federal share if other Federal financial assistance in meeting such cost is available.

"(d) The Board is authorized to contract with an organization, entity, or center which is described in subsection (a) of this section and which has been either newly established or substantially enlarged, to pay all or part of any operating deficits, for not more than three years. Any such contract shall condition payments upon the contractor's making all reasonable effort to avoid or minimize operating deficits and (if such deficits exist) making reasonable progress toward becoming self-supporting.

"RECUITMENT, EDUCATION, AND TRAINING OF PERSONNEL

"SEC. 1417. (a) In consultation with comprehensive health planning agencies designated pursuant to sections 314 (a) and (b), the Board shall promptly establish (and from time to time review) schedules of priority for the recruitment, education, and training of personnel to meet the most urgent needs of the national health insurance program established under the Social Security Act by the Comprehensive National Health Insurance Act of 1974. The schedules may differ for different parts of the United States.

"(b) The Board is authorized to provide, to physicians and medical students, training for the general or family practice of medicine and training in any other medical specialty in which the Board finds that there is, for the purposes of such system, a critical shortage of qualified practitioners.

"(c) The Board shall provide education or training for those classes of health personnel (professional, subprofessional, or nonprofessional) for whom it finds the greatest need, if other Federal financial assistance is not available for such education or training; and if other assistance is available but the Board deems it inadequate to meet the increased need attributable to such systems, it may provide such education or training pending action by the Congress on a recommendation promptly made by it to increase the authorization of appropriations (or, if the authorization is deemed adequate, to increase the appropriations) for such other assistance.

"(d) The training of personnel authorized by this section includes the development of new kinds of health personnel to assist in the furnishing of comprehensive health services. The Board may make grants to public or other nonprofit health agencies, institutions, or organizations to pay a part of all of the cost of testing the utility of new kinds of health personnel.

"(e) Education and training under this section shall be provided by the Board through grants and contracts with appropriate educational institutions or such other institutions, agencies, or organizations as it finds qualified for this purpose. The Board may provide directly, or through the contractor, for the payment of stipends to students or trainees in amounts not exceeding the stipends payable under comparable Federal education or training programs.

"(f) The Board shall undertake to recruit and train professional practitioners who will agree to practice, in urban or rural areas of acute shortage, in health maintenance organizations or in entities or centers referred to in section 1415(a)(2). A practitioner who agrees to engage in such practice for at least five years and who enters upon practice in the area before the effective date of health insurance benefits under the system referred to in subsection (a) may until that date be paid a stipend to supplement his professional earnings, and in an appropriate case the Board may make a commitment to compensate the practitioner after that date.

"(g) The Board shall undertake to recruit physicians to serve hospitals as their medical directors and to train such physicians (among other matters) in advising on and managing the development and implementation of medical policies and procedures and their coordination with planning and operational functions of the hospital, with its financing, and with its program of utilization review.

"(h) Training which the Board is authorized by this section to provide shall include retraining, either to refresh and enhance skills of trainees for positions they already hold or to equip them for positions of greater responsibility.

"(i) The Board shall make a continuing evaluation of the adequacy of the various classes of professional and other health personnel to furnish services under the national health insurance program established under the Social Security Act by the Comprehensive National Health Insurance Act of 1974, and after consultation with national and other organizations concerned with the education and training of such personnel, shall from time to time issue guidelines designed to relate the clinical education and training conducted by providers of services more closely to the relative need for the several classes of such personnel. The guidelines shall be considered in making awards under this section and under titles VII and VIII of the Public Health Service Act, and by planning agencies designated under sections 314 (a) and (b) of the Public Health Service Act in their review of institutional budgets required under section 1122 of the Social Security Act, and shall be adapted to take account of the capacity of providers to conduct such clinical education or training, and (to the extent the Board deems appropriate) to take account of any special manpower needs.

"GENERAL PROVISIONS RESPECTING LOANS

"SEC. 1418. (a) Loans authorized under this part shall be repayable in not more than twenty years, shall bear interest at the rate of 3 per centum per annum, and (subject to the provisions of subsection (b)) shall be made on such other terms and conditions as the Board deems appropriate. Amounts paid as interest on any such loan or as repayment of principal shall, if the loan was made from funds appropriated pursuant to section 1431(a), be covered into the Treasury as miscellaneous receipts, and if the loan was made from funds provided the Board from the National Health Insurance Trust Fund, be deposited in the Trust Fund to the credit of the Board.

"(b) No loan for the construction or improvement of a facility shall be made under this part unless the borrower undertakes that all laborers and mechanics employed by contractors or subcontractors in the performance of construction or improvement on the project will be paid wages not less than those prevailing on similar work in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a—276a—5 known as the Davis-Bacon Act). The Secretary of Labor shall have with respect to the labor standards specified in this subsection the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

"PART C—NATIONAL ADVISORY COUNCIL

"NATIONAL HEALTH INSURANCE RESOURCES ADVISORY COUNCIL

"SEC. 1421. (a)(1) There is established a National Health Insurance Resources Advisory Council (hereinafter in this section referred to as the 'Council'), which shall consist of the Chairman of the Board, the Chairman of the Social Security Board, and twenty members, not otherwise in the employ of the United States, appointed by the Secretary on recommendation of the Board, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The Chairman of the Board shall be the first Chairman of the Council. His term as Chairman of the Council shall expire June 30, 1976. For the next fiscal year the Chairman of the Social Security Board shall be Chairman of the Council. Thereafter the chairmanship of the Council shall alternate each fiscal year between the Chairmen of the two Boards.

"(2) The appointed members of the Council shall include persons who are representatives of providers of health services, and of persons (who shall constitute a majority of the Council) who are representative of consumers of such services. Each appointed member shall hold office for a term of four years, except that (A) any member appointed to fill a vacancy occurring during the term for which his predecessor was appointed shall be appointed for the remainder of that term, and (B) the terms of the members first taking office shall expire, as designated by the Secretary at the time of appointment, five at the end of the first year, five at the end of the second year, five at the end of the third year, and five at the end of the fourth year. Members of the Council who are representative of providers of health care shall be persons who are outstanding in fields related to medical, hospital, or other health activities, or who are representatives of organizations or associations of professional health personnel; members who are representative of consum-

ers of such care shall be persons, not engaged in and having no financial interest in the furnishing of health services, who are familiar with the needs of various segments of the population for personal health services and are experienced in dealing with problems associated with the furnishing of such services.

"(3) Section 14(a)(2) of the Federal Advisory Committee Act shall not apply with respect to the Council.

"(b) The Council is authorized to appoint such professional or technical committees, from its own members or from other persons or both, as may be useful in carrying out its functions. The Council, its members, and its committees shall be provided with such secretarial, clerical, or other assistance as may be authorized by the Board for carrying out their respective functions. The Council shall meet as frequently as the Board deems necessary, but not less often than four times each year. Upon request by seven or more members it shall be the duty of the Chairman to call a meeting of the Council.

"(c) It shall be the function of the Council (1) to advise the Board and the Social Security Board on matters of general policy in carrying out their respective responsibilities, and in particular shall recommend data which should be collected from professional standards review organizations, planning agencies, carriers, and intermediaries by one of the Boards and transferred to the other to allow proper coordination of their functions in the area of cost and quality control, and (2) to study the operation of the national health insurance program established under the Social Security Act or the health resource development activities authorized under the Public Health Service Act by the Comprehensive National Health Insurance Act of 1974 and the utilization of health services under it, with a view to recommending any changes in its administration or in the law which may appear desirable. The Council shall make an annual report to the Board on the performance of its functions, including any recommendations it may have with respect thereto, and the Board shall promptly transmit the report to the Congress, together with a report by the Board on any recommendations of the Council for administrative action which have not been followed, and a report by the Secretary of his views with respect to any legislative recommendations of the Council.

"(d) Appointed members of the Advisory Council and members of technical or professional committees, while serving on business of the Council (inclusive of traveltime), shall receive compensation at rates fixed by the Board, but not in excess of the daily rate in effect for GS–18 of the General Schedule; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

"PART D—FUNDING

"AUTHORIZATION OF APPROPRIATIONS; PAYMENTS FROM TRUST FUND

"SEC. 1431. (a) To carry out this title, there are authorized to be appropriated $400,000,000 for the fiscal year ending June 30, 1975, and $600,000,000 for the fiscal year ending June 30, 1976.

"(b) For the fiscal year ending June 30, 1977, and for each fiscal year thereafter, the Secretary shall make, in accordance with title XX of the Social Security Act, payments from the National Health Insurance Trust Fund to the Board to carry out this title.

"(c) Funds available to carry out this title shall not be used to replace other Federal financial assistance, or to supplement the appropriations for other programs under this Act except as the Board determines they meet the specific needs created by the national health insurance program established under the Social Security Act by the Comprehensive National Health Insurance Act of 1974. In administering other programs of Federal financial assistance the Secretary and other officers of the Executive Branch, on recommendation of the Board, shall to the extent possible utilize those programs to further the objectives of this title. To this end the Board on such terms as it finds appropriate, may lend to an applicant or grantee not more than 90 per centum of the non-Federal funds required as a condition of assistance under any such program, and may pay all or part of the interest in excess of 3 per centum per annum on any loan made, guaranteed, or insured under any such program."

TITLE V—MISCELLANEOUS PROVISIONS

PRIVATE SUPPLEMENTAL HEALTH INSURANCE CERTIFICATION PROGRAM

SEC. 501. The Social Security Act is amended by inserting immediately after title XIV the following new title:

"TITLE XV—PRIVATE SUPPLEMENTAL HEALTH INSURANCE CERTIFICATION

"PURPOSE

"SEC. 1501. It is the purpose of this title to encourage and facilitate the availability to the public of private supplemental health insurance coverage at a reasonable premium charge by—

"(1) establishing a procedure whereby health insurance policies offered by private insurers may be certified by the Administration as meeting minimum standards with respect to adequacy of coverage, conditions of payment, opportunity for enrollment, and reasonableness of premium charges,

"(2) facilitating arrangements whereby supplemental health insurance policies meeting such standards can be offered through pools of private insurers.

"CERTIFICATION OF SUPPLEMENTAL PRIVATE HEALTH INSURANCE POLICIES

"SEC. 1502. (a) Any insurer which desires to do so may (in accordance with regulations of the Administration) provide to the Administration, for its examination and certification, any supplemental health insurance policy.

"(b)(1) If the Administration, after examining any such policy and evaluating any data submitted in connection with such policy, determines that such policy meets the standards prescribed in section 1503, it shall certify such policy.

"(2)(A) The certification by the Administration of any such policy shall be conditioned upon such policy's continuing to meet the standards prescribed in section 1503; and no policy shall be deemed to have been certified by the Administration under this title for any period for which it fails to meet such standards.

"(B) The Administration shall establish procedures whereby any insurer having secured the Administration's certification of any policy offered by such insurer shall from time to time provide to the Administration relevant data with respect to such policy in order for the Administration to determine whether such policy continues to meet the standards prescribed in section 1503.

"(c) Notwithstanding the preceding provisions of this section, the Administration shall not certify any group health insurance policy of any insurer unless such insurer furnishes assurances satisfactory to the Administration that such insurer (whether as a participant in an insurance pool arrangement or otherwise) will make generally available, in each geographic area in which such group policy is to be offered, to individuals and family members a private health insurance policy which has been certified by the Administration and which provides coverage which is equivalent (as determined by the Administration) to that provided by such group policy.

"STANDARDS WITH RESPECT TO SUPPLEMENTAL HEALTH INSURANCE POLICIES

"SEC. 1503. (a) The Administration shall not certify under this title any insurance policy offered (or to be offered) by an insurer unless it finds that—

"(1) such policy provides—

"(A) in case such policy is a group policy, that there will be no exclusion from coverage or limitation on payment on account of any medical condition (including any preexisting condition) or any waiting period prior to the beginning of coverage with respect to any such condition,

"(B) in case such policy covers an individual and members of his family coverage will be automatically extended, at birth, to any newborn (for adopted) children of such individual or his spouse, and

"(C) in case such policy is a group policy which covers all or a certain category of employees of any employer, that—

"(i) coverage will not be terminated with respect to any employee (and members of such employee's family, if such policy covers such members) because of the termination of such employee's employment prior to the expiration of 31 days after the date of such termination,

"(ii) the insurer offering such policy will afford to any employee covered by such policy whose employment has been terminated a reasonable opportunity to secure, from such insurer a supplemental private health insurance policy which has been approved under this title,

"(iii) there will be a periodic open enrollment period of at least 31 days (which shall occur not less often than once during each policy year) in which all eligible employees, who are not covered by such policy because of failure to elect coverage at the time of initial employment or during previous open enrollment periods, can secure coverage thereunder; and

"(2) the premium charge for such policy does not exceed the reasonable ratio of benefits payable to premiums imposed (as determined under subsection (d)).

"(b) The Administration, in determining whether any comprehensive prepaid group practice plan is eligible for certification under this section, shall, in lieu of the standards imposed by subsection (a), develop and apply criteria which assure that such plan meets requirements which are, on an actuarial and benefit basis, equivalent to such standards.

"(c) Notwithstanding the provisions of subsections (a) and (b), the Administration shall not withhold approval under this title of any health insurance policy solely because such policy excludes—

"(1) charges for services or supplies in connection with an occupational disease or injury,

"(2) items or services for which the insured individual furnished such items or services has no legal obligation to pay, and which no other person (by reason of such individual's membership in a prepayment plan or otherwise) has a legal obligation to provide or pay for,

"(3) any item or service to the extent that payment has been made, or can reasonably be expected to be made (as determined in accordance with regulations), with respect to such item or service, under a workmen's compensation law or plan of the United States or a State,

"(4) charges for services or supplies with respect to which benefits are provided under title XIII or title XX,

"(5) items or services which are not reasonable and necessary for the diagnosis or treatment of illness or injury, pregnancy, or to improve the functioning of a malformed body member,

"(6) charges for care, treatment, services, or supplies, provided to any individual, to the extent that the payment of benefits with respect thereto is prohibited by any applicable law of the jurisdiction in which such individual is residing at the time he receives such care, treatment, services, or supplies,

"(7) charges in connection with routine physical checkups, or

"(8) expenses incurred for items or services, where such expenses are for cosmetic surgery or are incurred in connection therewith, except as required for the prompt repair of accidental injury or for improvement of the functioning of a malformed body member.

"(d)(1) With respect to policies submitted to the Administration for its certification under this title, the Administration shall establish (after considering the size of the groups to be covered by any such policy and whether the insurer is a nonprofit or profitmaking organization) an appropriate reasonable ratio of benefits payable to premiums imposed for coverage thereunder. In the case of individual policies such ratio shall be the same as that established by the Administration for group policies covering the smallest groups. The initial determination with respect to any such policy shall be based upon projected payments of benefits thereunder. After making such an initial determination with respect to any such policy, the Administration shall periodically thereafter review and make a redetermination of such ratio based on actual payments of benefits thereunder and the actual premium charges made for the period with respect to which the review is made, in order to determine whether such policy continues to meet the requirements for certification.

"(2) In determining the appropriate reasonable ratio of benefits payable to premiums imposed with respect to any particular health insurance policy offered by an insurer, the Administration shall, in its determinations of such ratio, give consideration to the average ratio, with respect to group policies generally underwritten by insurers (classified on the basis of nonprofit or profitmaking) with respect to policies excluding those which are not certified under this title.

"ESTABLISHMENT OF EMBLEM TO INDICATE CERTIFICATION

"SEC. 1504. The Administration shall cause to be designed an appropriate emblem which may be used as an indication that certification of an insurance policy under this title has been made by the Administration; and any insurer which has secured certification of an insurance policy by the Administration under this title may have printed thereon such emblem, and may, in advertising such policy to potential subscribers, state that such policy has received such a certification.

"REPORT TO CONGRESS

"SEC. 1505. The Administration shall, at the earliest practicable date (but not later than 60 days) after the expiration of the three-year period which commences on the date of enactment of this section, submit to the Congress a report indicating (1) the extent to which basic private health insurance policies certified by the Administration under this title are actually and generally available to the residents of each State, and (2) the extent to which residents in each State are covered by such policies."

EXISTING EMPLOYER-EMPLOYEE HEALTH BENEFIT PLANS UNAFFECTED

SEC. 502. (a) No provision of this Act and no amendment made by this Act, shall affect or alter any contractual or other nonstatutory obligation of an employer to pay for or provide health services to his present and former employees and their dependents, and to their survivors, or to any of such persons, or the amount of any obligation for payment (including any amount payable by an employer for insurance premiums or into a fund to provide for any such payment) toward all or any part of the costs of such services.

(b) Any contractual or other nonstatutory obligation of the employer to pay all or part of the cost of the health services referred to in subsection (a) shall continue in respect of the payment of taxes imposed on his employees by section 3101(b) of the Internal Revenue Code of 1954, but the sum of the per capita monthly amount involved in the payment of such taxes and the taxes under section 3101(c) of such Code by the employer on behalf of his employees, and the per capita amount of the liability for taxes imposed on an employer by section 3111 (b) and (c) of the Internal Revenue Code of 1954, shall not exceed the per capita monthly amount of the cost to the employer of providing or paying for health services (either through insurance premiums or into a fund) on behalf of persons referred to in subsection (a) for the month prior to the effective date of the taxes imposed by section 102(a) of this Act.

(c) At least for the duration of any contractual or other nonstatutory obligation of an employer referred to in subsection (a) the employer shall arrange to pay to the persons referred to in subsection (a) the amounts of money by which the per capita monthly costs to the employer of providing or paying for health services referred to in subsection (a) in the month immediately preceding the effective date of the taxes imposed by section 102(a) of this Act exceed the sum of the per capita monthly costs to the employer of the provisions of section 102(a)(3) of this Act, the employer's liability referred to in subsection (b), and any other employer contributions for health insurance premiums or health benefits or services provided by the employer after the effective date of section 101 of this Act. By mutual agreement between the employer and his employees or their representatives, an employer may provide other benefits of an equivalent monetary value in lieu of such payments.

PLANNING BY HEALTH CARE PROVIDERS AND CONDITIONS FOR PAYMENT

SEC. 503. Section 1122 of the Social Security Act is amended to read as follows:

"PLANNING BY HEALTH CARE PROVIDERS AND CONDITIONS FOR PAYMENT

"SEC. 1122. (a) It is the purpose of this section to assure that Federal funds appropriated or made available under titles V, XVIII, and XX are used to finance providers' health care services that conform to State and areawide plans for health facilities and services, and to encourage thereby the better utilization of existing resources and the development of additional resources in ways that assure economy of operation while improving the accessibility and quality of health services to all beneficiaries of the programs under such titles.

"(b) The Board through its intermediaries shall allow in prospective budgets of providers of health care services only those types and amounts of services and facilities which the planning agencies designated in section 314(a) of the Public Health Service Act (and, where they exist, the agencies designated in section 314(b) of such Act) have approved in writing, except where the Board finds—

"(1) that the planning agency involved has held the provider's proposal without action for more than 60 days,

"(2) the planning agency has not afforded the provider a reasonable opportunity for a fair hearing, or

"(3) the action taken by the planning agency is determined by the Board to be arbitrary and capricious.

"(c) No capital expenditure (as defined in subsection (f)) may be made by any provider of services, and no lease or comparable arrangement shall be entered into under subsection (d) by such a provider, without the specific written approval of the planning agency designated in section 314(a) of the Public Health Service Act (and, where it exists, the agency designated in section 314 (b) of such Act).

"(d) Where any person obtains under lease or comparable arrangement any facility or part thereof, or equipment for a facility, which would be excluded in determining Federal payments under the program involved if the person had acquired it by purchase, the board shall (1) in computing such person's rental expense in determining the Federal payments to be made under titles V, XVIII, and XX with respect to services furnished in such facility, deduct the amount which in its judgment is a reasonable equivalent of the amount that would have been excluded if the person had acquired such facility or such equipment by purchase, and (2) in computing such person's return on equity capital deduct any amount deposited under the terms of the lease or comparable arrangement.

"(e) Any person dissatisfied with a determination by the Board under this section may within six months following notification of such determination request the Board to reconsider such determination. A determination by the Board under this section shall not be subject to administrative or judicial review.

"(f) For the purposes of this section, a capital expenditure is an expenditure which, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance and which (1) exceeds $100,000, (2) changes the bed capacity of the facility with respect to which such expenditure is made, or (3) substantially changes the services of the facility with respect to which such expenditure is made. For purposes of clause (1) of the preceding sentence, the cost of the studies, surveys, design, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of the plant and equipment with respect to which such expenditure is made shall be included in determining whether such expenditure exceeds $100,000.

"(g) The provisions of this section shall not apply to Christian Science sanatoriums operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts."

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 504. (a) Section 201(g) of the Social Security Act is amended—

(1) by inserting after "by title XVIII" in subparagraph (A) the following: ", and the National Health Insurance Trust Fund established by title XX";

(2) by striking out "and title XVIII" each place it appears in subparagraph (A) and inserting in lieu thereof "title XVIII, and title XX"; and

(3) by striking out "and title XVIII" each place it appears in subparagraph (B) and inserting in lieu thereof ", XVIII, and title XX".

(b) Section 201(l)(1) of such Act (as amended by section 301(c)(5) of this Act) is further amended by striking out "and the Federal Long-Term Care Trust Fund" and inserting in lieu thereof "the Federal Long-Term Care Trust Fund, and the National Health Insurance Trust Fund".

ADDITIONAL TECHNICAL AND CONFORMING AMENDMENTS AND TRANSITIONAL PROVISIONS

SEC. 505. The Board of the Social Security Administration shall, as soon as practicable but in any event not later than July 1, 1975, after the date of the enactment of this Act, submit to the Senate and the House of Representatives a draft of any technical and conforming changes in the Social Security Act and other laws which are necessary to

reflect the changes in substantive provisions of law made by this Act, including any special provisions which may be necessary to assume an orderly transition from existing programs to the new or modified programs established by this Act.

EFFECTIVE DATE

SEC. 506. Except as specifically otherwise indicated, this Act and the amendments made by this Act shall take effect July 1, 1976.

By Mr. BAKER (for himself and Mr. BUCKLEY) (by request):

S. 3287. A bill to amend the Clean Air Act as amended and for other purposes. Referred to the Committee on Public Works.

Mr. BAKER. Mr. President, I introduce the proposed Clean Air Act Amendments of 1974, which have been transmitted to the Congress by the Environmental Protection Agency on behalf of the administration. Without attempting to prejudge the course of action on these or other pending amendments to the Clean Air Act, I believe that they represent a reasonable effort by EPA to reconcile the conflicts which may arise between the very stringent requirements in the Clean Air Amendments of 1970 and a number of other economic and social factors. More significantly, the presentation of these proposed amendments by EPA indicates the successful reconciliation of a number of conflicting interests within the administration.

I shall not try to characterize these amendments. One of the amendments, for example, would give EPA authority to impose civil penalties of up to $25,000 per day of violation of any air quality requirement. Another would grant authority for a temporary suspension of emission limitation and for coal conversion, with appropriate safeguards. This would parallel our efforts in title II of the vetoed energy emergency bill to use domestic fuels that are plentiful, while avoiding or minimizing air pollution. Still others, like the authority in this bill for EPA to set design or equipment standards, and to provide a waiver of new source standards to encourage adoption of experimental control technology, may provide a more flexible and workable method for achieving clean air requirements.

One indication of the constructive and open dialog within the administration and with some of us in the Congress is shown by the fact that EPA has forwarded, without endorsement, two proposals other agencies wish to have considered. These relate to the possible use of intermittent control systems, and to the requirement for no significant deterioration of our Nation's air resources. While these two amendments are not contained within the package of amendments I am introducing today, I am confident that other Members may wish to consider them. I know they will be among items considered in the course of hearings by the Environmental Pollution Subcommittee of the Public Works Committee.

A central issue which must be addressed in the near future is whether we will deal first with those amendments that relate to our energy needs, and then confront the longer-term issues, or consider all of the needed changes in one package later in the session.

The following is a list of the principal changes which would be accomplished by the amendments which EPA has submitted:

1. TEMPORARY SUSPENSIONS AND COAL CONVERSION

EPA would have authority to grant temporary suspension of emission limits up to November 1974 and to order plants which are capable of burning coal to switch from oil or gas to coal and to continue to burn coal until 1980, with appropriate environmental safeguards.

2. REVIEW OF STATE IMPLEMENTATION PLANS

EPA would review State plans to see whether enough domestic fuel and control systems are available to meet emission limits by the present 1975 and 1977 statutory deadlines, and, if not, could issue enforcement orders to extend deadlines that are more stringent than would be needed to meet primary air quality standards. Interim safeguards would be used to protect primary standards during the extensions.

3. EXTENSION OF TRANSPORTATION CONTROL PLAN

Areas that could not meet ambient standards for auto-related pollutants by the 1975–77 deadlines with reasonably available measures, would be able to win extensions of up to 5 years and, in extreme cases, an additional 5 years in order to achieve the national ambient standard.

4. NEW SOURCE AND HAZARDOUS EMISSION STANDARDS

EPA would obtain explicit new authority to establish design or equipment standards where emission or performance standards do not prove to be feasible. This would clarify matters by setting simple uniform standards for all sources in a class.

5. WAIVER FOR EXPERIMENTAL CONTROL TECHNOLOGY

EPA would have authority to waive compliance with new source performance standards where necessary to encourage sources to install control technology that requires additional research and demonstration.

6. CIVIL PENALTIES

EPA could impose civil penalties of up to $25,000 per day for violations of air quality control requirements. This provides a sanction when violations do not warrant criminal proceedings or when criminal prosecution would involve too many resources.

7. ENFORCEMENT ORDERS BEYOND STATUTORY DEADLINES

EPA would acquire express authority to extend compliance schedules beyond the 1975–77 statutory dates, when a source agrees to install control equipment and to operate under interim control measures.

8. NATIONAL ENVIRONMENTAL POLICY ACT PROVISIONS

This would require the Federal Energy Office to file environmental impact statements on coal conversions or coal allocations which will extend for more than 1 year but exempt such filing for actions of less than a year's duration.

9. AUTO EMISSION STANDARDS

This would extend the Federal model year 1975 interim emission standards through 1976 and 1977 model years, and permit EPA to set nitrogen oxide levels for subsequent years based on various specified criteria.

I am certain that the Environmental Pollution Subcommittee, under the able leadership of its chairman (Mr. MUSKIE) and ranking minority member, (Mr. BUCKLEY) will give careful and thorough consideration to these proposals, as they have to other environmental matters

To further explain this situation, I ask unanimous consent that a copy of the bill be printed at this point in the RECORD, together with a copy of the transmittal letter from EPA Administrator Russell Train, and attachments B and C to that letter.

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

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

SECTION 1. This Act may be cited as the "Clean Air Amendments of 1974".

EXTENSION OF ACT

SEC. 2. Section 104 of the Clean Air Act is amended by striking "and $150,000,000 for the fiscal year ending June 30, 1974" and inserting in lieu thereof ", $150,000,000 for the fiscal year ending June 30, 1974, $150,000,000 for the fiscal year ending June 30, 1975, and $150,000,000 for the fiscal year ending June 30, 1976."

Section 212 of such Act is amended by striking "three succeeding fiscal years." and inserting in lieu thereof "five succeeding fiscal years.".

Section 316 of such Act is amended by striking "and $300,000,000 for the fiscal year ending June 30, 1974" and inserting in lieu thereof ", $300,000,000 for the fiscal year ending June 30, 1974, $300,000,000 for the fiscal year ending June 30, 1975, and $300,000,000 for the fiscal year ending June 30, 1976.".

EXTENSIONS FOR TRANSPORTATION CONTROL PLANS

SEC. 3. Section 110 of the Clean Air Act is amended by adding subsection (g) as follows:

"(g) (1) Upon application by the Governor of a State on or after June 1, 1976, The Administrator may extend for not more than five years the deadline for attainment of national primary ambient air quality standards where transportation control measures are necessary for the attainment of such standards, and where the implementation of such control measures would have serious adverse social or economic effects.

(2) The Administration may consider extension applications for only those air quality control regions in which the State has:

(A) implemented or will have begun implementing by June 1, 1977, the requirements of the applicable plan with respect to stationary source emissions of transportation-related pollutants and all reasonably available measures of the applicable transportation control plan.

(B) completed a detailed planning study that evidences public and local governmental involvement and includes examination of alternative measures and combinations of measures which could be used to attain and maintain the standards after June 1, 1977, a description of projects to be undertaken

together with timetables and resource requirements, and identification and analysis of social, economic, and environmental effects including public health effects of such measures and projects.

(3) Each extension application shall be accompanied by adequate documentation of compliance with the requirements of paragraph (2) above, and shall include an implementation plan for the extension period requested. The plan shall:

(A) identify the remaining emission reductions necessary for attainment of the national primary ambient air quality standards and the reasonably available ambient air quality standards and the reasonably availble measures to be implemented to accomplish these reductions;

(B) provide for the implementation of all reasonably available control measures as expeditiously as practicable;

(C) identify the financial and manpower resources to be committed to carrying out the plan;

(D) demonstrate (i) attainment of the national primary ambient air quality standards as expeditiously as practicable but no later than May 31, 1982, or (ii) that such attainment is not possible within the extension period despite implementation of all reasonable available and achievable control measures."

"(4)(A) Within 120 days following the submission of an application and all supporting materials, and after providing an opportunity for public comment, the Administrator shall grant an extension, if he determines that the requirements of this subsection have been met.

(B) If the Administrator determines that the requirements of this subsection have not been met, including findings relating to the impacts of the transportation control measures upon the social, economic and environmental welfare of the air quality control region, he shall notify the Governor of deficiencies in the application, including his judgment as to acceptable dates for implementing measures included in the plan and as to the appropriate duration of an extension. The notification shall also specify a date for the submission of a revised application.

"(5) Where the Administrator grants an extension based on an application meeting the requirements of subparagraph (g)(3)(D)(ii), the Governor of the State may, on or after June 1, 1981, apply for a further extension in accordance with and subject to the requirements of this subsection. No extension under this paragraph may extend beyond May 31, 1987."

"(6) Where the Administrator denies an extension application or where the Governor of a State in which the national primary ambient air quality standards are not being met does not submit an application under this subsection, the Administrator may, after consultation with appropriate State and local elected officials, propose and promulgate an implementation plan (or portion thereof) meeting the requirements of this subsection."

"(7) No transportation control measures which would have serious adverse social or economic effects shall be considered "reasonably available".

NEW SOURCE AND HAZARDOUS EMISSION EQUIPMENT STANDARDS

SEC. 4. Section 111(a)(1) of the Clean Air Act is amended to read as follows:

"The term 'standard of performance' means a standard for emissions of air pollutants which reflects the degree of emission limitation achievable through the application of the best system of emission reduction which (taking into consideration the cost of achieving such emission limitation, and any non-air quality environmental impact and energy requirements) the Administrator determines has been adequately demonstrated. If the Administrator determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an emission standard infeasible, he may instead prescribe a design or equipment standard meeting the requirements of this paragraph. Such standard shall to the degree possible set forth the emission reductions achievable by implementation of such design or equipment, and shall provide for compliance by means which achieve equivalent results."

Section 111(b)(5) is added as follows:

"(b)(5) The Administrator shall, upon petition by the owner or operator of any source subject to a design or equipment standard under this section, restate such standard as an emission standard requiring the equivalent control if he determines that the requirements of the second sentence of paragraph (a)(1) are no longer satisfied with respect to that class of sources. The owner or operator of any source which commenced construction while the design or equipment standard was applicable may elect to comply with this section by means of such design or equipment or by meeting such emission standard."

Section 111(d) of such Act is amended by deleting the term "emission standards" where it appears and inserting in lieu thereof the phrase "emission, design, or equipment standards."

Section 112(a)(2) of such Act is amended by deleting the term "an emission" and inserting in lieu thereof the word "a".

Section 112(b)(1)(A) of such Act is amended by deleting the term "an emission" and inserting in lieu thereof the word "a".

Section 112(b)(1)(B) of such Act is amended by inserting in the first sentence after the phrase "for such pollutant" the phrase "or standards regarding the composition of materials which emit such pollutant" and by deleting in the second sentence the term "an emission" and inserting in lieu thereof the word "a".

Section 112(b)(1)(B) of such Act is further amended by adding a fourth sentence as follows: "If the Administrator determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an emission standard infeasible, he may instead prescribe a design or equipment standard meeting the requirements of this paragraph. Such standard shall to the degree possible set forth the emission reductions achievable by implementation of such design or equipment, and shall provide for compliance by means which achieve equivalent results."

Section 112(b)(3) is added as follows:

"(b)(3) The Administrator shall, upon petition by the owner or operator of any source subject to a design or equipment standard under this section, restate such standard as an emission standard requiring the equivalent control if he determines that the requirements of the fourth sentence of paragraph (b)(1)(B) are no longer satisfied with respect to that class of sources. The owner or operator of any source which commenced construction while the design or equipment standard was applicable may elect to comply with this Section by means of such design or equipment or by meeting such emission standard."

Section 112(c)(1)(A) of such Act is amended by deleting the phrase "cause emissions in violation of" and inserting in lieu thereof the word "violate".

Section 112(c)(1)(B) of such Act is amended by deleting the phrase "no air pollutant to which such standard applies may be emitted from any stationary source" and inserting in lieu thereof the phrase "no stationary source to which such standard applies shall operate."

Section 112(d)(1) of such Act is amended by deleting the word "emission".

Section 112(d)(2) of such Act is amended by deleting the word "emission".

Section 114(a) of such Act is amended by deleting the word "emission".

WAIVERS FOR TECHNOLOGY INNOVATIONS

SEC. 5. Section 111 of the Clean Air Act is amended by adding subsection (f) as follows:

"(f)(1) The owner or operator of a new source may request the Administrator for authorization to attempt to meet applicable performance standards under this section by means of a system or systems of emission reduction which have not been determined by the Administrator to be adequately demonstrated. After consulting with appropriate State and local officials, the Administrator may grant such authorization if he determines, based upon an evaluation of designs, specifications, plans, emission calculations, and other relevant factors that—

"(A) there is substantial likelihood that the proposed system or systems will enable the source to comply with the applicable standard, and

"(B) the proposed system has substantial potential for achieving significantly greater emission reduction than that required by the applicable standard, or achieving the required reduction at significantly lower cost, in terms of economic or environmental impact, than the systems which have been determined by the Administrator to be adequately demonstrated.

"(2) An authorization under this subsection shall extend to a date determined by the Administrator, after consultation with the source owner or operator, taking into consideration design, installation and capital costs of the systems being evaluated.

"(3) The granting of an authorization under this section shall preempt Federal, State, and local regulation of air pollution emissions of the source, with respect to the affected facility and air pollutants covered by the authorization, except that the Administrator shall impose such requirements as necessary for the attainment or maintenance of a national primary ambient air quality standard. Any such preemption shall not extend beyond any period specified under paragraph (2)."

ASSESSMENT OF CIVIL PENALTIES

SEC. 6. Section 113(b) of the Clean Air Act is amended as follows:

(b) The Administrator may request the Attorney General to commence a civil action for a permanent or temporary injunction or to assess and recover a civil penalty of not more than $25,000 per day of violation, or both, whenever any person—

(1) violates or fails or refuses to comply with any order issued under subsection (a); or

(2) violates any requirement of an applicable implementation plan during any period of Federally assumed enforcement or more than 30 days after having been notified by the Administrator under subsection (a)(1) of a finding that such person is violating such requirement; or

(3) violates section 111(e) or 112(c); or

(4) fails or refuses to comply with any requirement of section 114.

Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to restrain such violation, require such compliance, and assess such penalty. Notice of the commencement of such action shall be given to the appropriate State air pollution control agency.

ENFORCEMENT ORDERS EXTENDING PAST ATTAINMENT DATES

SEC. 7. Section 113(a)(4) of the Clean Air Act is amended by deleting the third sentence and inserting the following in lieu thereof:

"Any order issued under this subsection shall state with reasonable specificity the nature of the violation, specify a time for compliance (which may be subsequent to the date for attainment of a national ambient air quality standard under section 110) which the Administrator determines is as expeditious as practicable, taking into account the seriousness of the violation and the status of efforts to comply with applicable requirements. Any order specifying a compliance date later than such national standard attainment date shall require the source to employ any interim measures of control which the Administrator determines are reasonably available. In cases where the Administrator determines that the need for a compliance date beyond such national standard attainment date results in whole or in part from the lack of good faith efforts to comply with the applicable requirements, he shall initiate action to impose civil and/or criminal penalties."

Section 113 of such Act is amended by adding subsection (d) as follows:

"(d) An enforcement order or variance submitted by a State which specifies a date for compliance later than the date for attainment of national ambient air quality standards under section 110 may be approved by the Administrator if the Administrator determines that (1) such compliance date is as expeditious as practicable, and (2) the order or variance requires the source to employ interim measures of control which are reasonably available."

Section 113(b)(1) of such Act is amended to read as follows:

"(1) violates or fails or refuses to comply with any order issued under subsection (a) or any order or variance approved under subsection (d); or"

Section 113(c)(1)(B) of such Act is amended to read as follows:

"(B) violates or fails or refuses to comply with any order issued by the Administrator under subsection (a) or any order or variance approved by the Administrator under subsection (d), or"

Section 304(b)(1) of such Act is amended by adding a new subparagraph (c) as follows:

"(C) Where the Administrator has issued an order pursuant to section 113(a) or approved an order or other action pursuant to section 113(d)."

TEMPORARY SUSPENSIONS OF STATIONARY SOURCE EMISSION AND FUEL LIMITATION

SEC. 8. The Clean Air Act is amended by adding section 119 as follows:

"SEC. 119. (a)(1) The Administrator may, for any period beginning on or after the date of enactment of this section and ending on or before November 1, 1974 temporarily suspend any stationary source fuel or emission limitation as it applies to any person, if the Administrator finds that such person will be unable to comply with such limitation during such period solely because of unavailability of types or amounts of fuels. Any suspension under this paragraph and any interim requirement on which such suspension is conditioned under paragraph (2) below shall be exempted from any procedural requirements set forth in this Act or in any other provision of local, State, or Federal law. The granting or denial of such suspension and the imposition of an interim requirement shall be subject to judicial review only on the grounds specified in paragraphs (2)(B) and (2)(C) of section 706 of title 5, United States Code, and shall not be subject to any proceeding under section 304(a)(2) of this Act.

"(2) Any suspension under paragraph (1) above shall be conditioned upon compliance with such interim requirements as the Administrator determines are reasonable and practicable. Such interim requirements shall not be construed to preclude use of alternative or intermittent control measures which the Administrator determines are reliable and enforceable. Such interim requirements shall include, but need not be limited to, (A) a requirement that the source receiving the suspension comply with such reporting requirements as the Administrator determines may be necessary; (B) such measures as the Administrator determines are necessary to avoid an imminent and substantial endangerment to health of persons; and (C) requirements that the suspension shall be inapplicable during any period during which fuels which would enable compliance with the suspended stationary source fuel or emission limitations are in fact reasonably available to that person (as determined by the Administrator), however, provided that such fuel shall not be required to be used if the Administrator determines that the cost of changes necessary to use such fuel during such period is unreasonable.

"(b)(1) After public notice and public hearing, the Administrator may, for any period beginning after November 1, 1974, and ending not later than January 1, 1980, temporarily suspend any stationary source fuel or emission limitation as it applies to any fuel burning stationary source if the Administrator finds—

(A) that such source (1) is prohibited from using petroleum products or natural gas as fuel by reason of an order issued under section 120 of this Act,

(B) that such suspension (in conjunction with interim requirements under paragraph (4) below) will not, after the applicable implementation plan deadline, result in or contribute to a level of air pollutants which is greater than that specified in a national primary ambient air quality standard, and

(C) that such source has been placed on a schedule which provides for the use of methods which the Administrator determines will assure continuing compliance with the stationary source fuel or emission limitation as practicable (but no later than January 1, 1980).

"(2)(A) Any schedule under subparagraph (b)(1)(C) shall include increments of progress toward compliance with such limitation by such date including but not limited to a date by which a contractual obligation shall be entered into for an emission control system which has been determined by the Administrator to be adequately demonstrated. In the case of a person wishing to construct and install such system himself, the Administrator may approve detailed plans and specifications and increments of progress for construction and installation of such a system. Before the earliest date on which a source is required to take any action under the preceding sentences (but not later than May 15, 1977) any source may elect to have the preceding sentences not apply to it; but if such election is made, no suspension under this section may apply to such source after May 15, 1977.

"(B) For purposes of subparagraph (b)(1)(B) and of paragraph (b)(4), the term 'applicable implementation plan deadline' means the date on which (as of the date of enactment of this Act) a national primary ambient air quality standard is required by an applicable implementation plan to be attained in an air quality control region.

"(3) Any person may obtain judicial review of a grant or denial of a suspension grant under this paragraph and of any interim requirement on which such suspension is conditioned under subsection (b)(4) by filing a petition with the United States district court for any judicial district in which is located any stationary source to which the action of the Administrator applies. The second sentence of clause (ii), and clauses (iii) and (iv) of section 306(b)(2)(B) of this Act shall apply to judicial review under this paragraph. No proceeding under section 304(a)(2) may be commenced with respect to any action under this paragraph.

"(4) Any suspension under paragraph (1), above shall be conditioned upon compliance with such interim requirements as the Administrator determines are reasonable and practicable. Such interim requirements shall not be construed to preclude use of alternative or intermittent control measures which the Administrator determines are reliable and enforceable. Such interim requirements shall include, but need not be limited to (A) a requirement that the source receiving the suspension comply with such reporting requirements as the Administrator determines may be necessary; (B) such measures as the Administrator determines are necessary (i) to minimize emissions which materially contribute to a significant risk to the health of persons prior to the applicable implementation plan deadline, or (ii) to assure maintenance of the national primary ambient air quality standards during any portion of any such suspension which may extend beyond such deadline; and (C) requirements that the suspension shall be inapplicable during any period during which fuels which would enable compliance with the suspended stationary source fuel or emission limitations are in fact reasonably available to that source (as determined by the Administrator), however, provided that such fuel shall not be required to be used if the Administrator determines that the cost of changes necessary to use such fuel during such period is unreasonable.

"(c) No State or political subdivision may require any person to whom a suspension has been granted under subsections (a) or (b) to use any fuel the unavailability of which is the basis of such person's suspension (except that this preemption shall not apply to requirements identical to Federal interim requirements under subsections (a) or (b) or a compliance schedule under subparagraph (b)(1)(C) (including any requirement under a subparagraph (b)(2)(A))).

"(d)(1) It shall be unlawful for any person to whom a suspension has been granted under subsections (a) or (b) to violate any requirement on which the suspension is conditioned.

"(2) It shall be unlawful for any person to fail to comply with a schedule of compliance under subparagraph (b)(1)(C) (including any requirement under subparagraph (b)(2)(A)).

"(e) For purposes of this section:

"(1) The term 'stationary source fuel or emission limitation' means any emission limitation, schedule, or timetable for compliance, or other requirement, which is prescribed under this Act (other than section 303, 111(b), or 112) or contained in an applicable implementation plan and which is designed to limit stationary source emissions resulting from combustion of fuels, including a prohibition on or specification of the use of any fuel of any type or grade or pollution characteristic.

"(2) The term 'stationary source' has the same meaning as such term has under section 111(a)(3).

"(f) Nothing in this section shall affect the power of the Administrator to deal with air pollution presenting an imminent and substantial endangerment to the health of persons under section 303 of this Act.

COAL CONVERSION AND ALLOCATION

SEC. 9. The Clean Air Act is amended by adding section 120 as follows:

"(a) The President may, to the extent practicable and consistent with the objec-

tives of this Act and any legislation relating to the production, conservation, distribution or allocation of energy or energy resources by order, after balancing on a plant-by-plant basis the environmental effects of use of coal against the need to fulfill the purposes of such legislation relating to energy or energy resources, prohibit, as its primary energy source, the burning of natural gas or petroleum products by any major fuel-burning installation (including any existing electric powerplant) which, on the date of enactment of this Section, has the capability and reasonably available necessary plant equipment to burn coal. Any installation to which such an order applies shall be permitted to use coal or coal byproducts to the extent consistent with the provisions of section 119 of this Act, and, if such installation converts to the use of coal as fuel, it shall not until January 1, 1980, be prohibited by reason of the application of any air pollution requirement from burning coal which is available to such installation to the extent consistent with the provisions of § 119 of this Act. To the extent coal supplies are limited to less than the aggregate amount of coal supplies which may be necessary to satisfy the requirements of those installations which can be expected to use coal (including installations to which orders may apply under this subsection), the President shall prohibit the use of natural gas and petroleum products for those installations where the use of coal will have the least adverse environmental impact in comparison with other uses of coal. A prohibition on use of natural gas and petroleum products under this subsection shall be contingent upon the availability of coal, coal transportation facilities, and the maintenance of reliability of service in a given service area. The President may require that fossil fuel-fired electric powerplants in the early planning process, other than combustion gas turbine and combined cycle units, be designed and constructed so as to be capable of using coal as a primary energy source instead of or in addition to other fossil fuels. No fossil fuel-fired electric powerplant may be required under this section to be designed and constructed, if (1) to do so would result in an impairment of reliability or adequacy of service, or (2) if an adequate and reliable supply of coal is not available and is not expected to be available. In considering whether to impose a design and construction requirement under this subsection, the President shall consider the existence and effects of any contractual commitment for the construction of such facilities and the capability of the owner or operator to recover any capital investment made as a result of the conversion requirements of this section.

(b) The President may by rule prescribe a system for allocation of coal to users thereof in order to attain the objectives specified in this section.

REVIEW OF STATE IMPLEMENTATION PLANS

SEC. 10. The Clean Air Act is amended by adding section 121 as follows:

"(a) The Administrator shall promptly review all State implementation plans and revisions thereof and shall determine whether in the aggregate (1) available domestic supplies of fossil fuels or (2) supplies of control systems, are adequate to enable applicable emission requirements, standards or limitations to be met within the date set for attainment of a national ambient air quality standard under this Act.

"(b) If the Administrator determines pursuant to subsection (a) that such supplies are not adequate, he shall, in accordance with the procedural requirements of section 113(a)(4), extend or suspend deadlines for meeting State or local emission requirements or limitations, as he determines may be appropriate, on a source-by-source basis for any specific category or categories of sources. Any such extension shall be conditioned upon such interim requirements as the Administrator determines are necessary (1) to minimize emissions which materially contribute to a significant risk to the health of persons prior to the applicable implementation plan deadline and (2) to assure maintenance of the national primary ambient air quality standards during any portion of such extension which may extend past such deadline. Such interim requirements shall not be construed to preclude use of alternative or intermittent control measures which the Administrator determines are reliable and enforceable.

"(c) In determining which sources or classes of sources will be granted an extension, the Administrator shall consider (1) the ambient air quality of the region affected by the emissions of the individual source, (2) the availability of domestic low sulfur fossil fuel to the individual source, and (3) the effectiveness of individual extensions in reducing inadequacies determined to exist under subsection (2) of this section.

"(d) The extensions given under this section shall be designed to achieve national primary ambient air quality standards and, taken in the aggregate, to eliminate the deficit in domestic fossil fuels and compensate for shortages of control systems determined to exist under the provisions of subsection (a) of this section."

"(e) The term 'applicable implementation plan deadline' has the same meaning as such term has under section 119(b)(2)(B)."

APPLICABILITY OF THE NATIONAL ENVIRONMENTAL POLICY ACT

SEC. 11. The Clean Air Act is amended by adding section 122 as follows:

"No action taken under section 120 of this Act shall, for a period of 1 year after initiation of such action, be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 856). However, before any such action that has a significant impact on the environment is taken, if practicable, or in any event within 60 days after such action is taken, an environmental evaluation with analysis equivalent to that required under section 102(2)(C) of the National Environmental Policy Act, to the greatest extent practicable within this time constraint, shall be prepared and circulated to appropriate Federal, State, and local government agencies and to the public for a 30-day comment period after which a public hearing shall be held upon request to review outstanding environmental issues. Such an evaluation shall not be required where the action in question has been preceded by compliance with the National Environmental Policy Act. Any such action which will be in effect for more than a one year period or any action to extend an action taken under section 120 to a total period of more than 1 year shall be subject to the full provisions of the National Environmental Policy Act notwithstanding any other provision of this Act."

AUTOMOBILE EMISSION STANDARDS

SEC. 12. Section 202 of the Clean Air Act is amended as follows:

Subsections (b)(1)(A) and (b)(1)(B) are amended to read as follows:

(b)(1)(A) The regulations under subsection (a) applicable to emissions of carbon monoxide, hydrocarbons, and oxides of nitrogen from light duty vehicles in model years 1975, 1976, and 1977 shall be the standards established in the Administrator's decision of April 11, 1973, under authority of this section and § 209. This shall include a nitrogen oxides emission standard of 3.1 grams per mile.

(b)(1)(B) The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light duty vehicles and engines manufactured during or after model year 1978 shall contain standards which require a reduction of at least 90 per centum from emissions of carbon monoxide and hydrocarbons allowable under the standards under this section applicable to light duty vehicles and engines manufactured in model year 1970.

Subsection (b)(1) of Section 202 is further amended by adding the following subparagraph (C).

(C) The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light duty vehicles and engines manufactured during or after model year 1978 shall be set at such level as the Administrator may determine appropriate after taking into account air quality, energy efficiency, availability of technology, cost, and other pertinent considerations. The Administrator shall publish for public comment no later than January 1, 1976, proposed standards and his tentative conclusions with respect to the matters he is required to consider under this subparagraph and shall publish final standards and his findings regarding such matters no later than November 30, 1976.

Subsection (b)(5) is repealed.

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C. March 22, 1974.

Hon. GERALD R. FORD,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: I am pleased to forward to you a proposed bill, "The Clean Air Act Amendments of 1974", which is designed to improve the Federal-State program to achieve clean air.

Air pollution directly affects all of our citizens because of the adverse effects on their health and welfare and because of the increased costs they pay for goods and services. The Clean Air Act Amendments of 1970 have established a strong and effective program to protect the American public from the adverse health effects as well as other effects of air pollution. Under the 1970 law EPA has established air quality standards to protect health and welfare. The States have adopted and are implementing detailed programs to ensure compliance with the standards. The automobile industry has made significant progress in reducing motor vehicle emissions. States and localities are developing transportation control strategies that will not only help achieve higher air quality, but also reduce congestion and provide more balanced transportation systems. These are only illustrative of the major progress that the law has stimulated.

Now, with more than three years of experience, we are in a position to suggest some specific areas in which the law needs to be strengthened or made more workable. The amendments which we are suggesting are intended to improve upon the basic thrust of the Act and to take into account new realities, particularly the energy problems which the Nation faces. They are also intended to deal realistically, but with continued firm commitment, with specific problems of inability to achieve the statutory deadlines for the ambient air quality standards in severe problem areas such as Los Angeles.

The cornerstone of the Clean Air Act is the establishment of Air Quality Standards designed to protect the Nation's health and welfare and development by the States of implementation plans to insure attainment of those standards by designated statutory deadlines.

We are suggesting three changes dealing with the statutory deadlines for air quality standards; first, to provide greater flexibility in dealing with transportation controls for those areas heavily impacted by motor ve-

hicle pollution; second, to provide for EPA review of State implementation plans in order to encourage the use of clean fuels in geographic areas of most need; and third, when necessary, to temporarily extend compliance dates for certain stationary source fuel limitations.

To date, transportation controls have been proposed for 38 metropolitan areas. Many of these communities can achieve the national photochemical oxidant and carbon monoxide ambient air quality standards by mid-1977 through the application of new motor vehicle emission standards, stringent stationary source standards and in some cases, additional control efforts, such as institution of inspection and maintenance programs and greater use of mass transit and car pools. A number of communities, however, are so heavily impacted by motor vehicle-related pollutants that severe gasoline rationing would be necessary to achieve air quality standards within the statutory deadline, even after all other control measures were instituted.

We are proposing that for those communities where attainment of standards by 1977 would cause serious economic and social disruption, EPA be authorized to allow up to five additional years for compliance with the air quality standards. EPA would grant this extra time only if all reasonable control measures under existing plans have been or will be instituted. EPA would be authorized to provide a further five-year extension in those cases where it would not be possible to achieve compliance within the first five years. Providing additional time in appropriate cases will enable communities to attain the flexibility they need to develop the long-term transportation system solutions necessary to help meet air quality standards.

In developing implementation plans for sulfur oxides control, many States did not assess the aggregate impact of their regulatory requirements on available fuel supplies nationwide. Our projections indicate that there will be a shortage of low-sulfur content fuels as well as stack gas scrubbing technology, to meet the deadline in the Clean Air Act as required in State implementation plans.

In addition, we are proposing authority to permit EPA to issue enforcement orders beyond the statutory deadlines in the Act. In cases where the extension must be given to sources that have failed to make good faith efforts, EPA would be required to seek criminal or civil sanctions.

We are proposing a review of State implementation plans to identify State emission regulations that require the use of lower sulfur fuel than is needed to meet the primary air quality standards. Based on this review, EPA could issue enforcement orders through the amendment discussed above, to the extent necessary to eliminate the anticipated clean fuels deficit. This would complement EPA's current voluntary program of encouraging revisions of State implementation plans to ensure that limited clean fuel supplies are available where needed to meet health-related primary standards. Neither the current program nor the proposed amendment would infringe on the important principle that States have the prerogative to adopt and enforce more stringent controls if they choose to do so. Such revised schedules would ensure that the primary air quality standards would not be violated and that attainment of State and local standards will be achieved as soon as possible.

Enactment of this proposal would have the benefit of making scarce low-sulfur fuels and control hardware available first in urban areas where they are most needed, allowing for the allocation of low sulfur fuels and new technology in the most logical time sequence to meet our air quality objectives.

The Nation's energy supply problems have been exacerbated by greatly increasing demand which has resulted in dependence on foreign sources of crude oil. To reverse such dependence, it will be necessary for some oil burning power plants to convert to coal.

We are proposing both a short and long-term solution to deal with this problem. These proposals are similar to provisions contained in the recently vetoed Energy Emergency Act. One provision, virtually identical to that in the Energy Emergency Act, would provide authority for the President—through the Federal Energy Office—to mandate coal conversion. Accompanying this provision would be a limited exemption to the National Environmental Policy Act for such actions, which was also covered by the Energy Emergency Act. The exemptions would be for only one year and would require environmental analyses. The thrust of NEPA is protected since any long-term conversion would have to meet all the requirements of NEPA.

In cases where the Federal Energy Office has mandated coal conversion, the Administrator of EPA would have authority to temporarily suspend any emission standard or limitation in violation of primary air quality standards. Once the applicable deadline under the Clean Air Act is reached—either 1975 or 1977— the source would be required to achieve primary standards until June 20, 1980. At that time, the source would have to move beyond primary standards to the extent needed to achieve emission limitations in the original State implementation plan. The interim requirement to achieve primary standards is a departure from the provision in the Energy Emergency Act, which apparently would have allowed limited violations of the primary standard during the period between the implementation plan deadline and the final deadline for this authority.

Although EPA can establish Federal emission standards for new sources and also for sources emitting hazardous pollutants, there are occasions where emission limitations are not the most practical method of control. For example, emission standards are not appropriate in cases where emissions from a source are difficult to measure, such as hydrocarbon emissions from gasoline storage tanks, or in cases where application of a particular product may cause the problem, such as spraying asbestos. EPA is requesting authority to set design or equipment standards for new sources and hazardous pollutants whenever the limitations of measurement technology make emission limitations impracticable. Hence, the use of this new authority would be the exception.

Because the entire risk of innovative technology is borne by the owner of a source, there is a tendency in new source performance standards to freeze current technology. In order to encourage development of new technology by the private sector, we are proposing in certain exceptional cases to waive Federal, State, and local emission requirements where a source would use a new control technology which we believe will either offer significantly greater control of emissions or the same level of emissions as the new source performance standards at substantially reduced cost. Demonstration projects of this type would only be allowed where maintenance of the health-related air quality standards would not be jeopardized.

Currently, EPA is constrained to the use of criminal penalties to enforce stationary source standards and limitations. We are proposing to expand our enforcement authorities to include civil penalties—up to $25,000 for each day of violation. Because a very vigorous enforcement program will likely be required to achieve the objectives of the Clean Air Act, it is important that we have flexibility in the application of sanctions. In many cases, the greater flexibility of civil penalties will be a much more effective mechanism to encourage compliance than criminal penalties; in other cases, criminal penalties will be more appropriate.

In his January 23, 1974, message to the Congress on measures to deal with the energy crisis, the President made his recommendations for extending auto emission standards. He stated this proposal would "permit auto manufacturers to concentrate greater attention on improving fuel economy while retaining a fixed target for lower emissions. These changes can be made without significant effect on our progress in improving air quality." The attached language would extend HC and CO standards at the 1975 interim level for 1976 and 1977 NO_x standards at 3.1 grams per mile for the same two years.

The final item of our proposed legislation would extend the authorizing authorities of the Clean Air Act for two additional years. Last year, the Congress extended the Act's authorizations to June 30, 1974, at the Fiscal Year 1973 levels of $475 million. We are proposing extending the Act for the next two fiscal years at the $475 million level. This amount should be sufficient to carry forward the Nation's air pollution control program.

These above amendments have been discussed intensively throughout the Executive Branch and I support their enactment. There are, however, two proposals set forth in Attachments B and C which I do not support. Nonetheless, other Executive Branch agencies believe they are needed and I am therefore forwarding them for consideration by the Congress. These proposals concern "intermittent control systems" and "significant deterioration."

In support of the proposal permitting indefinite use of intermittent or alternative control systems, other agencies state that: (1) such systems will allow some utilities and industrial sources to meet ambient air quality standards at a cost significantly lower than the cost of continuous emission control systems and with a smaller energy penalty; (2) such systems involve less solid waste than some of the scrubber technologies; and (3) that use of such systems could encourage the coal industry to make greater investments in new mines. This proposal would permit the use of alternative or intermittent control measures indefinitely as long as they would meet national ambient air quality standards.

EPA's concern with intermittent control systems as a permanent control strategy rests heavily on information becoming increasingly available as to the effects on public health of the sulfates that are formed in the ambient air as a product of the sulfur oxide gaseous emissions. EPA studies indicate that measurable adverse health effects are present at ambient sulfate levels of 8–10 micrograms per cubic meter. These levels are exceeded in large parts of the country, particularly in the Midwest and Northeast. The permitting of uncontrolled emissions of sulfur dioxide except during periods of adverse meteorological conditions would be expected to contribute in a major way in ambient air sulfate loadings. In my opinion, therefore, amending the Act to encourage indefinite or intermittent control systems would be highly inappropriate, and could be more costly in the long run should new requirements to deal with sulfates force expensive retrofits.

Recent court interpretation of the Clean Air Act requires the Administrator of EPA to establish standards to prevent "significant deterioration" of air already cleaner than required by national ambient air quality standards designed to protect public health and welfare. In support of this proposal other agencies state that the effect of this interpretation is to extend the Federal regulatory authority beyond standards set to protect the public health and welfare and to establish a new criterion, namely the quality in a given area at the time the Act was passed. They feel that this extension of the Federal regulatory authority will limit the range of choice of State and local governments in economic development and land use matters to a degree deemed unnecessary and unwarranted. This proposal would remove the authority of the Federal government to promulgate standards more stringent than

those set to protect public health or welfare, but would not remove the authority of State and local governments to establish and maintain air quality standards cleaner than required by the Federal government should they choose to do so.

As a result of extensive written comments, public hearings and interagency discussions, EPA believes that meaningful steps can be taken to protect areas with already high air quality through classification by the States of geographic areas into one of three general classes:

(1) Air quality area better than secondary standards in which only restricted growth would take place;

(2) Air quality area better than secondary standard but in which moderate growth would be permitted.

(3) Air quality level to be determined by secondary standards.

The final classification of areas into these categories would take place after public hearings. No hard emission or air quality increments would be promulgated by EPA as limiting factors. Since the EPA regulation would not provide for firm maximum increments of pollution, it is expected that court challenges as to the adequacy of the EPA promulgation would take place.

Because of the potential for further litigation, the importance of this issue to our environmental and energy problems and the potential impact of EPA's regulations on State and local land use responsibilities. EPA believes that Congress should explore all alternatives for dealing with the significant deterioration issue in testimony and debate.

In closing, I would like to reiterate that significant progress has been made under the Clean Air Act. We look forward to early hearings and full Congressional debate on these proposals.

Sincerely yours,

RUSSELL E. TRAIN,
Administrator.

ATTACHMENT B. LEGISLATIVE LANGUAGE THAT WOULD IMPLEMENT THE VIEWS OF OTHER AGENCIES ON THE ISSUE OF SIGNIFICANT DETERIORATION

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

SIGNIFICANT DETERIORATION

Section 101(b)(1) of the Clean Air Act is amended to read as follows:

"(1) to protect and enhance the quality of the Nation's air resources by establishing, achieving, and maintaining national ambient air quality standards, standards of performance of new stationary sources, and national emission standards for hazardous air pollutants so as to promote the public health and welfare and the productive capacity of the Nation, but nothing in this Act is intended to require or authorize the establishment by the Administrator of standards more stringent than primary and secondary ambient air quality standards;".

ATTACHMENT C. LEGISLATIVE LANGUAGE THAT WOULD IMPLEMENT THE VIEWS OF OTHER AGENCIES ON THE ISSUE OF INTERMITTENT CONTROLS

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

INTERMITTENT OR ALTERNATIVE CONTROL MEASURES

Section 110 of the Clean Air Act is amended by adding subsection (h) which reads as follows:

"(h) Nothing in this section shall be construed to preclude use of alternative or intermittent control measures which the Administrator determines are reliable and enforceable and which he determines will permit attainment and maintenance of the national ambient air quality standards."

By Mr. JACKSON:

S. 3289. A bill to amend the act of August 10, 1939 (53 Stat. 1347), and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, I introduce for appropriate reference a bill to amend the act of August 10, 1939 (53 Stat. 1347).

The act of August 10, 1939, added to the Kaniksu National Forest, Wash., certain lands owned or in course of acquisition by the United States. The described lands totaled 459,400 acres consisting of the following ownership:

	Acres
Lands purchased by Resettlement Administration	238,000
Public domain lands	98,200
Lands owned by State of Washington	24,900
Privately owned lands	98,300
	459,400

Section 2 of the act provided that any of the privately owned lands may be accepted in exchange under the provisions of the act entitled "An act to consolidate national forest lands," approved March 20, 1922 (42 Stat. 465, as amended 16 U.S.C. 485, 486). My proposed amendment would remove the apparent limitation contained in the 1939 act that only privately owned lands may be accepted in exchange and, therefore, allow the acceptance of any non-Federal lands in exchange, including other publicly owned lands. This would be consistent with the general exchange authority provided in the 1922 act.

The State of Washington is interested in exchanging lands which are scattered throughout the area added to the national forest by the 1939 act. These lands are chiefly valuable for national forest purposes. The Forest Service inventory indicates that approximately 21,000 acres of land in the area, now held by public authorities, would be considered desirable for possible acquisition for national forest purposes. Acquisition of such lands would facilitate the administration of the adjacent national forest lands and such acquisition would also appear to be desirable from the standpoint of State and local government.

The proposed amendment would also confirm two exchanges which were inadvertently completed with Pend Oreille County under the general provisions of the act of March 20, 1922.

Mr. President, I ask that the text of the bill be inserted in the RECORD at this point.

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

S. 3289

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Act of August 10, 1939 (53 Stat. 1350) is hereby amended to read as follows:

"SEC. 2. Any of the non-Federal lands described in the first section of this Act may be accepted in exchange under the provisions of the Act entitled, "An Act to consolidate national forest lands", approved March 20, 1922, as amended (42 Stat. 465; 43 Stat. 1090). All of such lands so accepted in exchange shall thereupon be added to and made a part of the national forest in which they are located and shall thereafter be administered under the laws and regulations relating to the national forests. Lands received in exchange or purchased under the provisions of this Act shall be open to mineral locations, mineral development, and patent, in accordance with the mining laws of the United States."

SEC. 2. All exchanges made prior to the date of this Act involving any non-Federal lands within the area described in section 1 of the Act of August 10, 1939 (53 Stat. 1347) are hereby approved and confirmed.

By Mr. JAVITS (by request):

S. 3290. A bill to improve and extend the Public Health and National Health Service Corps scholarship training program. Referred to the Committee on Labor and Public Welfare.

Mr. JAVITS. Mr. President, I recently joined with Senators KENNEDY and MAGNUSON in introducing legislation (S. 3181) which proposed modifications in the National Health Service Corps to make it more attractive in recruiting physicians, dentists, and other health professionals to serve in manpower shortage areas. Today I introduce, on request, the admininstration's Public Health and National Health Service Corps Scholarship Training Program Amendments of 1974. The administration bill is designed to extend and expand the program of scholarship assistance available to health professionals who will commit themselves to serving in this Nation's many health manpower scarcity areas.

The National Health Service Corps has, since its beginning in 1971, provided for many American communities the only hope of recruiting a physician or other health professional to serve the medical needs of its citizens. Today, 3 years after its start, the Corps has staffed 183 sites with needed doctors, nurses, and other health professionals. In the near future this program will reach other communities across this Nation.

An integral part of the recruitment efforts of the Corps is the system of scholarship assistance established in 1972 by the Emergency Health Personnel Act. Under this program, health professionals receive up to 4 years of scholarship and stipend assistance in return for service as a commissioned officer of the Public Health Service or as a civilian member of the National Health Service Corps. The act authorized $3 million for this program for fiscal 1974.

This bill would extend and expand this scholarship program to allow students supported under this program to be assigned to any civilian or uniformed Federal health program. This bill would:

Authorize to be appropriated for the program "such sums as may be necessary";

Extend the program for an indefinite period beyond fiscal year 1974; and

Authorize assignment of the program's participants to the National Health Service Corps, and "to such other uniformed or civilian Federal health service as the Secretary may determine is appropriate."

I believe the enactment of legislation which would strengthen the National Health Service Corps' ability to recruit physicians and other health professionals and at the same time strengthen the ability of medically underserved areas

to recruit and retain such health professionals is essential.

The bill I introduce today and S. 311, which recently I joined with Senators KENNEDY and MAGNUSON in introducing, are important steps toward assuring an adequate future supply of health professionals for those areas of this country which have in the past been denied needed health care services and I believe the Congress should act promptly on these measures to fashion the most effective single bill.

I ask unanimous consent that the full text of the Department of Health, Education, and Welfare's letter of transmittal, the bill, and a list of HEW designated health manpower shortage areas in New York State, by profession, be printed in the RECORD.

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

S. 3290

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 Health and National Health Service Corps Scholarship Training Program Amendments of 1974".

SEC. 2. (a) Section 225(a) of the Public Health Service Act is amended by striking out "other units of the Service" and inserting in lieu thereof "such other uniformed or civilian Federal health service as the Secretary may determine is appropriate."

(b) Section 225(b)(3) of such Act is amended by striking out "be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Service or" and inserting "or in such other uniformed or civilian Federal health service as the Secretary may determine is appropriate" after the word "Corps".

(c) Section 225(b)(4) of such Act is amended by striking out "in the Commissioned Corps of the Service or" and inserting "or in such other uniformed or civilian Federal health service as the Secretary may determine is appropriate" after the word "Corps".

(d) Section 225(e) of such Act is amended (1) by amending the first clause of the first sentence to read "A person participating in the Program shall be obligated following completion of academic training to serve as a civilian member of the National Health Service Corps or in such other uniformed or civilian Federal health service as the Secretary may determine is appropriate,": (2) by striking out the second sentence; and (3) by amending the last sentence by inserting "Federal health" before the word "facility", by placing a period after the word "facility", and by striking out "of the Service or other facility of the National Health Service Corps."

(e) Section 225(1) is amended to read as follows.

"(1) There are authorized to be appropriated such sums as may be necessary to carry out the Program."

SEC. 3. This Act shall be effective with respect to appropriations for fiscal years ending after June 30, 1974.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
November 12, 1973.

Hon. JAMES O. EASTLAND,
President Pro Tempore of the Senate, Washington, D.C.

DEAR MR. PRESIDENT: Enclosed with this letter is a draft of legislation, "To improve and expand the Public and National Health Service Corps Scholarship Training Program."

On October 27, 1972, the President approved Public Law 92-585, "The Emergency Health Personnel Act Amendments of 1972." Section 5 of that statute added to the Public Health Service Act a new section 225, which called upon the Secretary of Health, Education, and Welfare to establish the Public Health and National Health Service Corps Scholarship Training Program, in order to obtain trained health professionals for the Corps and other units of the Public Health Service. Participants in the Program could receive up to four years of scholarship and stipend assistance, in return for which they would be obliged to serve either as a commissioned officer in the Service or as a civilian member of the Corps for a period of not less than one year for each year of training received under the Program. Persons failing to meet their obligations under the Program would be liable for repayment, with interest, of the Federal support they received. The section authorizes appropriations for the Program of $3 million for fiscal year 1974.

The Administration strongly supports the objectives of section 225. The Department of Health, Education, and Welfare believes it offers the potential not only of assuring an adequate future supply of health professionals to meet essential Federal health care delivery responsibilities, but also of truly opening the door of a health professions education to sizeable numbers of deserving students, including many from disadvantaged social or economic backgrounds. The preliminary experience of the Department of Defense with its similar health professions scholarship program (authorized by P.L. 92-426) is grounds, we think, for optimism over the long-run promise of the Program.

For these reasons, the President's 1974 Budget contemplates not only full funding for this Program, but a substantial expansion of the Program beyond its present authorization level, for a total of $22.5 million in 1974. Funding of the Program at that level would provide full support for in excess of 2,000 health professions students, and would accompany the phasing out of the traditional scholarship programs operated by the Bureau of Health Manpower Education in the Health Resources Administration. The basic philosophy reflected in these proposals is that the public is entitled to public service from those individuals who are beneficiaries of special scholarship assistance while receiving their health professions degrees. The traditional scholarship programs—which do not require such service—are inconsistent with that principle.

The provisions of section 225 as presently drawn, however, are unnecessarily restrictive. The appropriations authorization not only is too low to permit funding of the Program at $22.5 million, but in addition covers only fiscal year 1974. We believe that substantially larger funding than $3 million is warranted for this Program and that it should be available for use indefinitely.

We also believe that it would be desirable for the Secretary to have clear and unambiguous authority to assign participants in the Program to *any* civilian or uniformed Federal health service. The National Health Service Corps and other health service delivery programs of this Department would doubtless be the primary users of the Program participants, and perhaps in the short run would be the sole users. At some future time, however, the Secretary might determine that certain of the participants could more appropriately serve elsewhere in the Department, or even in other Federal agencies (*e.g.*, the Veterans Administration) or State or local governmental units. It would be preferable to not have to appoint individuals to the commissioned corps of the Public Health Service in order to do this, but rather to be able to assign them directly to other health service duties.

The enclosed draft legislation, accordingly, is intended to expand the authorities in the present section 225. Briefly, the bill would:

Authorize to be appropriated for the Program "such sums as may be necessary";

Extend the Program for an indefinite period beyond fiscal year 1974; and

Authorize assignment of the Program's participants to the National Health Service Corps, and "to such other uniformed or civilian Federal health service as the Secretary may determine is appropriate."

We believe that enactment of this legislation would be an important step toward assuring an adequate future supply of health professionals for meeting essential Federal health care responsibilities, and would significantly improve the possibility of a health professions education for large numbers of worthy students. Accordingly, we urge the Congress to give favorable consideration to the measure.

The Office of Management and Budget has advised that there is no objection to the submission of this legislation, enactment of which would be in accord with the program of the President.

Sincerely,

FRANK C. CARLUCCI,
Acting Secretary.

Enclosure.

HEALTH MANPOWER SHORTAGE AREAS IN NEW YORK STATE

(As designated by the Department of Health, Education, and Welfare)

PHYSICIANS

Allegheny.
Morrisiana, Mott Haven, Lincoln Hospital, South Bronx, Area 34, Pelham Bay—Bronx County.
Allegheny Village—Cattaraugus County.
Cato—Cayuga County.
Norwick—Chenango County.
Delaware.
Chateaugay—Franklin County.
Greene.
Herkimer.
Bushwick, Gravesend, Williamsburg, Greenpoint, Brownsville (Brooklyn Borough)—Kings County.
Lewis.
Livingston.
Madison.
Rochester—Monroe County (Specific Health Center).
Central Harlem—(Manhattan Borough) New York County.
Utica—Faxton Hospital and Boonville—Oneida County.
Orleans.
Oswego.
Mariners Harbor (Staten Island) Richmond County.
Saratoga.
Schoharie.
Schuyler.
Perkinsville — Project Reach — Steuben County.
Tioga.
Washington.
Wayne.
Wyoming.

DENTISTS

South Bronx, area 34.
Clinton.
Cortland.
Chateaugay--Franklin County.
Hamilton.
Lewis.
Orleans.
Northeast portion of Rensselaer County.
St. Lawrence.
Saratoga.
Schoharie.
Schuyler.
Tioga.
Wayne.

PODIATRISTS

Allegheny, Cattaraugus, Chenango, Delaware, Essex, Franklin, Greene, Herkimer, Lewis.

Livingston, Madison, Oneida, Orleans, Oswego, St. Lawrence, Saratoga, Schenectady. Schoharie, Seneca, Tioga, Tompkins, Ulster, Washington, Wayne, Wyoming, Yates.

OPTOMETRISTS

Allegheny, Bronx, Chenango, Fulton, Jefferson, Lewis, Niagara, Orleans, Saratoga, Schuyler, Tioga, Washington, Wyoming.

VETERINARIANS

Bronx, Erie, Hamilton, Kings, New York, Niagara, Queens, Richmond, Schenectady.

By Mr. BELLMON:

S. 3291. A bill to return to the Congress, through the implementation of procedural reforms, the ability to insure that rules and regulations promulgated through the administrative process shall reflect the intent of Congress. Referred to the Committee on the Judiciary.

Mr. BELLMON. Mr. President, today I am introducing legislation which would restore the ultimate decisionmaking power over the affairs of this country to the American people. This bill will return the control of the sprawling American bureaucracy to the Congress, and most importantly, to the American people.

The problems we now face in controlling the agencies and bureaus have evolved over time. Certainly the Founding Fathers did not anticipate them. When the first regulatory agency, the ICC, was formed in the late 1800's there was no way to predict the eventual expansion of regulatory agencies. As the problems of the Nation have increased, the laws have become more complex and prolific and the discretion granted the administrators has exploded. Congress has shared its responsibility by giving agencies and departments the power to issue regulations, licenses, and permits if the agency deems it to be "in the public interest."

For example, the management of national forests and national parks is left to Federal agencies which in turn promulgate regulations governing the use of those properties but seldom allow the public voice to be heard against any plan of the agency. Implementation of regulations concerning the Occupational Safety and Health Act are left to those administrators in Washington who for the most part have never worked in private enterprise and do not understand the practicalities and expenses involved in many of the regulations which they require. These regulations apply equally to the giants of industry as well as the smallest least sophisticated business in the country. The examples go on and on and cover a wide range of subjects, from food stamps and school lunch programs to the spraying of forests and grasslands to the elimination of certain species of trees and shrubs, to the location of highways, to the location of missile bases, disposal of sewage and industrial wastes, building of dams, description of safety standards on oil wells, professional review standards for doctors, user fees for publicly owned recreation areas and environmental regulations imposed on independent oil drillers.

All sections of society, corporations as well as the workingman and the poor, are affected by these broad generalized grants of authority to administrative agencies. Different segments of society are in a position to defend themselves against arbitrary agency action to varying degrees depending on their own resources and legal abilities. The voices of the majority of the people are never heard, as provisions for official protest are complicated. The administrative agencies largely dictate their own desires. Anyone who has attempted to oppose a Federal agency in its promulgation of regulations will understand the feeling of futility which is held by the people across this land.

Many agencies, most notably those which have been granted the authority to disburse money for various Federal programs to individuals, organizations, and to the States, have almost the absolute power to turn on and off the flow of money. If a university or hospital does not comply with an agency's regulations, the funding, which is their lifeline, may be cut off. The promulgation of regulations which are extremely complex and confusing to even the well educated are the source of agency power. These rules and regulations are the conduit through which the agency imposes its views upon the general public, and the practical opportunities for protest are limited. Arguably, the opportunities for protest are present because of the Administrative Procedure Act. However, if only a handful of small businessmen or small farmers are affected by a regulation, it is difficult for them to hire a Washington lawyer to represent them before the agencies. It is a David against Goliath situation. However, the prognosis for the final outcome is not as hopeful as in the latter situation.

The effect of this legislation would be to provide a check on those agencies and the check would be imposed by the Congress from which the agency's power is derived. The values at stake are of constitutional impact and importance. Why, with few checks and balances, should the public stand by while a faceless bureaucrat in some Federal agency makes decisions which affect their very livelihood? Why should the Congress allow the laws to be emasculated by the agencies and bureaus in Washington? The agencies have promulgated regulations so extensive and so complex that the public has been denied the effective representation which they sent to Congress. That representation has been misplaced and displaced throughout the Federal agencies. The effect has been to reduce the respect which the American people have for the Government. Government is unresponsive to their needs, and a sense of futility overwhelms them. As Winston Churchill remarked:

> If you have 10,000 regulations, you destroy all respect for the law.

The purpose of this bill is to restore this lost respect for the law, and to restore that respect by returning the command of this Government to the Congress and the American people. I ask unanimous consent that the text of the bill be printed in full in the RECORD at the conclusion of my remarks.

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

S. 3291

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 301 of Title 18, United States Code is hereby amended to read as follows:

(a) The head of an executive department or military department may prescribe regulations for the government of his department, the conduct of its employees, the distribution and performance of its business, and the custody, use, and preservation of its records, papers, and property. This section does not authorize withholding information from the public or limiting the availability of records to the public.

(b) That upon the promulgation of proposed rules and regulations implementing public laws, the committee of origin, whether in the Senate or in the House of Representatives, shall give approval or disapproval of said rules and regulations within sixty days from the date of submission of said rules and regulations.

(c) In the event the said committee fails to disapprove the proposed rules and regulations within sixty days, such abstention shall be deemed to be approval of said rules and regulations.

By Mr. DOMENICI:

S. 3293. A bill to authorize the Atomic Energy Commission in consultation with the U.S. Environmental Protection Agency to enter into cooperative agreements with certain States to contain and render harmless uranium mill tailings, and for other purposes. Referred to the Joint Committee on Atomic Energy.

Mr. DOMENICI. Mr. President, testimony by officials of both the Environmental Protection Agency and the Atomic Energy Commission indicate to me that a potentially serious health hazard may exist in several of our Western States. This hazard arises from 18 separate abandoned uranium mill sites that are either completely or partially unstabilized. Bluntly, these sites are now uncovered and the dust from these sites blows far from where the sites themselves are located.

In my State of New Mexico, we have two of the largest sites. Near Grants, N. Mex., are sites of 55 and 40 acres, with the larger of the two sites containing 2,684,000 tons of tailings. This is more material than that at any other such site. Therefore, New Mexicans have a stake in the present AEC–EPA probe of these sites and their danger to human and animal populations. I want to say, Mr. President, that I am pleased that these two agencies are investigating this situation.

I am introducing today a bill that would empower the Atomic Energy Commission, in consultation with the U.S. Environmental Protection Agency, to pay up to 75 percent of the costs of State programs to assess the dangers of exposure of individuals to these tailing sites and to establish appropriate remedial action to limit the exposure of individuals to radiation emanating from uranium mill tailings.

Documented testimony by Utah State health officials indicates a health hazard. We must know the precise nature of any hazard to other citizens in other States, if any, and what action should be taken to protect these citizens.

I do not wish to frighten or alarm anyone unnecessarily. However, we should know the facts as promptly as possible and what action is required by these facts.

I request unanimous consent that the bill be printed in its entirety at this point in the RECORD.

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

S. 3293

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in recognition of the problems caused by concentrations of radon 222 in the vicinity of unstabilized uranium tailings piles, located in the States of New Mexico, Colorado, Texas, Arizona, Oregon, Utah, and Wyoming, and the need for stabilization and containment of such piles in controlling radon emanation; and because of the danger to public health of atmospheric concentrations of radon 222, the Atomic Energy Commission, in consultation with the United States Environmental Protection Agency, is hereby authorized and directed to enter into cooperative arrangements with such States under which the Commission will provide not in excess of 75 per centum of the costs of State programs to be conducted in the areas of the unconsolidated tailings sites of assessment of, and appropriate remedial action to limit the exposure of individuals to, radiation emanating from uranium mill tailings.

By Mr. WILLIAMS:

S. 3294. A bill to provide the employees of States and political subdivisions thereof shall be subject to the provisions of the National Labor Relations Act; and

S. 3295. A bill to guarantee the right of employees to organize and bargain collectively which safeguards the public interest and promotes the free and unobstructed flow of commerce. Referred to the Committee on Labor and Public Welfare.

PUBLIC EMPLOYEE COLLECTIVE BARGAINING BILLS

Mr. WILLIAMS. Mr. President, I am introducing today legislation which would provide collective bargaining rights for the employees of States and local governments. I believe that the time is right for the Congress to examine the question of labor relations in the public sector.

There are something over 10 million employees of States and local governments in this country, employed by over 80,000 units of government. Statistics show that the public sector is the fastest growing sector of the job market.

Governing labor relations in this vast segment of the economy is a patchwork of State laws and local ordinances, executive orders, patterns of practice, and, all too often, the individual whims of public officials.

Public employees who strike in my home State of New Jersey have been jailed, while other men and women, exercising the same rights on the same jobs across the State line in Pennsylvania may be protected by State law. This lack of a system for dealing fairly with labor relations problems in the public sector results in more strikes, slowdowns, "blue flu," and employee dissatisfaction.

In the absence of a system for dealing with labor relations problems in the public sector, the employees of Garrett County, Md., once struck for 227 days because the county refused to bargain with the labor union which represented them. The sanitation workers' strike in Memphis, Tenn., during which the Reverend Martin Luther King was tragically murdered, came about because those sanitation workers had no place but the streets to take their demands for a dues payroll checkoff.

Lack of a meaningful legislative basis for collective bargaining and an accompanying guarantee of the rights to organize all too often results in intimidation of men and women who seek to exercise their right to organize and join a union. Teachers in Kansas were harassed and intimidated by their local school board and were left with two courses of action to resolve their disagreement: a strike or a lawsuit. They chose the latter course and after over 2 years, their case is still in litigation. Teachers in small midwestern towns were threatened with dismissal if they refused to ratify employment contracts which were detrimental to their interests.

In New York City, a dispute arose in the city hospitals because the employers refused to address hospital workers as "Mr." or "Mrs." rather than the more demeaning names they were being called.

Congress should now bring some order to public sector labor relations. We recognized in the 1930's that labor relations in the private sector had an effect on commerce and were therefore within the power of Congress to regulate. The same is true for the public sector. In addition to all the salaries paid by State and local governments, States and local governments purchase goods in interstate commerce and raise funds in the interstate money market. In this year alone, Congress will extend to the States over $38 billion in financial assistance. State and local government spending generated $135 billion of spending in the private sector. Clearly, anything which affects the functioning of States and local governments affects commerce and is regulable by Congress.

We shall also serve the public interest by regulating labor relations in this sector of the economy, for it is the citizens of our States and cities who feel the effects of the inability of their governments to maintain stable relations with their employees. Although the strike is used only rarely in the public sector, it directly affects the lives of Americans when it occurs. Long experience indicates the best way to prevent labor unrest is to provide a framework for handling labor relations matters in a fair and routinized manner. That is what these bills provide.

Thirty-eight years ago, when we passed the Wagner Act, we brought order to private sector labor relations. Our experience since passage of that landmark law has confirmed the usefulness of such legislation. The time has come to provide for employees in the public sector the same rights we guarantee to private sector employees and to bring to the public sector the stability which labor legislation brought to the private sector.

The two bills I am introducing today suggest two slightly different legislative approaches. S. 3294 is a simple amendment to the National Labor Relations Act which deletes the exemption granted to States and local governments in the definitions section of that act. The result will be to provide full coverage for State and local governments under the NLRA.

The second bill, S. 3295, achieves a similar result, but does so by creating a separate Public Employment Relations Commission, authorized by a separate statute, but following closely on the experience gained under the National Labor Relations Act. This bill makes provision for recognition of bargaining agents, collective bargaining between employers and the representatives of the employees, and an impasse resolution system which guarantees the right to strike but permits employers to seek injunctions against strikes which endanger the public health, safety, or welfare.

Identical bills have been introduced in the other body by Congressman FRANK THOMPSON (H.R. 9730) and jointly by Congressman WILLIAM CLAY and Congressman CARL PERKINS (H.R. 8677). Hearings on those bills have been held this past fall in the Special Labor Subcommittee chaired by Mr. THOMPSON. I anticipate that the Senate Labor Subcommittee, of which I am chairman, will undertake a full-scale investigation of the need for legislation in this area.

I ask unanimous consent that the text of both bills be printed in the RECORD.

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

S. 3294

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (2) of section 2 of the National Labor Relations Act (29 U.S.C. 152(2)) is amended by striking out "or any State or political subdivision thereof,".

S. 3295

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

SHORT TITLE

SECTION 1. This Act may be cited as the "National Public Employment Relations Act, 1973".

DECLARATION OF PURPOSE AND POLICY

SEC. 2. Experience in both private and public employment indicates that the statutory protection of the right of employees to organize and bargain collectively safeguards the public interest and promotes the free and unobstructed flow of commerce among the States by removing certain recognized sources of strife and unrest. Such protection facilitates and encourages the amicable settlement of disputes between employees and their employers involving terms and conditions of employment and other matters of mutual concern.

It is the purpose of this Act, in order to promote the free and unobstructed flow of commerce among the States, to prescribe certain rights and obligations of the employees of the States, territories, and possessions of the United States, and the political subdivisions thereof, and to establish procedures governing the relationship between such employees and their employers which are designed to meet the special requirements and needs of public employment.

It is the policy of the United States to rec-

ognize the rights of the employees of the States, territories, and possessions of the United States, and the political subdivisions thereof, to form, join, and assist employee organizations, to bargain collectively with their employers over the terms and conditions of employment and other matters of mutual concern relating thereto through representatives of their own choosing and to engage in other activities, individually or in concert, for the purpose of establishing, maintaining, and improving terms and conditions of employment and other matters of mutual concern relating thereto; and to establish procedures which will facilitate and encourage the amicable settlement of disputes between such employees and their employers.

DEFINITIONS

SEC. 3. As used in this Act—

(a) The term "person" includes one or more individuals, organizations, unions, associations, partnerships, corporations, boards, committees, commissions, agencies, or other entity, or their representatives.

(b) The term "employer" includes any State, territory, or possession of the United States, or any political subdivision thereof, including, without limitation, any town, city, county, borough, district, school board, board of regents, social service or welfare agency, public or quasi-public corporations, housing authority or other entity which is tax supported, and any person acting as an agent thereof.

(c) The term "employee" includes any person employed by an employer, whether or not in the classified service of the employer, except the chief executive officer of the employer and other officers of the employer appointed or elected pursuant to statute to policymaking positions. The term shall not be limited to the employees of a particular employer, and shall include any person whose work has ceased as a consequence of, or in connection with, any unlawful act as defined in section 10 of this Act.

(d) The term "employee organization" includes any organization, union, association, agency, committee, council, or group of any kind in which employees participate, and which exists for the purpose, in whole or in part, of bargaining collectively with employers over the terms and conditions of employment and other matters of mutual concern relating thereto.

(e) The term "exclusive representative" includes any employee organization which has been—

(i) selected or designated pursuant to the provisions of section 6 of this Act as the representative of the employees in an appropriate collective bargaining unit; or

(ii) recognized by an employer prior to the effective date of this Act as the exclusive representative of the employees in an appropriate collective bargaining unit.

(f) The term "supervisor" includes any employee having authority in the interest of an employer to hire, direct, assign, promote, reward, transfer, layoff, recall, suspend, discipline, or discharge other employees or to adjust their grievances, or to effectively recommend such action if in connection with the foregoing the exercise of such authority is not merely routine or clerical in nature but calls for the consistent exercise of independent judgment: *Provided*, That with respect to firefighters, the term "supervisor" shall include only those employees who perform a preponderance of the above-specified acts of authority.

(g) The term "professional" includes any employee whose work—

(i) is predominantly intellectual and varied in character;

(ii) requires the consistent exercise of independent judgment;

(iii) requires knowledge of an advanced nature in a field of learning customarily acquired by specialized study in an institution of higher education or its equivalent; and

(iv) is of such character that the output or result accomplished cannot be standardized in relation to a given period of time.

(h) The term "public safety officer" includes any employee engaged in—

(i) the enforcement of the criminal laws, including highway patrol;

(ii) a correctional program, facility, or institution where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees; or

(iii) a court having criminal or juvenile delinquent jurisdiction where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees.

(i) The term "firefighter" includes any employee engaged in the performance of work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment.

(j) The term "educational employee" includes any employee of a school system, college, or university who—

(i) has regular contact with students;

(ii) participates in the development, implementation, or evaluation of an educational program; or

(iii) is otherwise involved in the teaching-learning process.

(k) The term "Commission" means the National Public Employment Relations Commission established by section 4 of this Act.

(l) The term "Service" means the Federal Mediation and Conciliation Service established by chapter 29 of title 172, United States Code.

(m) The term "collective bargaining" or "bargaining" means the performance of the mutual obligation of the representative of the employer and the exclusive representative to meet at reasonable times, in light of the budgetmaking process and other relevant factors, and to confer, consult, and bargain in a good faith effort to reach agreement with respect to the terms and conditions of employment and other matters of mutual concern relating thereto, and to execute, if requested by either party, a written document incorporating any agreements reached, but such obligation does not compel either party to agree to a proposal or to make a concession. The duty to negotiate shall extend to matters which are or may be the subject of a statute, ordinance, regulation, or other enactment by a State, territory, or possession of the United States, or a political subdivision thereof, and if legislative action is necessary to implement any agreement reached, shall include the obligation of the employer to submit such agreement to the appropriate governmental body for action.

(n) The term "labor dispute" means any controversy concerning terms and conditions of employment or other matters of mutual concern relating thereto, or concerning the representation of employees for the purpose of collective bargaining, regardless of whether the disputants stand in the proximate relation of employer and employee.

(o) In determining whether any person is acting as an "agent" of another person so as to make such other person responsible for his acts, the question of whether the specific acts performed were actually authorized or subsequently ratified shall not be controlling.

NATIONAL PUBLIC EMPLOYMENT RELATIONS COMMISSION

SEC. 4. (a) There is hereby created the "National Public Employment Relations Commission", which shall consist of five members who shall be appointed by the President by and with the advice and consent of the Senate. One of the original members shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years. Their successors shall be appointed for terms of five years each, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he succeeds. Commission members shall be eligible for reappointment. The President shall designate one member to serve as Chairman of the Commission. Any member of the Commission may be removed by the President, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause.

(b) A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission, and three members of the Commission shall, at all times, constitute a quorum. The Commission shall have an official seal which shall be judicially noticed.

(c) Members of the Commission shall not engage in any other business, vocation, or employment. The Chairman of the Commission shall receive an additional $1,500 a year. The Commission shall appoint an Executive Director and may appoint State or regional directors, attorneys, and such other persons as it may from time to time find necessary for the proper performance of its functions and as may from time to time be appropriated for by the Congress. Attorneys appointed under this section may, at the direction of the Commission, appear for and represent the Commission in any case in court.

(d) There shall be a General Counsel of the Commission who shall be appointed by the President, by and with the advice and consent of the Senate, for a term of five years. The General Counsel shall be authorized to investigate alleged violations of the Act, to file and prosecute complaints filed under the Act, and to exercise such other powers as the Commission may prescribe. If a vacancy occurs in the Office of General Counsel, the President shall promptly designate an Acting General Counsel, and shall submit a nomination for a replacement to Congress within forty days after the vacancy has occurred, unless Congress shall have adjourned before the expiration of said forty-day period, in which event the President shall submit a nomination not later than ten days after Congress reconvenes.

(e) All of the expenses of the Commission, including all necessary traveling and subsistence expenses outside the District of Columbia incurred by the members, employees, or agents of the Commission under its orders, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the Commission or by any individual it designates for that purpose.

(f) The principal office of the Commission shall be in the District of Columbia, but it may meet and exercise any or all of its powers at any other place, and may establish and operate State and regional offices. The Commission may, by one or more of its members or by such agents or agencies as it may designate, prosecute any inquiry necessary to its functions in any part of the United States. A member who participates in such an inquiry shall not be disqualified from subsequently participating in a decision of the Commission in the same case.

(g) The Commission is authorized to issue, amend, and rescind, in the manner prescribed by subchapter II of chapter 5 of title 5, United States Code, such rules and regulations as may be necessary to carry out the provisions of this Act and is expressly empowered and directed to prevent any person from engaging in conduct in violation of this Act. In order to carry out its functions under this Act, the Commission is authorized to hold hearings, subpena witnesses, administer oaths and take the testimony or deposition of any person under oath, and in connection

therewith, to issue subpenas requiring the production and examination of any books or papers, including those of the Federal Government or any employer, relating to any matter pending before it and to take such other action as may be necessary.

(h) (1) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(54) Chairman, National Public Employment Relations Commission.".

(2) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(92) Members, National Public Employment Relations Commission.".

RIGHTS OF EMPLOYEES AND EMPLOYEE ORGANIZATIONS

SEC. 5. (a) Employees shall have the right to form, join, or assist employee organizations, to participate in collective bargaining with employers through representatives of their own choosing and to engage in other activities, individually or in concert, for the purpose of establishing, maintaining, or improving terms and conditions of employment and other matters of mutual concern relating thereto.

(b) Employee organizations shall have—

(1) access at reasonable times to areas in which employees work, the right to use the employer's bulletin boards, mailboxes, and other communication media, subject to reasonable regulation, and the right to use the employer's facilities at reasonable times for the purpose of meetings concerned with the exercise of the rights guaranteed by this Act: *Provided,* That if an exclusive representative has been recognized, an employer shall deny such access and usage to any employee organization other than such representative until such time as a lawful and timely challenge to the majority status of the representative is raised pursuant to the provisions of section 6 of this Act; and

(2) the right to have deducted from the salary of employees, upon receipt of an appropriate authorization form which shall not be irrevocable for a period of more than one year, an amount equal to the fees and dues required for membership: *Provided,* That if an exclusive representative has been recognized, an employer shall deny such deduction to any employee organization other than such representative.

(c) If an exclusive representative has been recognized for the employees in an appropriate collective bargaining unit, each employee in such unit who is not a member of the recognized organization shall be required, as a condition of continued employment, to pay to such organization for the period that it is the exclusive representative, an amount equal to the dues, fees, and assessments that a member is charged. Such payments shall be made in accordance with rules and regulations prescribed for such purpose by the Commission.

(d) An employer and an exclusive representative that has been recognized for the employees in an appropriate collective-bargaining unit may agree that each employee in such unit shall, as a condition of continued employment, on or after the thirtieth day following the beginning of his employment or on the effective date of such agreement, whichever is later, become and remain a member of the recognized organization.

REPRESENTATIVES AND COLLECTIVE-BARGAINING UNITS

SEC. 6. (a) The employee organization designated or selected for the purpose of collective bargaining by the majority of the employees in an appropriate collective-bargaining unit shall be the exclusive representative of all the employees in such unit for such purpose, and an employer shall not bargain in regard to matters covered by this Act with any employee, group of employees, or other employee organization: *Provided,* That nothing contained in this subsection shall prevent employees, individually or as a group, from presenting complaints informally to an employer, and from having such complaints adjusted without the intervention of the exclusive representative for the collective-bargaining unit of which they are a part, as long as such representative is given an opportunity to be present at said adjustment and to make its views known, and as long as the adjustment is not inconsistent with the terms of an agreement between the employer and the exclusive representative which is then in effect: *And provided further,* That such employee or employees shall not be represented by an officer or agent of any employee organization other than the exclusive representative.

(b) Any employee organization may file a request for recognition as the exclusive representative under subsection (a) of this section with an employer and the Commission. Such request shall allege that a majority of the employees in an appropriate collective-bargaining unit wish to be represented for the purpose of collective bargaining by such organization, shall describe the grouping of jobs or positions which constitute the unit claimed to be appropriate, shall be supported by credible evidence demonstrating that a majority of the employees in the appropriate unit desire the organization requesting recognition as their exclusive representative, and shall indicate the name, address, and telephone number of any other interested employee organization, if known to the requesting organization. The employer shall, at the direction of the Commission, post a copy of such request on a bulletin board at each facility in which members of the unit claimed to be appropriate are employed. The request shall remain posted for a period of twenty-one days from the date on which the Commission directs that it be posted. The Commission shall maintain a public docket of all requests filed under this section. Such docket shall contain a copy of the request but shall not include any accompanying evidence of support. The request shall remain on the public docket until the case is closed.

Such request for recognition shall be granted by the employer unless—

(i) the employer has a good faith doubt as to the accuracy or validity of the evidence demonstrating majority support in an appropriate unit or as to the appropriateness of the claimed unit; or

(ii) there is currently in effect a lawful written collective-bargaining agreement between the employer and another employee organization covering any employees included in the unit described in the request for recognition; or

(iii) within the previous twelve months another employee organization has been lawfully recognized or certified as the exclusive representative of any employees included in the unit described in the request for recognition; or

(iv) the Commission has, within the previous twelve months, conducted a secret ballot election involving any employees included in the unit described in the request for recognition in which a majority of the valid ballots cast chose not to be represented by any employee organization: *Provided,* That, an employer shall not grant a request for recognition filed pursuant to this subsection but shall refer the matter to the Commission pursuant to subsection (c) (ii) below if another employee organization files with the employer a competing request for recognition within twenty-one days after the posting or notice of the original request, which competing request is supported by credible evidence demonstrating that at least 10 per centum of the employees in the appropriate collective-bargaining unit desire such organization as their exclusive representative.

An employee organization that is granted recognition pursuant to this subsection shall file a written notice to that effect with the Commission within ten days after being granted such recognition. Such notice shall be kept in the public docket maintained by the Commission for a period of twenty-one days, during which period a petition may be filed with the Commission by another employee organization, in accordance with rules and regulations prescribed by the Commission for such filing, challenging, and recognition. If the recognition is not challenged during the twenty-one day period, or if it is challenged but the challenge is not sustained, the recognition shall become final and the case shall be closed. The employee organization shall thereafter be eligible for certification by the Commission pursuant to subsection (e) (iii) of this section.

(c) A petition may be filed with the Commission in accordance with rules and regulations prescribed by it for such filing, asking it to investigate and decide the question of whether employees have selected or designated an exclusive representative under subsection (a) of this section by—

(i) an employee organization alleging that a substantial number of the employees in an appropriate collective-bargaining unit wish to be represented for the purpose of collective bargaining by such organization, which petition shall describe the grouping of jobs or positions which constitute the unit claimed to be appropriate, shall be supported by credible evidence demonstrating the claimed employee support, and shall indicate the name, addresses, and telephone number of any other interested employee organization, if known to the requesting organization. The employer shall, at the direction of the Commission, post a copy of such request on a bulletin board at each facility in which members of the unit claimed to be appropriate are employed. The request shall remain posted for a period of twenty-one days from the date on which the Commission directs that it be posted. The Commission shall maintain a public docket of all requests filed under this section. Such docket shall contain a copy of the request but shall not include any accompanying evidence of support. The request shall remain on the public docket until the case is closed;

(ii) an employer alleging that it has received a request for exclusive recognition from one or more employee organizations; or

(iii) by one or more employees in an appropriate collective-bargaining unit asserting that the employees in an appropriate unit no longer desire a particular employee organization as their exclusive representative: *Provided,* That such petition is supported by signed statements to that effect from at least 30 per centum of the employees in the appropriate collective-bargaining unit.

(d) Upon receipt of such a petition, the Commission or its agents shall conduct such inquiries and investigations or hold such hearings as it shall deem necessary in order to decide the question raised by the petition. The Commission's determination may be based upon the evidence adduced in such inquiries, investigation, or hearings as it or its agents shall make or hold, or upon the results of a secret ballot election as it shall direct and conduct if deemed necessary: *Provided,* That no employee organization shall appear on a ballot unless it submits credible evidence demonstrating that at least 10 per centum of the employees in the appropriate collective-bargaining unit desire it as their exclusive representative; *Provided further,* That whenever one or more additional employee organizations has filed a timely request to intervene in the proceedings, which request is supported by credible evidence demonstrating that at least 10 per centum of the employees in the appropriate

collective-bargaining unit desire it as their exclusive representative, the Commission shall direct an election by secret ballot and shall certify the results thereof: *And provided further,* That the Commission shall dismiss without determining the questions raised therein any petition filed pursuant to subsection (c) of this section if—

(i) the petition is filed pursuant to subsection (c) (i) and is not supported by credible evidence demonstrating that at least 30 per centum of the employees in the collective bargaining unit described therein wish to be represented for the purpose of collective bargaining by the organization seeking recognition; or

(ii) there is currently in effect a lawful written collective-bargaining agreement between such employer and an employee organization other than the petitioner covering any employees included in the unit described in the petition, unless such agreement has been in effect for more than three years, or unless the request for recognition if filed less than sixty days prior to the expiration date of such agreement or such greater number of days prior to said expiration date as the Commission may determine is reasonable because of the budget-making procedure of the employer; or

(iii) within the previous twelve months an employee organization other than the petitioner, or other than the employee organization challenged if the petition is filed pursuant to subsection (c) (iii), has been lawfully recognized or certified as the exclusive representative of any employees included in the unit described in the petition; or

(iv) the Commission has, within the previous twelve months, conducted a secret ballot election involving any employees included in the unit described in the petition in which a majority of the valid ballot cast chose not to be represented by any employee organization.

(e) The Commission shall certify an employee organization as the exclusive representative of the employee in an appropriate collective-bargaining unit if—

(i) the organization receives a majority of the valid ballots cast in an election conducted pursuant to subsection (d) of this section; or

(ii) the Commission determines, as provided in subsection (d) of this section, without an election that the organization represents an uncoerced majority of the employees in such unit and that such majority status was achieved without the benefit of unlawful employer assistance as defined in section 10 (a) of this Act or that the organization would represent such an uncoerced majority if the employer had not engaged in unlawful acts as defined in section 10(a) of this Act; or

(iii) upon the request of an employee organization that has been recognized by an employer pursuant to subsection (b) of this section, the Commission is satisfied that the organization represents an uncoerced majority of employees in such unit and that such majority status was achieved without the benefit of unlawful employer assistance as defined in section 10(a) of this Act.

(f) In each case where the appropriateness of the claimed unit is in issue, the Commission shall decide the question on the basis of the community of interest among the employees, their wishes, and/or their established practices, including among other things, the extent to which such employees have joined an employee organization and in a manner which shall avoid overfragmentation of the employees of the employer: *Provided,* That—

(i) except in regard to firefighters, educational employees, and public safety officers, a unit shall not be considered appropriate if it includes both supervisors and nonsupervisors; in regard to firefighters, a unit that includes both supervisors and nonsupervisors may be considered appropriate; and in regard to educational employees and public safety officers, a unit that includes both supervisors and nonsupervisors may be considered appropriate if a majority of the employees in each category indicate by vote or other credible evidence that they desire to be included in such unit; and

(ii) a unit including both professional and nonprofessionals shall not be appropriate unless a majority of the employees in each category indicate by vote or other credible evidence that they desire to be included in such unit.

(g) A determination by the Commission that an employee organization has been selected as the exclusive representative for the employees in an appropriate unit shall not be subject to judicial review or other collateral attack.

IMPASSE IN COLLECTIVE BARGAINING OVER THE TERMS AND CONDITIONS OF EMPLOYMENT AND OTHER MATTERS OF MUTUAL CONCERN RELATING THERETO

SEC. 7. (a) Either an employer or an exclusive representative may declare that an impasse has been reached between them in collective bargaining over the terms and conditions of employment and other matters of mutual concern relating thereto, and may request the Service to appoint a mediator for the purpose of assisting them in reconciling their differences and resolving the controversy on terms which are mutually acceptable. If the Service determines that an impasse exists, it shall, in no event later than five days after the receipt of a request, appoint a mediator in accordance with rules and regulations for such appointment prescribed by the Service. The Service may, on its own volition, declare impasse has been reached in collective bargaining over the terms and conditions of employment and other matters of mutual concern relating thereto and appoint a mediator. The mediator shall meet with the parties or their representatives, or both, forthwith, either jointly or separately, and shall take such other steps as he may deem appropriate in order to persuade the parties to resolve their differences and effect a mutually acceptable agreement: *Provided,* That the mediator shall not, without the consent of both parties, make findings of fact or recommend terms of settlement. The services of the mediator, including, if any, per diem expenses, shall be provided by the Service without cost to the parties. Nothing in this subsection shall be construed to prevent the parties from mutually agreeing upon their own mediation procedure and in the event of such agreement, the Service shall not appoint its own mediator unless failure to do so would be inconsistent with the effectuation of the purpose and policy of this Act.

(b) If the mediator is unable to effect settlement of the controversy within fifteen days after his appointment, either party may, by written notification to the other, request that their differences be submitted to factfinding with recommendations. Such recommendations shall be advisory only, unless within five days after giving or receiving the aforementioned written request, the exclusive representative notifies the employer, in writing, that it desires the recommendations of the fact finder to be binding. Within ten days after receipt of the aforesaid written request for factfinding, the parties shall select a person to serve as fact finder and obtain a commitment from said person to serve. If they are unable to agree upon a fact finder or to obtain such a commitment within said time, either party may request the Service to designate a fact finder. The Service shall, within five days after receipt of such request, designate a fact finder in accordance with rules and regulations for such designation prescribed by the Service. The fact finder so designated shall not, without the consent of both parties, be the same person who was appointed mediator pursuant to subsection (a) of this section.

The fact finder shall, within ten days after his appointment, meet with the parties or their representatives, or both, forthwith, either jointly or separately, and may make inquiries and investigations, hold hearings, and take such other steps as he may deem appropriate. For the purpose of such hearings, investigations, and inquiries, the fact finder shall have the power to issue subpenas requiring the attendance and testimony of witnesses and the production of evidence. The several departments, commissions, divisions, authorities, boards, bureaus, agencies, and officers of the United States or of the State, territory, or possession affected, or any political subdivision thereof, shall furnish the fact finder, upon his request, with all records, papers, and information in their possession relating to any matter under investigation by or in issue before the fact finder. If the dispute is not settled within thirty days after his appointment, the fact finder shall make findings of fact and recommend terms of settlement, which recommendations shall be advisory only, unless the exclusive representative has previously notified the employer that such recommendations are to be binding in which case they shall be binding.

(c) If the recommendations of the fact finder are binding—

(i) the exclusive representative shall be prohibited from engaging and employees shall be prohibited from participating in a strike for the purpose of resolving a dispute which has been submitted to the fact finder and in regard to which he has recommended terms of settlement and nothing contained in this Act or in any other law of the United States shall prevent a court from granting a restraining order or temporary or permanent injunction in a case involving a strike for such purposes; and

(ii) the parties shall comply with the recommendations of the fact finder: *Provided,* That if the employer does not have the legal authority to comply with such recommendations or any part thereof, it shall take such actions as may be necessary to enable it to comply, including the submission of requests to appropriate legislative bodies.

(d) If the recommendations of the fact finder are advisory only, they shall, together with the findings of fact, be submitted in writing to the parties and the Service privately before they are made public. Either the Services, the fact finder, the employer, or the exclusive representative may make such findings and recommendations public if the dispute is not settled within ten days after their receipt from the fact finder.

(e) The costs for the services of the fact finder, including, if any, per diem expenses and actual and necessary travel and subsistence expenses, and any other mutually incurred costs, shall be borne equally by the employer and the exclusive representative. Any individually incurred costs shall be borne by the party incurring them.

(f) Nothing in this section shall be construed to prohibit an employer and an exclusive representative from agreeing to substitute their own procedure for resolving impasse in collective bargaining for that provided herein or from agreeing to utilize for the purposes of this section any other governmental or other agency or person in lieu of the Service.

DISPUTE OVER THE INTERPRETATION OR APPLICATION OF AGREEMENTS

SEC. 8. (a) An employer and an exclusive representative who enter into an agreement covering terms and conditions of employment and other matters of mutual concern relating thereto may include in such agreement procedures for binding arbitration of such disputes as may arise involving the interpretation or application of such agreement or of established policies or practices of such employer affecting terms and condi-

tions of employment and other matters of mutual concern relating thereto.

(b) If such agreement does not include procedures of the type provided for in subsection (a) of this section, either party to the agreement may submit such disputes to binding arbitration pursuant to rules and regulations prescribed for such purpose by the Commission.

(c) Where a party to such agreement is aggrieved by the failure, neglect, or refusal of the other party to proceed to arbitration pursuant to the procedures provided therefor in such agreement or pursuant to subsection (b) of this section, such aggrieved party may file a complaint in the appropriate district court of the United States or the appropriate court of the affected State, territory, or possession of the United States for a summary action without jury seeking an order directing that the arbitration proceed pursuant to the procedures provided therefor in such agreement or pursuant to subsection (b) of this section.

(d) Unless the award of the arbitrator is deficient because—

(1) it was procured by corruption, fraud, or other misconduct; or

(2) of partiality of the arbitrator; or

(3) the arbitrator exceeded his powers or so imperfectly executed them that a final and definite award upon the subject matter was not made,

such award shall be final and binding upon the parties and may be enforced by the appropriate district court of the United States or the appropriate court of the affected State, territory, or possession of the United States.

STRIKES

SEC. 9. (a) Except as otherwise expressly provided in subsections (b) and (c) of this section and in subsection (c) of section 7, nothing in this Act or in any other law or enactment of the United States, or of any State, territory, or possession of the United States, or any political subdivision thereof, shall be construed to interfere with, impede, or diminish the right of an exclusive representative to engage or of an employee to participate in a strike arising out of or in connection with a labor dispute.

(b) A restraining order or temporary or permanent injunction may be granted in a case involving a strike by an exclusive representative arising out of or in connection with a labor dispute, only on the basis of findings of fact made by the appropriate district court of the United States after due notice and hearing prior to the issuance of such restraining order or injunction that—

(i) the commencement or continuance of such strike poses a clear and present danger to the public health or safety which in light of all relevant circumstances it is in the best public interest to prevent: *Provided,* That any restraining order or injunction issued by a court for this reason shall prohibit only such specific act or acts as shall be expressly determined in said findings of fact to pose such clear and present danger and shall remain in effect only for so long as such clear and present danger continues to exist; or

(ii) the exclusive representative has failed to make a reasonable effort to utilize the procedures provided in section 7 of this Act for the resolution of impasse in collective bargaining: *Provided,* That any restraining order or injunction issued by a court for this reason shall indicate the specific act or acts which the representative has failed to perform and shall remain in effect only until said act or acts shall have been performed.

(c) Nothing contained in this Act shall prevent a court from granting a restraining order or temporary or permanent injunction in a case involving a strike in violation of any lawful provision of an agreement covering terms and conditions of employment and other matters of mutual concern relating thereto.

UNLAWFUL ACTS

SEC. 10. (a) It shall be unlawful for an employer to—

(1) impose or threaten to impose reprisals on any employee, discriminate or threaten to discriminate against any employee or otherwise interfere with, restrain, or coerce any employee because of his exercise of rights guaranteed by this Act; or

(2) dominate, interfere with, or assist in the formation or administration of any employee organization; or

(3) encourage or discourage membership in any employee organization by discrimination in regard to hire, tenure of employment, or any term or condition of employment: *Provided,* That nothing contained in this subsection shall prevent an employer from requiring, as a condition of continued employment, payment to or membership in an exclusive representative pursuant to section 5(c) and section 5(d) of this Act, respectively: *Provided further,* That no employer shall justify any discrimination against any employee for nonmembership in any employee organization if he has reasonable grounds for believing such membership was—

(i) not available to the employee on the same terms and conditions generally applicable to other members; or

(ii) denied or terminated for reasons other than the failure of the employee to tender the dues, fees, and assessments uniformly required as a condition of acquiring or retaining membership; or

(4) deny to any employee organization the rights guaranteed to it by this Act; or

(5) refuse or fail to bargain in good faith with an exclusive representative if requested to do so; or

(6) fail to comply with any provision of this Act. (b) It shall be unlawful for—

(1) an employee organization to restrain or coerce any employee in the exercise of the rights guaranteed to him by this Act: *Provided,* That this subsection shall not impair the right of an employee organization to prescribe its own rules with respect to the acquisition or retention of membership therein; or

(2) an employee organization to restrain or coerce an employer in the selection of its representative for the purpose of collective bargaining or the adjustment of grievances; or

(3) an exclusive representative to refuse or fail to bargain in good faith with an employer if requested to do so.

PREVENTION OF UNLAWFUL ACTS

SEC. 11. (a) The Commission is empowered, as hereinafter provided, to prevent any person from engaging in any unlawful act as defined in section 10 of this Act. This power shall not be affected by any other means of adjustment or prevention that has been or may be established by agreement, law, or otherwise.

(b) Whenever it is charged that any person has engaged in or is engaging in any such unlawful act, the Commission or any agent or agency designated by the Commission for such purpose, shall have the power to issue and cause to be served upon such person a complaint stating the charges in that respect, and containing a notice of hearing before the Commission or a member thereof, or before a designated agent or agency, at a place therein fixed, not less than five days after the serving of said complaint: *Provided,* That no complaint shall issue based upon any unlawful act occurring more than six months prior to the filing of the charge with the Commission and the service of a copy thereof upon the person against whom such charge is made, unless the person aggrieved thereby was prevented from filing such charge by reason of service in the Armed Forces, in which event the six-month period shall be computed from the date of his discharge. Any such complaint may be amended by the member, agent, or agency conducting the hearing or the Commission in its discretion at any time prior to the issuance of an order based thereon: *Provided,* That the person complained of is not unfairly prejudiced by such amendment. The person so complained of shall have the right to file an answer to the original or amended complaint and to appear in person or otherwise and give testimony at the time and place fixed in the complaint. In the discretion of the member, agent, or agency conducting the hearing or the Commission, any other person may be allowed to intervene in the said proceeding and to present testimony. Any such proceeding shall, so far as practicable, be conducted in accordance with the provisions of subchapter II of chapter 5 of title 5, United States Code: *Provided,* That the rules of evidence, whether statutory, common law, or adopted by rules of court, shall not be controlling.

(c) The testimony taken by such member, agent, or agency of the Commission shall be reduced to writing and filed with the Commission. Thereafter, in its discretion, the Commission, upon notice, may take further testimony or hear argument. If upon the preponderance of the testimony taken, the Commission shall be of the opinion that any person named in the complaint has engaged in or is engaging in any such unlawful act, then the Commission shall state its findings of fact and shall issue and cause to be served upon such person, an order requiring such person to cease and desist from such unlawful act, and to take such affirmative action as will effectuate the purpose and policy of this Act, including the payment of damages and/or the reinstatement of employees: *Provided,* That where an order directs reinstatement of an employee, back pay may be required of the employer and/or the employee organization, as the case may be, responsible for the discrimination suffered by him. Such order may further require such person to make reports from time to time showing the extent to which it has complied with the order. If upon the preponderance of the testimony taken the Commission shall not be of the opinion that the person named in the complaint has engaged in or is engaging in any such unlawful act, then the Commission shall state its findings of fact and shall issue an order dismissing the said complaint. No order of the Commission shall require the reinstatement of any individual as an employee who has been suspended or discharged, or the payment to him of any back pay, if such individual was suspended or discharged for cause. In case the evidence is presented before a member of the Commission, or before an agent or agency thereof, such member, or such agent or agency, as the case may be, shall issue and cause to be served upon the parties to the proceeding a proposed report, together with a recommended order, which shall be filed with the Commission and if no exceptions are filed within twenty days after service thereof upon such parties, or within such further period as the Commission may authorize, such recommended order shall become the order of the Commission and become effective as therein prescribed.

(d) If exceptions are filed to the proposed report and recommended order, the Commission shall determine whether such exceptions raise substantial issues of fact or law. If it determines that the exceptions do raise such issues, it shall grant a review. If the Commission determines that the exceptions do not raise such issues, it shall refuse to grant a review, and such recommended order shall become the order of the Commission, and become effective as therein provided.

(e) Until the record in a case shall have been filed in a court, as hereinafter provided, the Commission may at any time, upon reasonable notice and in such manner as it

shall deem proper, modify, or set aside, in whole or in part, any finding or order made or issued by it.

(f) The Commission or the charging party shall have power to petition any court of appeals of the United States in the circuit, wherein the unlawful act in question occurred or wherein the person named in the complaint resides or transacts business, for the enforcement of such order and for appropriate temporary relief or restaining order, and shall file in the court the record in the proceedings, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Commission. No objection that has not been urged before the Commission, or its member, agent, or agency, shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Commission with respect to questions of fact, if supported by substantial evidence on the record considered as a whole shall be conclusive. If any person shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material, and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Commission, or its member, agent, or agency, the court may order such additional evidence to be taken before the Commission, or its member, agent, or agency, and to be made a part of the record. The Commission may modify its findings as to the facts, or make new findings by reason of additional evidence so taken and filed, and it shall file such modified or new findings, which findings with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive, and shall file its recommendations, if any, for the modification or setting aside of its original order. Upon the filing of the record with it, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28, United States Code.

(g) Any person aggrieved by a final order of the Commission granting or denying, in whole or in part, the relief sought may obtain a review of such order in any circuit court of appeals of the United States in the circuit wherein the unlawful act in question was alleged to have occurred or wherein such person resides or transacts business, or in the United States Court of Appeals for the District of Columbia, by filing in such court within sixty (60) days, a written petition praying that the order of the Commission be modified or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Commission, and thereupon the aggrieved person shall file in the court the record in the proceeding, certified by the Commission, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall proceed in the same manner as in the case of an application by the Commission under subsection (e) of this section, and shall have the same jurisdiction to grant to the Commission such temporary relief or restraining order as it deems just and proper, and in like manner to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside, in whole or in part, the order of the Commission. The findings of the Commission with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall in like manner be conclusive.

(h) In any proceeding for enforcement or review of a Commission order held pursuant to this section, evidence adduced during a representation proceeding held pursuant to section 6 of the Act shall not be included in the record required to be filed under section 11 (f) and (g) of the Act, nor shall the court consider the record of such proceeding.

(i) The commencement of proceedings under subsection (e) or (f) of this section shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

(j) When granting appropriate temporary relief or restraining order, or making and entering a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part, an order of the Commission, as provided in this section, the jurisdiction of courts sitting in equity shall not be limited by the provisions of section 20 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes", approved October 15, 1914, as amended (29 U.S.C. 52), or the provisions of the Act entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes", approved March 23, 1932 (29 U.S.C. 101-115).

(k) Petitions filed under this Act shall be heard expeditiously, and if possible within ten days after they have been docketed.

(l) The Commission shall have power, upon issuance of a complaint as provided in subsection (b) of this section charging that any person has engaged in or is engaging in an unlawful act as defined in section 10 of this Act, to petition any district court of the United States (including the District Court of the United States for the District of Columbia), within any district wherein the unlawful act in question is alleged to have occurred or wherein such person resides or transacts business, for appropriate temporary relief or restraining order. Upon the filing of any such petition the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction to grant to the Commission such temporary relief or restraining order as it deems just and proper.

(m) (1) For the purpose of all hearings and investigations conducted by the Commission or its duly authorized agents or agencies, section 11 of the National Labor Relations Act (49 Stat. 455; 29 U.S.C. 161) shall apply.

(2) Any person who shall willfully resist, prevent, impede, or interfere with any member of the Commission or a member, agent, or agency thereof in the performance of duties pursuant to this Act shall be punished by a fine of not more than $5,000 or by imprisonment for not more than one year, or both.

APPLICABILITY OF THIS ACT

SEC. 12. This Act shall be the exclusive method for regulating the relationship between employers and their employees in regard to all matters covered herein: *Provided*, That if any State, territory, or possession of the United States shall by law establish a system for regulating the relationship between employers and their employees which is substantially equivalent to the system established by this Act, said State, territory, or possession, or any employee organization which has been recognized as the representative of employees pursuant to the system in said State, territory, or possession, may apply to the Commission for an exemption from the provisions of this Act. If the Commission determines that the system of regulation established by said State, territory, or possession is substantially equivalent to the system established herein, it shall grant the requested exemption, to take effect on a date fixed by the Commission. Any State, territory, possession, or person aggrieved by the decision of the Commission granting or denying the request for an exemption may obtain a review of such decision in the same manner as provided under section 11(f) of this Act.

MISCELLANEOUS

SEC. 13. (a) Except as otherwise expressly provided herein, nothing in this Act shall be construed to annul, modify, or preclude the renewal or continuation of any lawful agreement entered into prior to the effective date of this Act between an employer and an employee organization covering terms and conditions of employment and other matters of mutual concern relating thereto.

(b) All laws or parts of laws of the United States inconsistent with the provisions of this Act are modified or repealed as necessary to remove such inconsistency, and this Act shall take precedence over all ordinances, rules, regulations, or other enactments of any State, territory, or possession of the United States or any political subdivision thereof. Except as otherwise expressly provided herein, nothing contained in this Act shall be construed to deny or otherwise abridge any rights, privileges, or benefits granted by law to employees.

(c) If any provision of this Act shall be held invalid, other provisions of this Act shall not be affected thereby.

EFFECTIVE DATE

SEC. 14. The Act shall take effect one hundred and twenty days following its enactment.

By Mr. STEVENSON (for himself and Mr. PERCY):

S. 3296. A bill to amend the Soldiers and Sailors Civil Relief Act. Referred to the Committee on Armed Services.

Mr. STEVENSON. Mr. President, nothing is more conducive to a child's well-being than loving parents and a stable homelife. In cases where the natural parents are unable or unwilling to provide a child with care and affection, the child's interests are best served by adoption.

As persons make the enormous emotional and financial commitment involved in becoming adoptive parents, it is extremely important that they have the maximum possible assurance that the adoption decree cannot be overturned at some later date. Doubts about the finality of adoption decrees inevitably discourage adoptions and increase the chances that an individual's childhood will be spent in an institution or a succession of foster homes.

The legislation I introduce today, on behalf of myself and the senior Senator from Illinois (Mr. PERCY), removes a cloud placed on the finality of adoption decrees by the Soldiers and Sailors Relief Act of 1940. That act gives members of the Armed Forces two main types of protection in lawsuits to which they are parties. The first type of protection is the postponement of the lawsuit. Section 521 of the act permits the court to grant on its own motion a stay of the proceedings at any stage; in addition, it requires that the court grant such a stay on the motion of the serviceman or anyone acting on his behalf unless the court concludes that the ability of the serviceman to participate in the proceedings "is not materially affected by reason of his

military service." The power of the serviceman to postpone a proceeding is in no way affected by the legislation we introduce today.

The second type of protection afforded the serviceman is the power to reopen default judgments entered against him. Section 520(4) of the act provides that at any time up to 90 days after he leaves the Armed Forces, the serviceman may reopen any default judgment entered while he was in service and for 30 days thereafter. Under that section, all the serviceman has to do is make a showing that he has "a meritorious or legal defense to the action or some part thereof." The sole purpose and effect of the legislation we introduce today is the creation of a narrow exception to section 520(4) in cases involving the parental rights of military personnel. In such cases, a default judgment would be final as against military personnel who receive "reasonable notice" of the proceeding. In all other cases, military personnel would retain the same power to reopen default judgments as they have under present law.

It is most unlikely that military personnel who receive actual notice of an adoption proceeding would fail to participate in that proceeding because they are members of the Armed Forces. It is equally unlikely that any member of the Armed Forces who had taken an interest in the welfare of the child would fail to receive actual notice. Thus, it is not unfair to put military personnel on the same footing as all other natural parents vis-a-vis the reopening of adoption decrees. If on the other hand such reopening remains a possibility, the result will probably be doubt in the minds of virtually all who consider becoming adoptive parents and anxiety in the hearts of virtually all who have become adoptive parents.

It is significant that existing law already protects the rights of persons who hold property as bona fide purchasers for value against any claims the serviceman might make upon reopening the case. Surely the interests of a child and his adoptive parents are no less worthy of protection.

The need to encourage adoptions and to assure the finality of adoption decrees is so great that it could well justify putting members of the Armed Forces on the same footing as all other natural parents who are involved in adoption proceedings. This legislation does not go so far; it permits military personnel to retain a special right to secure stays not available to civilians.

I urge the prompt enactment of this legislation, which is supported by the Child Welfare League of America and the Illinois Commission on Children.

RIGHTS OF UNWED SERVICEMEN FATHERS

Mr. PERCY. Mr. President, on behalf of the Commission on Children, I join Senator STEVENSON today in the introduction of an amendment to the Federal Soldiers and Sailors Civil Relief Act to facilitate both adoption procedures and the rights of unwed servicemen fathers.

On April 3, 1972, the Supreme Court ruled in Stanley against Illinois that State laws which deny unwed fathers a hearing to determine their fitness as parents are unconstitutional under the equal protection clause of the 14th amendment. The Stanley decision followed by the Rothstein decision—Rothstein vs. Lutheran Social Services of Wisconsin—which upheld a Wisconsin father's right to a fitness hearing, raised enormous legal complications for the placement of children for adoption. Where the natural father is unidentified, as is the rule in most illegitimacy cases, securing paternal consent can be a difficult, expensive and time-consuming process, resulting in delayed placements which often jeopardize the child's chances for adoption.

The Supreme Court, however, anticipated such complications and stated in a footnote to the Stanley decision that States could satisfy notification requirements by publishing "to whom it may concern" notices where personal notice or notice by certified mail was not successful. Many States subsequently have adopted legislation that both protects the rights of unwed fathers yet removes the legal red tape which delay adoptions.

State laws, however, cannot cover a large class of unwed fathers, for servicemen cannot have their legal rights terminated by publication. In cases where the putative father is in the military service, he is protected by the Federal Soldiers and Sailors Civil Relief Act of 1940 which entitles him to vacate certain default judgments rendered against him while he is in the service. Such putative fathers, therefore, could reopen adoption cases within 90 days of their discharge from the service even though State statutory notice provisions are complied with.

Our amendment is necessary because although the rights of the biological father must be given full consideration, equal consideration must also be accorded to the best interests of the child and the adoptive parents. Our amendment would not take rights away from the unwed serviceman father. It would simply make it necessary for such a father to assert before an adoption that his rights would be impaired by reason of his military service. He would no longer be entitled to reopen the case after a court order of adoption has been made. Our amendment would allow the interested father to assert his rights and ask for a postponement of the fitness hearing until his military duties allowed him to appear in court; at the same time, it would allow the courts to default the custodial rights of the uninterested father who fails to respond to notification.

Adopting a child is rarely without problems. If finality in adoption cases cannot be assured, it can lead to untold heartbreak for adoptive parents and irreversible psychological harm for the child. In the interest of considering the needs of all parties concerned in adoption cases, I hope my colleagues will see fit to enact our amendment.

ADDITIONAL COSPONSORS OF BILLS

S. 176

At the request of Mr. THURMOND, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 176, to provide for a special addition to the pensions of veterans of World War I.

S. 752

At the request of Mr. HUGH SCOTT, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 752, to incorporate Pop Warner Little Scholars.

S. 2330

At the request of Mr. THURMOND, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 2330, to provide for the increase of capacity and the improvement of operations of the Panama Canal.

S. 2518

At the request of Mr. MONDALE, the Senator from Ohio (Mr. METZENBAUM) was added as a cosponsor of S. 2518, the "Women's Educational Equity Act."

S. 2690

At his request, the Senator from Texas (Mr. TOWER) was added as a cosponsor of S. 2690, to amend title XVIII of the Social Security Act to liberalize the conditions under which posthospital home health services may be provided under part A thereof, and home health services may be provided under part B thereof.

S. 2877

Mr. HASKELL. Mr. President, the Meeting House Preservation Act, S. 2877, was introduced earlier this year by the senior Senator from Texas (Mr. TOWER) and referred to the Committee on Interior and Insular Affairs.

It provides for a grant program to be set up by the Secretary of the Interior so that a historic site that otherwise might be lost shall be preserved. This program is designed to add to other programs as a part of our nationwide bicentennial celebration.

Mr. President, I ask unanimous consent that I might be added as a cosponsor of S. 2877.

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

Mr. HASKELL. The prime candidate in Colorado for preservation under this program would be the old Tivoli Brewing Co. building in Denver.

The building has already been designated as a Denver landmark. It is located in the Auraria Center for Higher Education in Denver where the Denver Community College, Metropolitan State College and the University of Colorado Denver Center plan to share a common site for their educational center and to share common facilities.

At the present, however, there are no funds available for the restoration of this structure which would provide a historic meeting house for today's students.

I am pleased to be able to join as a

consponsor of this legislation and hope to be able to participate in the Interior Committee deliberations on the bill. I have received many letters of support for the legislation and would like to ask unanimous consent to have two of them printed at this point in the RECORD—one from the Governor of Colorado, John D. Vanderhoof, and the other from State Representative Richard D. Lamm.

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

HOUSE OF REPRESENTATIVES,
THE STATE OF COLORADO,
Denver, Colo., March 18, 1974.

Hon. FLOYD HASKELL,
U.S. Senator, Old Senate Office Building, Washington, D.C.

DEAR FLOYD: We urge you to take action to insure passage of Senate Bill 2877, The Meetinghouse 76 Preservation Act, which we understand would contain funds to help preserve the Tivoli Brewing Company building here in Denver.

This is an historic piece of Colorado, and we ought to do all we can to preserve it.

Yours very truly,
RICHARD D. LAMM,
State Representative.

THE STATE OF COLORADO,
EXECUTIVE CHAMBERS,
Denver, Colo., March 20, 1974.

Hon. FLOYD K. HASKELL,
U.S. Senator, Old Senate Office Building, Washington, D.C.

DEAR FLOYD: I am writing to register my support of Senate Bill 2877, the "Meeting House '76 Preservation Act."

The Tivoli Brewing Building is one of Colorado's and Denver's most significant historic structures. At the present, however, there are no funds available for the restoration of this structure which is located in the new Auraria Center for Higher Education.

It has been designated a Denver landmark and it is the intent of the Auraria Center for Higher Education to use the structure for student and educational activities.

Senate Bill 2877 might well be the answer. I understand the Bill is currently in the Senate Committee on Interior and Insular Affairs. May I ask that you give this measure your favorable consideration at the appropriate time.

Kindest regards.

Sincerely,
Hon. JOHN D. VANDERHOOF.

S. 2906

At the request of Mr. MONDALE, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor to S. 2906, a bill to amend the Internal Revenue Code of 1954 to permit taxpayers to utilize the deduction for personal exemptions as under present law or to claim a credit against tax of $200 for each such exemption.

At his own request Mr. HATFIELD was added as a cosponsor of S. 2906, to amend the Internal Revenue Code of 1954 to permit taxpayers to utilize the deduction for personal exemptions as under present law or to claim a credit against tax of $200 for each such exemption.

S. 3095

At the request of Mr. HASKELL, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 3095, a bill to deny treatment as a foreign tax credit to any payment which is in reality a royalty paid to a foreign government in connection with the extraction of oil or gas from that country.

S. 3098

At the request of Mr. DOLE, the Senators from Hawaii (Mr. FONG and Mr. INOUYE) were added as cosponsors of S. 3098, to amend the Emergency Petroleum Allocation Act of 1973 to provide for the mandatory allocation of plastic feedstocks.

S. 3231

At the request of Mr. ROBERT C. BYRD, for Mr. EASTLAND, the Senator from Florida (Mr. GURNEY) was added as a cosponsor of S. 3231, the Poultry Indemnity bill.

SENATE RESOLUTION 302—SUBMISSION OF A RESOLUTION ON THE "RIVER BLINDNESS" REHABILITATION PROGRAM FOR THE SAHELIAN COUNTIES OF AFRICA

(Referred to the Committee on Foreign Relations.)

THE SAHELIAN DROUGHT AND RIVER BLINDNESS

Mr. BROOKE. Mr. President, the drought in the sub-Saharan Sahel region of Africa has caused incalculable human suffering and social and economic disruption on a scale far beyond the resources of the countries most affected. Thus, Mali, Mauritania, Senegal, Upper Volta, Niger, and Chad have been compelled to rely on extensive aid from the United States and others in attempting to limit the suffering of their peoples.

There has been a gratifying response to this disaster from the international community. I know it must have been especially heartening for friends of Africa to see Nigeria and Zaire, not long ago undergoing trials of their own, making substantial, indeed generous, donations to their fellow Africans in distress.

It is important to distinguish between short-term, quick reaction measures needed presently—in airlifting food and medicine, for example—and the long-term rehabilitation requirements arising from this awesome natural disaster.

The U.S. Government and private American voluntary agencies have, on the whole, acted with speed and effectiveness in trying to meet the immediate needs. We have also begun, according to an AID report of February 4, 1974, "a new rehabilitation and recovery program." AID says that the purpose of the "new" program is to "assist each country to expand its capacity to cope with existing emergency conditions, and provide a base for long-term development that will reduce the ravages of drought." I have no quarrel with the stated objectives of concentrating on food storage and distribution; range management and irrigation, agricultural production, and health.

I am concerned, however, as to whether or not we can, as stated, make the impact of this "rehabilitation" program felt in the next year to 18 months. I have particular concerns in the health field.

After making due allowance for any political sensitivities, the need to prevent duplication or overlapping of programs, and to get our priorities straight in response to what Africans themselves see as their primary needs—after taking all these factors into consideration, I am disturbed by the apparent lack of provision for a group which may be totally overlooked—those who, already weakened by disease, malnutrition, and the rigors of displacement, may be abandoned, not because their presence is unknown, but because it may be thought nothing can be done for them, or that they are "only" a drain on an already desperately over burdened area.

I speak of the uncounted tens and hundreds of thousands of blind and nearly blind Africans who, to my knowledge, have nowhere to turn for their rehabilitation. The loss of sight is everywhere regarded with fear, even horror and revulsion, and sometimes with the resigned and crushing belief that a blinded person is unalterably "afflicted of God." Even in the so-called sophisticated societies of the West, attitudes toward blindness and blind people are often marked by a desire to segregate blind people, to avoid them, and to fear both blind people and their affliction. National surveys tell us that Americans fear blindness more than anything except cancer. I make this point about attitudes because we are now trying literally to help rehabilitate a vast area where one of the major health problems is blindness.

There are long-range research projects to fight river blindness, a fly-borne scourge in the Sahel which empties entire villages, causes loss of sight during the most productive years of human life, and actually increases in normally semi-arid, pastoral areas now turning into desert. But after years, no real remedy has been found, and blindness is now increasing rapidly throughout the region. As long ago as 1970, the rate of actual blindness in many Sahelian villages was 1 in 10; and more were suffering from the early stages of river blindness, and it was said they would eventually lose their sight.[1] Unfortunately, that is happening now.

Some authoritative estimates put the worldwide total of those affected by river blindness at 200 million.[2] And this estimate is almost 7 years old. A more recent professional study says "more than 30 million people are infected" by river blindness in Africa alone.[3] But the stark, overriding fact is that we do not know how many are blind, even from this one disease, much less trachoma, and the debilitating effects of other diseases.

Some very emotional appeals are being circulated in this country publicizing the plight of the people in the Sahel, some emphasizing the dramatic and

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[1] WHO, "World Health," June, 1970.
[2] Science News, July, 1967.
[3] "Causes and Prevention of Blindness," Proceedings of the Jerusalem Seminar on the Prevention of Blindness, August 1971, Academic Press: New York/London.

heart-rending condition of the blind in a population already beset with calamity. Unfortunately, very little is said about what can or should be done to help these people, who are seen only as miserable objects of pity and a drain on the few medical or charitable resources available.

If we have placed proper program emphasis on two primary goals of our emergency action—nutrition and medical relief, we must not neglect what might be called the third leg of the tripod—rehabilitation. Emergency relief and even preventative medicine do not allay the human wastage, suffering, and devastating socioeconomic consequences for all those individuals already blinded. I find little, if any, attention being directed to blindness rehabilitation and associated manpower training of the millions of people directly and indirectly affected by the sub-Sahara drought. The United States should take the lead in promoting efforts at rehabilitation therapy and manpower training for the literally countless blind people in the region.

We are fortunate that in this country we have done some very innovative and successful work with blind people. It is not the kind of therapy which is designed only for people in a highly educated, urbanized and technologically oriented society such as ours. It can be equally useful to the situation confronting us in the Sahel. Yet I do not find that we are making any provision for a rehabilitation manpower training project there. Given the unquestioned need to "rehabilitate," in all senses of the word, we simply cannot wait for a means of prevention to be found, or cures to be discovered. We should begin immediately to fashion a rehabilitation program for the thousands of people who are already irretrievably blind, and the thousands more who will be blind.

An AID-sponsored project in Vietnam had much success in training Vietnamese to become successful rehabilitators of their blinded countrymen.[4] This was a modest project, almost overlooked in the massive outpouring of military and economic aid we put into that war. We have demonstrated that Vietnamese soldiers and civilians blinded by the war can be taught many useful skills. I have no doubts that the same success can be achieved in Sahelian Africa. Blind Africans can be released from total dependency on others.

I do not argue for a change in major priorities, first prevention, then curative treatment, but we do need to see this as something other than an act of charity—like the stereotype of putting pennies in a blind beggar's cup. Rather we should approach the problem in terms of economic losses incurred by blindness. If 10 or 15 percent of the people in an area are suffering from blindness or serious loss of vision, you can be sure that an almost equal number of people are concerned with caring for the blind. And this is happening when both sighted and blind people should be seeking whatever productive work there may be.

All kinds of arguments may be advanced against trying this kind of rehabilitation, even, as I suggest, on a carefully worked out pilot basis, but the fact is that we must look further than "in and out" emergency measures, and squarely meet what is meant by our stated public commitment to long-term "rehabilitation."

Specifically, I am told by representatives of leading organizations in work for the blind that America is in a particularly good position to perform this needed task; we have shown that our rehabilitation teachers can transfer certain skills to local teachers, who in turn can reach thousands through a variety of African languages. We can teach blind people anywhere through their own countrymen. They can be motivated to get around in their new surroundings; to take care of their personal needs; to engage in some form of useful work. Above all, we can restore dignity and meaning to their lives while freeing others who can see for those tasks which require sight.

I would, therefore, like to see the United States, respond quickly and with sensitivity to meet this very special need. We should take advantage of the trained personnel in this country and make a modest investment in alleviating the lot of those who would otherwise be overlooked. We can and should send a small team of experts to the Sahel, preferably operating through a suitable private voluntary agency, with the knowledge and flexibility to respond to this challenge.

We should seek the cooperation of African governments and private voluntary counterparts in Africa to work in partnership with our rehabilitation teachers, so that these therapeutic techniques can be spread throughout the region by Africans themselves. I am told that such a program could be quickly mounted, and that half a dozen American teachers could complete the training of dozens of their African counterparts in 18 to 24 months.

This is but one aspect of a huge problem, but it is one which merits our attention, not because blindness is somehow more important than other health problems, but because the blindness is there, is increasing, and we can not yet prevent or cure it; but we can do something about those who have lost their sight. Thousands of blind people do not have to be forgotten, to become beggars in an area already enduring an immense natural disaster. Apart from all the compelling reasons of compassion, we can do much in sheer economic terms to prevent a terrible double drain on the manpower resources of a vast region of Africa.

Mr. President, I send a resolution on the "river blindness" rehabilitation project sponsored by myself and Mr. HUMPHREY, Mr. JAVITS, and Mr. MCGEE to the desk and ask unanimous consent that it be printed in the RECORD at this point.

The resolution (S. Res. 302) is as follows:

Whereas the United States has committed a portion of its resources for disaster relief in the Sahelian area of West Africa;

Whereas the commitment of the United States funds for this purpose is designed to promote emergency relief assistance and rehabilitation measures;

Whereas "river blindness" is one of the crippling diseases that plague the Sahelian peoples, thus requiring rehabilitation aid for the victims;

Whereas there exists a need to provide United States aid not only to control the sources of "river blindness" but also to help those already victimized by the disease; and

Whereas there exists in the United States individuals and groups uniquely qualified to carry out a program of rehabilitation for the victims of "river blindness": Now, therefore, be it

Resolved, That it is the sense of the Senate that the Agency for International Development should immediately allocate a reasonable portion of funds heretofore appropriated for United States relief efforts in Sahelian countries to finance a pilot project designed to establish the feasibility of an effective rehabilitation program for the victims of "river blindness" in the Sahelian countries.

SEC. 2. It is further the sense of the Senate that the Agency for International Development make a timely report to the Senate no later than June 1, 1974, as to the efforts it intends to undertake in providing such a rehabilitation program for victims of "river blindness."

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

Mr. BROOKE. I am very pleased to yield to the distinguished majority leader.

Mr. MANSFIELD. What the distinguished Senator from Massachusetts has just indicated is a most serious situation, and one to which our hearts go out.

May I say, while I no longer vote for foreign aid projects because they take in too much in the way of military assistance and economic assistance which is tied to military assistance and is operating all too often on a government-to-government basis, I would like to see something done to help people in this and similar categories because the real purpose of aid is to help people.

Thus, I want to commend the distinguished Senator for calling this to the attention of the Senate. I do not believe it is a matter for private foundations alone to undertake. As long as the foreign aid program is a pipeline of 6, 7, 8 or 9 billion dollars, I see no reason why some of those funds cannot be diverted to help these people in these countries so that, in turn, the people who are citizens of those countries can be trained to carry on the work, once it has gotten under way. I commend the distinguished Senator for calling this most difficult problem to the attention of the Senate, which cries out for assistance—and assistance now.

Mr. BROOKE. I thank the distinguished majority leader for his contribution to this colloquy relative to River Blindness. I know very well his strongly felt beliefs regarding foreign aid. He has always fought for aid which would go directly to the relief of human suffering

[4] *Blindness*, 1970 Annual American Association of Workers for the Blind, Washington, D.C.

around the world. I quite concur that too much foreign aid has been used for military purposes. I am very much pleased to have him make the suggestions he has on the floor of the Senate today. I hope that the Senate will adopt this resolution.

Mr. MANSFIELD. I would hope that in our AID programs we would return to the original Point Four concept of people to people—helping people so that they can help themselves, and get away from this widespread proliferation of our AID programs which has cost this country approximately $140 billion to date.

People to people—that is the answer.

Mr. BROOKE. I quite agree with the distinguished majority leader. We have made some progress, as he very well knows, which cut out foreign aid money which had been used for police activities in some of the countries around the world which had been used for political or for military purposes. I think we are taking a much closer look at our foreign aid now, to see that the foreign aid of the United States is spent for the purpose for which it should be intended; namely, the relief of human suffering, and to help countries help themselves through development assistance.

ADDITIONAL COSPONSORS OF CONCURRENT RESOLUTIONS

SENATE CONCURRENT RESOLUTION 63

At the request of Mr. PERCY, the Senator from Wyoming (Mr. MCGEE) was added as a cosponsor of Senate Concurrent Resolution 63, to seek new efforts to obtain compliance with the terms of the Paris peace agreement as they apply to prisoners of war and personnel missing in action.

SENATE CONCURRENT RESOLUTION 68

At the request of Mr. JAVITS the Senator from South Dakota (Mr. ABOUREZK), the Senator from Kansas (Mr. DOLE), the Senator from Utah (Mr. MOSS), the Senator from Pennsylvania (Mr. HUGH SCOTT), the Senator from Alaska (Mr. STEVENS), and the Senator from California (Mr. TUNNEY) were added as cosponsors of Senate Concurrent Resolution 68, to express the sense of Congress regarding Americans missing in action in Indochina.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1974—AMENDMENTS

AMENDMENT NO. 1136

(Ordered to be printed and to lie on the table.)

Mr. TUNNEY. Mr. President, the amendment which I am submitting to S. 3044, the Federal Election Campaign Act Amendments, is designed to close a small defect in the present language of the bill, which allows Federal funds to be used to match, in primary campaigns, contributions in the form of loans, or of donations of products or services. I strongly support the present bill, and its procedures for public financing. However, I believe the public financing provisions must be carefully drawn, in order to minimize the difficulties in future practice with the law, and to demonstrate to our opponents and to the public at large that the public Treasury will not be open to dubious transactions.

My amendment will change the language, which presently states that eligible candidates are entitled to Federal matching funds "in an amount equal to the amount of contributions" received by the candidate. No limits are put on the definition of "contributions" which can be matched. My amendment will add a proviso stating that "no contribution received as a subscription, loan, advance or deposit, or as a contribution of products or services," shall be taken into account for matching purposes. This language is identical to language already in the bill which prohibits loans, subscriptions, et cetera, from being used to count up to the threshold limit which makes a candidate eligible for public financing of primaries.

The effect of this amendment will be to close a relatively minor inconsistency in this law. As the bill is presently drafted, a loan received by a candidate may be matched from Federal funds—up to the first $100, or $250 for Presidential candidates—which funds may then be used to partially or completely repay the loan. This just does not make sense, and will not be understood by the public at large.

Also, barring the matching of contributions in kind will avoid the difficulties and the potential for abuse of properly valuing products or services. With all the administrative burdens the Federal Election Commission will have, this is one additional burden which we can spare them.

I would like to emphasize that my amendment is not meant to denigrate the role of loans in an election campaign. I fully recognize that they are an important facet of electoral life, particularly at the start of a campaign when "seed money" is necessary. This very truth about loans, however, indicates why a ban on matching them is not a major problem. Most loans are in large amounts, and the matching factor would therefore be very small. Figures developed by Common Cause from the public records of campaign financing in 1972 indicate that, for all candidates in general elections for the House and the Senate in that year, $5.8 million of the $69.7 million total funds raised was in loans.

This $5.8 million came from just 779 contributors—indicating that the average loan was almost $10,000—much more even than could be given under this bill.

Since most loans are large, and come early in a campaign—presumably before matching funds are available—I urge that the Senate avoid any possibility of questionable use of Federal campaign funds. If matching is limited to unconditional money contributions, administration of the law will be easier, while sacrificing very little in the way of helping candidates receive Federal funds for their campaigns when eligible.

I would also like to remind my colleagues that a similar provision—prohibiting the matching of loans—was added, at my instigation, to the public financing amendment to the debt ceiling bill last fall. My amendment was at that time accepted by the managers of the bill, and both then and now is supported by proponents of public financing, both within and outside the Senate. Therefore, I hope this amendment will be favorably acted on by the Senate.

Mr. President, I ask unanimous consent to have the text of my amendment printed in the RECORD at this point.

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

AMENDMENT NO. 1136

On page 9, line 24, strike out all through page 10, line 2, and substitute in lieu thereof the following:

" 'SEC. 503. (a) (1) Every eligible candidate is entitled to payments in connection with his primary election campaign in an amount which is equal to the amount of contributions received by that candidate or his authorized committees, except that no contribution received as a subscription, loan, advance, or deposit, or as a contribution of products or services, shall be taken into account."

AMENDMENT NO. 1138

(Ordered to be printed, and to lie on the table.)

Mr. FANNIN submitted an amendment, intended to be proposed by him, to the bill (S. 3044) to amend the Federal Election Campaign Act of 1971 to provide for public financing of primary and general election campaigns for Federal elective office, and to amend certain other provisions of law relating to the financing and conduct of such campaigns.

AMENDMENT NO. 1139

(Ordered to be printed, and to lie on the table.)

Mr. TAFT. Mr. President, today I am submitting an amendment to S. 3044, the pending Federal Elections Campaign Act amendments, which would replace the 100-percent public funding provision for general elections with a sliding scale arrangement under which the percentage of public funds supplied would drop gradually as total campaign expenditures rise.

Specifically, $4 of public financing would be supplied each dollar collected in small private contributions—$250 or less for Presidential candidates and $100 or less for congressional candidates—up to the first third of the total spending limit for that general election campaign: $2 for each such dollar collected for campaign expenditures comprising the second third: And $1 for each such dollar collected for expenditures comprising the last third. The sliding scale would work in the same manner for minor and independent parties, except that it would be based upon amounts equal to the amounts of public financing they could receive under S. 3044 rather than the overall spending limit amount.

Mr. President, basic reforms in campaign financing are essential so that our citizens will be certain that their government is not being operated to satisfy the interests of the few large contributors

rather than the Nation as a whole. The most important step we can take in this direction is to place strict limitations on the amounts which any single individual or organization can contribute to a candidate. I am pleased that once again there is a bill before us which would take this step.

I recognize that these limits in themselves will exacerbate the task of raising enough campaign funds for both incumbent and challenger to make their views known to the public. Furthermore, from a personal standpoint I welcome some degree of public financing, because raising money is the most onerous task politicians have.

However, there are alternative approaches to S. 3044 for providing these funds which should be considered fully. The approach of providing a 100-percent tax credit or deduction for small campaign contributions is a very attractive means of public financing, because it lets each voter and taxpayer choose which candidate will be benefited. The bill before us, on the other hand, would provide automatic full funding up to a limit, disbursed directly by the Federal Government, for general election candidates of political parties whose candidates received certain percentages of votes cast in the last election. Several aspects of this approach concern me, such as the possibility of abuses or bureaucratic snafus which would affect election outcomes. However, in view of the possibility that the Senate will decide to take this approach and the need for some public campaign financing, I feel it imperative to suggest improvements to the committee bill's public financing structure.

One of S. 3044's greatest shortcomings is that full public financing of general elections up to high overall spending limits is bound to encourage a wasteful mushrooming of campaign expenditures at taxpayers' expense. If Uncle Sam is to foot the entire bill, candidates would be checked from spending up to the maximum for which they are eligible only by public opinion. I do not believe that is a sufficient check.

The Stevenson and Domenici amendments, by providing public funding up to 50 percent (STEVENSON) and 60 percent (DOMENICI) rather than 105 percent of the limits on spending for general elections, would reduce the cost of the program and provide an incentive to hold costs down. However, it would also eliminate or reduce unnecessarily the role of small private contributions in modestly run campaigns and to a large extent, the committee bill's advantages over present law for challengers likely to need more money than incumbents.

My amendment largely would retain the Stevenson and Domenici amendments' incentive for curbing wasteful spending of public—and private—campaign funds. However, it would also require continued solicitation of and a vital role for small private contributions. Furthermore, by continuing considerable public financing for all allowable campaign expenses, it would retain to some extent the bill's advantages over present law for challengers who usually need to spend more money on elections than incumbents, in addition, while still constituting effective public financing in a State with a $1 million spending limit, it is likely to cost the Government less than the Stevenson and Domenici amendments.

I realize that adoption of this amendment would virtually require changes in the bill's provisions for public financing of primaries. Furthermore, I am not wedded to my exact matching formula and I know that other matching approaches are beginning to be discussed. However, I feel it imperative that the Senate have before it in this stage of the debate a matching proposal which provides less public financing as campaign expenses increase and that this approach be given the utmost consideration for the reasons I have outlined.

Perhaps it can move the bill along by serving as a meritorious compromise between those who favor and those who oppose full public financing of campaigns.

I ask unanimous consent that the text of the amendment be printed in the RECORD at this point.

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

AMENDMENT NO. 1139

On page 10, beginning with line 17, strike out through line 23 on page 12 and insert in lieu thereof the following:

"(b)(1) An eligible candidate may receive payments under section 506 for use in his general election campaign equal to—

"(A) four dollars for each dollar in matchable contributions he and his authorized committees receive for use in that campaign until the sum of all contributions (whether matchable or not) and payments receivable under section 506 equal one-third of the amount of the entitlement of that candidate.

"(B) two dollars for each dollar in matchable contributions he and his authorized committees receive for use in that campaign in excess of the sum referred to in subparagraph (A) until the sum of all contributions (whether matchable or not) and payments receivable under section 506 equal two-thirds of the amount of the entitlement of that candidate; and

"(C) one dollar for each dollar in matchable contributions he and his authorized committees receive for use in that campaign in excess of the second sum referred to in subparagraph (B).

"(2) For purposes of this subsection, the entitlement of—

"(A) an eligible candidate nominated by a major party is an amount equal to the amount of expenditures which that candidate may make in connection with his campaign under section 504;

"(B) an eligible candidate nominated by a minor party is an amount which bears the same ratio to the amount of the entitlement of a candidate of a major party for the same office under subparagraph (A) as the total number of votes cast for the candidate of that minor party for that office in the preceding general election bears to the average number of popular votes cast for the candidates of major parties for that office in the preceding general election;

"(C) an eligible candidate (other than a candidate nominated by a major party or a minor party) who received, in the preceding general election held for the office to which he seeks election, 5 percent or more of the total number of votes cast for all candidates for that office, an amount which bears the same ratio to the amount of the entitlement of a major party candidate for the same office under subparagraph (A) as the number of votes cast for that candidate in the preceding general election for that office bears to the average number of votes cast in the preceding general election for all major party candidates for that office.

The entitlement of a candidate for election to any Federal office who, in the preceding general election held for that office, was the candidate of a major or minor party shall not be determined under subparagraph (C).

"(3) An eligible candidate other than a candidate nominated by a major party who receives 5 percent or more of the total number of votes cast in the current election may receive payments under section 506 after the election for expenditures made or incurred in connection with his general election campaign in an amount (not in excess of the applicable limitation under section 504) equal to—

"(A) an amount which he could have received if his entitlement bore the same ratio to the entitlement of an eligible candidate nominated by a major party as the number of votes received by the candidate in that election bears to the average number of votes cast for all major party candidates for that office in that election, reduced by

"(B) any amount paid to the candidate under section 506 before the election.

"(4) For purposes of this subsection, the term 'matchable contribution' means so much of the sum of all contributions made to a candidate for election to Federal office by any person in connection with that candidate's general election campaign for such offices as does not exceed—

"(A) $250, in the case of a candidate for election to the office of President; and

"(B) $100, in the case of a candidate for election to any other Federal office (other than Vice President).

AMENDMENT NO. 1140

(Ordered to be printed, and to lie on the table.)

Mr. BUCKLEY. Mr. President, I believe the debate to date on the Federal Election Campaign Act has failed to focus sufficient attention on one of its principle flaws. I speak of the grave constitutional questions that are raised by attempting to place a ceiling on what may be spent in a given election. At least one court in New York Times against Sullivan has ruled such contributions to be in contravention of the first amendment.

The constitutional inplications are discussed in an article by Prof. Ralph K. Loiuter Jr., of the Yale Law School, entitled "Watergate and the Law" that was recently published by the American Enterprise Shownite. I ask unanimous consent that pertinent excerpts be published at this point in the RECORD.

Mr. President, I am sending to the desk an amendment designed to cure this defect by removing the limitation and total funding. I hope that when I call up the amendment we can address ourselves to the constitutional implications of the act in a thoughtful and thorough manner. I ask unanimous consent that the amendment be printed at this point in the RECORD.

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

AMENDMENT NO. 1140

On page 6, beginning with "that—" on line 20, strike out through "contributions" on line 24, and insert in lieu thereof "that no contributions".

On page 7, line 15, strike out "spend" and insert in lieu thereof "receive".

On page 10, lines 19 and 20, strike out "the amount of expenditures the candidate may make" and insert in lieu thereof "the maximum amount of payments the candidate may receive".

On page 13, beginning with the comma on line 9, strike out through line 14 and insert in lieu thereof "exceeds the maximum amount of payments he may receive in connection with that campaign under section 504.".

On page 13, line 15, strike out "EXPENDITURE" and insert in lieu thereof "PAYMENT".

On page 13, line 17, strike out "(f)" and insert in lieu thereof "(d)".

On page 13, beginning with "who" on line 19, strike out through line 21 and insert in lieu thereof "may receive payments under section 506 in connection with his primary election campaign in excess of".

On page 13, line 24, strike out "(g)" and insert in lieu thereof "(e)".

On page 14, line 9, strike out "(A)".

On page 14, line 10, strike out "make expenditures in any" and insert in lieu thereof "receive payments under section 506 in connection with his campaign in any".

On page 14, line 17, strike out "expend in that State" and insert in lieu thereof "receive under section 506".

On page 14, beginning with line 19, strike out through line 3 on page 15.

On page 15, line 5, strike out "(f)" and insert in lieu thereof "(d)".

On page 15, beginning with "who" on line 5, strike out through line 8 and insert in lieu thereof "may receive payments under section 506 in connection with his general election campaign in excess of the greater of—".

On page 15, line 10, strike out "(g)" and insert in lieu thereof "(e)".

On page 15, line 19, strike out "make expenditures" and insert in lieu thereof "receive payments".

On page 15, beginning with line 22, strike out through line 3 on page 17.

On page 17, line 4, strike out "(f)" and insert in lieu thereof "(d)".

On page 17, line 21, strike out "(g)" and insert in lieu thereof "(e)".

On page 18, line 4, strike out "(h)" and insert in lieu thereof "(f)".

On page 18, lines 6 and 7, strike out "expenditure" and insert in lieu thereof "payment".

On page 18, line 10, strike out "(h)" and insert in lieu thereof "(g)".

On page 48, lines 18 and 19, strike out "616, and 617" and insert in lieu thereof "and 616".

On page 49, lines 16 and 17, strike out "616, and 617" and insert in lieu thereof "and 616".

On page 49, line 23, strike out "616, or 617" and insert in lieu thereof "or 616".

On page 71, lines 13 and 14, strike out "AND EXPENDITURES".

On page 71, beginning with line 19, strike out through line 17 on page 75.

On page 75, line 18, strike out "615." and insert in lieu thereof "614.".

On page 77, line 9, strike out "616." and insert in lieu thereof "615.".

On page 77, line 17, strike out "617." and insert in lieu thereof "616.".

On page 78, line 19, strike out "616, and 617" and insert in lieu thereof "and 616".

On page 78, in the matter below line 22, strike out the item relating to section 614 and redesignated the items relating to sections 615, 616, and 617 as 614, 615, and 616, respectively.

EXCERPTS

Those who seek to impose limits on expenditures by candidates face a dilemma of constitutional dimensions. On the one hand, if the limitation applies only to expenditures explicitly authorized by the candidate, it will be, in Lyndon Johnson's famous phrase, "more loophole than law." "Independent" committees will carry on the campaign. On the other hand, if it seeks to charge the candidate with all outlays from whatever source that further his candidacy, it must give the candidate a veto over all those who would support him through monetary expenditures. The campaign spending law of 1971 thus prohibits the media from charging for political advertising unless the candidate certifies that the charge will not cause his spending to exceed the limit.[42] The effect, therefore, is to restrict the freedom of individuals to buy political advertising supporting or, in some circumstances (under the regulations promulgated by the comptroller general of the United States),[43] attacking a candidate.

This statute has been greeted by constitutional authorities with comments varying from "would seem to violate the First Amendment"[44] to "flatly unconstitutional."[45] It has, moreover, been held an unconstitutional prior restrict on the media by a three-judge district court of the District of Columbia (Judges Bazelon, Bryant and Parker).[46]

In light of Supreme Court decisions, the likelihood that such laws are beyond Congress' power is quite high. In *New York Times* v. *Sullivan*, the Court held that a newspaper advertisement on public issues was entitled to First Amendment protection.[47] The fact that the advertisement was purchased was "immaterial."[48] In *Eastern Railroad President's Conference* v. *Noerr Motor Freight*, moreover, the Court held that the Sherman Act did not apply to advertisements intended to influence legislation specifically designed to injure competitors.[49] In that case, certain railroad companies had conducted a publicity campaign which was "vicious, corrupt, and fraudulent" and "designed to foster the adoption and retention of laws and law enforcement practices destructive of the trucking business. . . ."[50] Rejecting the claim that such activities violated the Sherman Act, the Supreme Court, through Mr. Justice Black, stated,

"It is neither unusual nor illegal for people to seek action on laws in the hope that they may bring about an advantage to themselves and a disadvantage to their competitors. . . . To disqualify people from taking a public position in matters in which they are financially interested would thus deprive the government of a valuable source of information and . . . deprive the people of their right to petition in the very instances in which that right may be of the most importance to them."[51]

The entire theory of the decision rests on the First Amendment policy of protecting groups in their efforts to influence government to act in their interests. The efforts in this case—the financing of a systematic publicity campaign designed to induce favorable governmental action—are of particular relevance to this discussion. If Congress cannot stop individuals from conducting the kind of campaigns that were involved in *Noerr*, surely it cannot do so when the issue is the election of an individual to office.

The First Amendment has given rise to considerable disagreement over its scope. All agree, however, that it protects political speech. If we are to have "free trade in ideas" in the political sphere, individual citizens must be able to express whatever ideas they choose in whatever form they believe appropriate, whether or not it costs them money. There is no room for price controls in the marketplace of ideas.

Setting a limit on candidate expenditures sets a maximum on the political activities in which American citizens can engage. It is thus unconstitutional. The reasoning that speech which costs money is too persuasive[52] cannot be limited to campaign financing. For one can also argue that demonstrations of more than a certain number of people, extensive voter canvassing, or too many billboards with catchy slogans also "distort" public opinion and ought to be regulated.

The freedom to speak is not the only liberty infringed by such legislation. Because giving to a candidate permits individuals to "pool" their contributions and act as part of an effective organization, limitations on candidate spending are in effect restrictions on the freedom of association.[53]

FOOTNOTES

[42] 47 U.S.C., Section 803(b) states that "No person may make any charge for the use by or on behalf of any legally qualified candidate for Federal elective office (or for nomination to such office) of any newspaper, magazine, or outdoor advertising facility, unless such candidate (or a person specifically authorized by such candidate in writing to do so) certifies in writing to the person making such charge that the payment of such charge will not violate paragraph (1), (2), or (3) of subsection (a) of this section, whichever is applicable."

[43] 11 C.F.R., Section 4.5, "Amounts spent urging candidate's defeat or derogating his stand," states that "(a) An expenditure for the use of communications media opposing or urging the defeat of a Federal candidate, or derogating his stand on campaign issues, shall not be deemed to be an expenditure for the use of communications media on behalf of any other Federal candidate and shall not be charged against any other Federal candidate's applicable expenditure limitation under section 104(a) of the Act and this part, unless such other Federal candidate has directly or indirectly authorized such use or unless the circumstances of such use taken as a whole are such that consent may reasonably be imputed to such other candidate." What may or may not be "reasonably imputed to such other candidate" is not described with any specificity.

[44] A. Rosenthal, *Federal Regulation of Campaign Finance: Some Constitutional Questions* (Princeton, N.J.: Citizens' Research Foundation, 1972), p. 63.

[45] Statement of Alexander Bickel, ibid., p. 66. See also, for discussions of this point, Martin H. Redish, "Campaign Spending Laws and the First Amendment," *N.Y.U. Law Review*, vol. 46 (1971), p. 900, and Joel L. Fleishman, "Freedom of Speech and Equality of Political Opportunity: The Constitutionality of the Federal Election Campaign Act of 1971," *North Carolina Law Review*, vol. 51, p. 389. And see, Thomas I. Emerson, *The System of Freedom of Expression* (New York: Random House, 1970), p. 639.

[46] American Civil Liberties Union v. Jennings, Civil No. 1967–72 (D.D.C., opinion filed on November 14, 1973), mimeo. opinion.

[47] 376 U.S. 254 (1964).

[48] Ibid., p. 266.

[49] 365 U.S. 126 (1961).

[50] Ibid., p. 129.

[51] Ibid., p. 127.

[52] See press release of Senator Edmund S. Muskie, "Muskie Urges Media Campaign Reforms, Scores Nixon's Attitude," March 3, 1971, p. 2: "Ideally, a limit on all spending would be best. But a limit on media spending would be an effective control over spending because television and radio have such a unique role in public persuasiveness."

[53] 18 U.S.C., Section 591(e)(5).

NATIONAL NO-FAULT MOTOR VEHICLE INSURANCE ACT—AMENDMENTS

AMENDMENT NO. 1137

(Ordered to be printed, and to lie on the table.)

Mr. BAKER. Mr. President, I submit an amendment to S. 354, the National No-Fault Motor Vehicle Insurance Act. This amendment would modify the first-party benefit and tort restriction provisions of the act to bring them into line with the efforts of the States which have adopted responsible insurance reform programs.

As a proponent of no-fault insurance, I have been deeply concerned that the sweeping program proposed in S. 354 would undermine, instead of enhance, efforts to achieve meaningful insurance reform at the State level. The standards presently set forth in the bill exceed program provisions in all States but one, Michigan, and would abrogate substantial programs which have been adopted in Kansas, New York, Minnesota, Colorado, Nevada, Hawaii, Utah, and several other States.

I do not believe that standards which would arrogantly supplant the efforts of the States with an untried program of extended no-fault benefits can be fairly characterized as Federal minimum standards legislation. Passage of such standards would end experimentation with various types of no-fault insurance and would cast in concrete a program which, though it might serve some jurisdictions well, would certainly ill-serve others.

The benefits levels of the amendment are specified as performance standards—the State must establish limits for medical expense coverage which will fully compensate 95 percent of all injured victims and for wage-loss coverage to fully compensate such loss up to an amount equal to the average wage in that State. While limits will vary from State to State, it is estimated that the dollar amount of the medical expense standard will approximate $3,000. Based upon Bureau of Labor Statistics data for 1971, the average statewide annual wage would be $6,983, with State averages ranging from a low of approximately $5,800 to a high of approximately $11,000. These standards will provide coverage sufficient to fully cover the majority of accident victims to substantially compensate all victims.

The tort restriction proposed in this amendment would bar access to actions based upon negligence to any person not seriously injured as defined in the Department of Transportation study. This would assure access to recovery of general or intangible damages to victims with significant injuries, but would provide a reasonable restriction upon actions for minor injuries, which according to the DOT investigation, have tended to receive inflated awards.

The standards set by this amendment do not attempt to identify the best program of no-fault insurance for the States, but are intended to indicate a minimum standard for no-fault programs—a standard which will provide substantial protection for all accident victims but which will leave great flexibility to the States in molding the program most suited to its peculiar needs.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 1126

At the request of Mr. BAKER, the Senator from Oklahoma (Mr. BARTLETT), and the Senator from Hawaii (Mr. FONG) were added as cosponsors of amendment No. 1126, to the bill (S. 3044) to amend the Federal Election Campaign Act of 1971 to provide for public financing of primary and general election campaigns for Federal elective office, and to amend certain other provisions of law relating to the financing and conduct of such campaigns.

AMENDMENT NO. 1134

At the request of Mr. BAKER, the Senator from Alabama (Mr. ALLEN), the Senator from Tennessee (Mr. BROCK), the Senator from Oklahoma (Mr. BELLMON), the Senator from North Carolina (Mr. HELMS), and the Senator from Georgia (Mr. NUNN) were added as cosponsors of amendment No. 1134, intended to be proposed by him to S. 3044, the Federal Election Campaign Act Amendments of 1974.

AMENDMENTS NOS. 1078, 1126, AND 1128

At the request of Mr. BAKER, the Senator from Tennessee (Mr. BROCK) was added as a cosponsor of amendments Nos. 1078, 1126, and 1128, intended to be proposed by him to S. 3044, the Federal Election Campaign Act Amendments of 1974.

NOTICE CONCERNING A 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:

Clinton T. Peoples, of Texas, to be U.S. marshal for the northern district of Texas for the term of 4 years, vice William C. Black, 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 Tuesday, April 9, 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 CONCERNING A 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:

Nathan G. Graham, of Oklahoma, to be U.S. attorney for the northern district of Oklahoma 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 Tuesday, April 9, 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 CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Tuesday, April 9, 1974, at 10:30 a.m., in room 2228, Dirksen Office Building, on the following nomination:

Wendell A. Miles, of Michigan, to be U.S. district judge for the western district of Michigan, vice Albert J. Engel, elevated.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from Arkansas (Mr. MCCLELLAN); the Senator from Nebraska (Mr. HRUSKA), and myself as chairman.

NOTICE OF HEARING BEFORE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Tuesday, April 23, 1974, at 10:30 a.m., in room 2228, Dirksen Office Building, on the following nomination:

Earl J. Silbert, of the District of Columbia, to be U.S. attorney for the District of Columbia, vice Harold H. Titus, Jr., resigned.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The hearing will be before the full Judiciary Committee.

NOTICE OF HEARINGS—ENERGY SUPPLY ACT OF 1974

Mr. JACKSON. Mr. President, on March 22, I introduced S. 3221, the Energy Supply Act of 1974. The principal purpose of my bill is to increase production of the oil and gas resources of the Outer Continental Shelf in a manner that provides maximum environmental safeguards. The National Fuels and Energy Policy Study, which I have the honor to chair, has an excellent hearing record on the policy issues involved in OCS development.

We now are going to conduct hearings on S. 3221 and the other bills before the Committee on Interior and Insular Affairs which would amend the Outer Continental Shelf Lands Act of 1953. The other bills are: S. 2672, introduced by

Senator CHILES; S. 2858, introduced by Senator TUNNEY; S. 2922, introduced by Senator HATHAWAY; S. 2389, introduced by Senator STEVENS, and S. 3185, introduced by Senator BENTSEN.

These hearings will be held on May 6, 7, and 8. They will begin at 10 a.m. in room 3110, Dirksen Senate Office Building on each day.

The Interior Committee will be participating in the hearings on the social, economic, and environmental impacts of Outer Continental Shelf being conducted on April 23, 24, and 25 as part of the National Ocean Policy Study. Thus we intend to focus the May hearings on policies and practices relating to issuance of leases and administrative supervision of operations under them, research and development needs, and methods of obtaining better resource information. In other words we want to address the specific issues raised by the bills before us.

For further information, please contact Mike Harvey of the committee staff at 202/225-1076.

ANNOUNCEMENT OF HEARINGS BY SENATE HEALTH SUBCOMMITTEE

Mr. KENNEDY. Mr. President, I want to take this opportunity to announce hearings of the Senate Health Subcommittee on S. 3181, the National Health Service Corps Amendments of 1974. The hearing will be conducted April 30, 1974 in room 4232 of the Dirksen Office Building at 10 a.m. Persons interested in testifying on this legislation should contact Mr. Lee Goldman, subcommittee staff director.

ADDITIONAL STATEMENTS

HOME HEALTH CARE UNDER MEDICARE

Mr. TOWER. Mr. President, over the past few years, I have received a great many letters from my constituents regarding the inadequacy of home health care benefits under medicare. I am delighted, therefore, that the Subcommittee on Health of the Elderly of the Special Committee on Aging has developed a twofold package to open up home health care benefits for the elderly under medicare and concurrently expand available services from home care agencies.

The costs of institutionalization of our Nation's elderly has been rising consistently in recent years, and in many cases it is not the best answer to their problems. In our rural areas, particularly, where institutions are often unavailable, there are few home health care agencies and those there are able to provide only limited services, since fees for home health care very often do not even cover its cost.

After studying this problem carefully, and conducting several days of hearings, two bills have been introduced which I am cosponsoring today.

The first, S. 2690, would clarify and expand the definition of home health care medicare benefits to meet the needs of the elderly for nursing and personal care in their homes. It would also bring under medicare the homemaking services so necessary to maintain the independence of the patient who requires continued care, but not institutionalization. Finally, it would increase the number of home health care visits covered by medicare.

The second, S. 2695, provides for a program of grants to assist in the establishment and initial operation of home health care agencies.

I cannot emphasize enough the importance of these two proposals, and the promise they hold for our elderly. Few of us have avoided the agony and concern of recognizing that our parents or elderly friends and neighbors can no longer care for themselves alone in their homes. Because home health care is infrequently available, we have, heretofore, had little choice but to place them in nursing homes. The General Accounting Office recently reported that in 25 percent of these cases, treatment is being received in facilities which are excessive to the patient's needs.

The obvious cost in dollars and cents of this excessive treatment can only be estimated, but the National Association of Home Health Agencies states that home care is 3.5 times less expensive per patient than hospitalization and four or five times less expensive per day than skilled nursing home care.

The cost in terms of lost dignity and independence is even more disturbing.

Home health care provides us with an alternative which is both cost effective and humanitarian. It deserves the support of the Congress and I urge my colleagues to grant it expeditious approval.

RETENTION OF ECONOMIC CONTROLS ON THE HEALTH INDUSTRY

Mr. INOUYE. Mr. President, on February 19, 1974, Senator JOHN SPARKMAN introduced S. 3032, a bill to amend and extend the Economic Stabilization Act of 1970 to retain economic controls on the health industry sector of the economy past the April 30, 1974, expiration date.

This bill would in effect give the President authority to arbitrarily and seriously limit total expenditures for health care services. Expenditure limits such as these could result in a reduction in the quantity of services available, and thus contribute to a compounding of inflationary pressures on the price of medical services.

Not only would the quantity of these services likely be reduced, but the quality of health care would in the long run most certainly deteriorate.

As hospital operating budget deficits continue to rise—and every hospital in my home State of Hawaii is currently operating in a deficit position—more and more payroll employees will have to be laid off in response to increasing deficits. The employee-patient ratio, now leveling off, thereby will begin to drop in many hospitals. Care and maintenance of existing facilities would also be hampered by this continuance of economic controls in that fewer funds would be available for such activity.

While some areas have experienced an oversupply of medical facilities others are still plagued with shortages and outdated facilities and equipment—facilities and equipment which are vitally needed in certain geographic areas or essential to advancements and explorations into specialized and crucially needed medical frontiers such as cancer research. Such needed expansion and modernization would be endangered by any blanket controls.

Finally, the retention of economic controls on the health care industry represents an unjust and inconsistent exception to the general economic program which has apparently been one of lifting price controls throughout the economy. The isolation of the health care industry for continued economic control can only hinder improvements in this most vital sector of the economy. Controls will not work to the ultimate benefit of the consumer of health services, any more than they benefit consumers in other vital areas such as food or shelter. It is now time to decontrol an industry so directly responsive to basic human needs.

NO-FAULT INSURANCE

Mr. MOSS. Mr. President, the lobbying effort to subvert national no-fault automobile insurance legislation is now in full swing. When we last discussed the tactics which no-fault opponents undertake, I pointed out that a wide variety of seemingly thoughtful letters were sent by members of the bar opposed to no-fault. But, unfortunately for my brethren in the legal profession, I acquired a copy of the master form letter.

This year, the innovation in letter writing is most interesting. It appears that each Senator has received, for example, a brief public opinion message in opposition to no-fault from some 32 residents of the Baltimore-Washington area. In reading over these messages, I notice one consistent theme, obfuscation. Really, not one of the telegrams has any relevance to the national no-fault insurance legislation, but make use of a variety of statements which have no basis in fact. Also, the 32 telegrams which I received are identical to the 32 telegrams which my colleague from Louisiana (Mr. LONG) received, and those are identical to the 32 telegrams which my colleague from North Dakota (Mr. BURDICK) has received. Why, I asked myself, did 32 residents of the Baltimore-Washington area invest their time and energies and perhaps their own moneys, in telling far distant Senators, as well as their own, about no-fault.

A little research reveals all. First, on the morning of March 22, 1974, 32 Baltimore-Washington residents suddenly had the idea to send public opinion messages to each of the 100 Senators on the same subject. It cost each sender $200

for his set of one telegram to each Senator.

Second, that might seem like a high tariff, but I have checked and discovered that each of the signatories to the telegrams is an attorney, although he has not identified himself as such.

So, I concluded that this $6,400 investment in telegrams is part and parcel of delaying tactics, misstatements, and outright falsehoods which the opponents of no-fault are using in their attempt to subvert both the will of Congress and the needs of the American people. As we proceed with our debate on no-fault, I intend to bring to light other lobbying abuses, set against the facts and figures which demonstrate the consumer's need for no-fault.

A FORMER UNBORN CHILD ON ABORTION

Mr. BUCKLEY. Mr. President, the nationally syndicated columnist John D. Lofton, Jr., recently wrote a column on the subject of abortion. Describing himself as a "former unborn child," Mr. Lofton discusses—and dissects—the pro-abortion argument with the style and wit we have come to expect from him. "The Abortion Distortion" also makes clear that the question of abortion is not one limited to one religious group but to all men and women who want a society, in Mr. Lofton's words, "that respects human life, both the born and unborn."

Mr. President, I ask unanimous consent that the entire text of Mr. Lofton's article be printed in the RECORD:

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

THE ABORTION DISTORTION

(By John D. Lofton, Jr.)

MARCH 18, 1974.

WASHINGTON.—Being, as I am, a former unborn child, I naturally have a continuing interest in the debate over abortion.

I became keenly interested in the no-fault pregnancy question several years ago. Not being particularly religious—specifically not being Catholic—I was attracted to the controversy not so much by the cogency of the arguments of those against abortion, but rather by the virtually total illogic and moral myopia of those favoring the practice.

Over the past several years, in an effort to try and understand their position better, I have attended numerous pro-abortion demonstrations and have talked with hundreds of demonstrators. If I had to pick the one thing about a majority of them that bothered me most, it would be their refusal to come to grips with what it was they were advocating the destruction of—an unborn living human being in its earliest stages of development.

While I have some doubt about the religious arguments having to do with ensoulment and other matters of an equally abstract nature, one thing I am absolutely sure of is that when I was in my mother's womb, I was a living human being. Thus, it was with a great deal of irritation that in talking with pro-abortion people I constantly heard my earlier unborn status analogized to, among other things, "a benign tumor," "an ant," "a mere mass of cells," and "a plant."

After many heated discussions with individuals favoring abortion about what we used or used not to be before birth, I suddenly realized that I could never be one of them. I could never be for abortion-on-demand because implicit in this view is the belief that what I used to be was not human. And I know this is not so.

Just as Lieutenant William Calley at My Lai had to dehumanize the South Vietnamese civilian human beings before slaughtering them, the pro-abortion people—many subconsciously—do the same thing to the unborn child. For Calley, the human beings killed were not human beings but "slopes," "gooks," and "dinks."

For the abortionists, the unborn child is also not a human being but a tumor, an ant, a plant or a mere mass of cells. This line of reasoning I found morally repugnant and still do.

Unfortunately, the pro-abortion people's arguments aren't getting any better.

Testifying recently against a constitutional amendment to prohibit abortions, Rep. Bella Abzug, D–N.Y., said she was against such a measure because it would dictate to a woman "what she is to do with her body and her life." Such an amendment would produce "legal chaos," she predicted, likening the unworkability of the proposal to Prohibition.

See what I mean? again the moral obtuseness. What does Rep. Abzug mean "the woman's body; the woman's life?" What the amendments offered by Sen. James Buckley, R.–N.Y., and Sen. Jesse Helms, R–N.C., seek to do is protect the body and the life of the unborn child. The body and the life of the mother are only involved indirectly.

And what about the life of the unborn child? The Congresswoman makes no mention of it. But in likening the outlawing of abortion to Prohibition she reveals that to her, the destruction of unborn human life is no more serious than drinking a bottle of beer.

As for the possibility of "legal chaos" resulting from efforts to protect the life of the unborn, undoubtedly the law would be challenged. But aren't all laws, at one time or another? Considering that the issue is literally a matter of life or death, the risk of court challenges seems a small one.

Some of Ms. Abzug's other fears do seem a bit far-fetched. Example: If the amendment became law, medical science would be called on to develop electronic spying devices to possibly be placed within a woman's body to determine exactly when fertilization occurs. This would be the "ultimate invasion of privacy," she says.

The New York Times editorially agrees with the Congresswoman. A constitutional ban on abortion "would not actually prevent abortions," the paper notes. Also, the Times points out, a liberal and medically sound legal abortion policy "does not mean that anyone can be compelled to resort to abortion, or approve of it."

How silly. Applying this illogical reasoning, there should be no laws against murder because the laws do not prevent murder. Furthermore, a liberal and medically sound legal policy of murder would, of course, require no one to commit murder, or approve of it.

What the Times doesn't understand is—as Yale Law Professor Alex Bickel has argued in favor of anti-pornography laws—"the role of law is to make a moral statement about the kind of society we wish to live in . . . the tone of society, the mode, the style and quality of life, now and in the future."

The kind of society I wish to live in is one that respects human life, both the born and the unborn. The constitutional amendments proposed by Sens. Buckley and Helms seek to bring the latter into balance with the former. It deserves support.

THE GRAY PANTHERS—AGITATORS FOR A BETTER LIFE FOR OLDER AMERICANS

Mr. HUMPHREY. Mr. President, a few days ago I came across a marvelous article in the Montgomery Journal, of Montgomery County, Md. Entitled "Old People Should Be Agitating," the article cited the positive efforts of senior citizen Margaret Kuhn at the Citizens Energy Conference. Not only does Miss Kuhn understand the full impact the energy crisis has had on the elderly but in addition she suggests a variety of ways the affluent elderly can help themselves, the elderly poor, and the public good.

Miss Kuhn, the activist leader of the 1,500-member Grey Panthers, believes that "old people should be agitating" to get the Government to reveal oil company profits and suggests that senior citizens buy several shares of stock in major oil companies and then sit in on stockholder's meetings.

In citing the work of Philadelphians campaigning to reduce the cost of public utilities, Miss Kuhn firmly believes that senior citizens should band together to work for the larger public interest. I should note, parenthetically, that the Consumer Economics Subcommittee, of which I am chairman, at its recent hearing received excellent testimony on the serious problem of rising utility rates.

Miss Kuhn feels, and I totally agree, that the wisdom, experience, and competence of the elderly could be of great benefit to hospital boards, school boards, and highway commissions. Just recently Miss Kuhn spoke at a SAY, a senior and younger citizens happening, in Bethesda. The purpose of this "happening" was to allow senior and younger citizens to interact and spark interest in citizen action.

Mr. President, I applaud Miss Kuhn's efforts to give the elderly a greater opportunity to shape the community at large. 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:

OLD PEOPLE SHOULD BE AGITATING

Gray Panther Margaret Kuhn padded into town recently to take part in the Citizens' Energy Conference at the Shoreham Hotel.

Representing the Panthers, senior citizen activists, she was here to serve on a panel which examined how the energy crisis is affecting the elderly. And she lambasted the oil companies and the federal government.

She also spoke specifically in a brief interview about how affluent elderly residents of Montgomery County can help themselves, the elderly poor, and the public good.

"The energy crisis is a silly man-made contrivance," said the 68-year-old senior power activist. "Turning down the thermostat is a ridiculous idea for old people; I've called nursing homes in my area (Philadelphia, Pa.) to see if they're doing it and they say 'no.' They can't. There are lives at stake."

She charged that the federal government has not told the truth about the energy crisis. "Old people should be agitating to get the government to reveal how many profits and how much stock the oil companies have," she said. An active speaker of the 1500-member Gray Panthers, she advocates that senior citizens buy several shares of stock in ma-

jor companies and sit in on stockholders meetings, rather than letting someone vote for them by proxy.

The affluent elderly in Montgomery County "have got it made," she said. "They ought to use their time to work for the larger public interest, not spend their money on one more round-the-world trip or another golfing expedition."

The gray-haired, sprightly Miss Kuhn, who never uses euphemisms like "senior citizens," but prefers "old people," added, "I would like to see Montgomery County lead off and attempt to place old people with wisdom and experience and competence at the table where decisions are made—in the public utilities commission, on hospital boards, on school boards, on the highway commission."

She described how elderly Philadelphians are campaigning to reduce rates on the public utilities. "It's not just some rich old codger who happens to be a hanger-on of those utilities," she said, "but a people's advocate." Miss Kuhn envisions groups of senior citizens in every area banding together to fight for the public good.

Locally, a meeting of the type Miss Kuhn has talked of will be held Monday night, March 4 at 7:30 at Little Falls Library, 5501 Massachusetts Ave. in Bethesda. It is called a S.A.Y. (senior and younger citizens) happening. Its purpose is to get seniors and younger citizens together to spark interest in citizen action

A short film made under the direction of Dr. Daniel Levitan, a University of Maryland professor who teaches death education at the University is expected to be shown.

RETURNING TO JACKSONIAN DEMOCRACY

Mr. EAGLETON. Mr. President, the American people have grown cynical. Their trust in their Government leaders has reached a shockingly low point. And no wonder, beset as they are by crises, shortages, enormous Government mismanagement of their economy and the confidence-shattering and reprehensible actions of some of the most powerful men in the executive branch.

At a time like this, it is comforting to know that some of our leaders do not believe in government for the sake of government bureaucrats, or in government for the sake of a powerful few, but in government that, by intruding only when necessary and staying out of people's lives the rest of the time, truly serves the people.

Such a leader is our colleague Senator HERMAN TALMADGE, and in a speech March 23 at a Jackson Day dinner in Springfield, Mo., Senator TALMADGE set out in clear terms a course for our Nation to follow to return to the real democratic precepts of Jefferson and Jackson. It is a course that makes a good deal of sense for America today.

Mr. President, I ask unanimous consent that Senator TALMADGE's speech be printed in the RECORD.

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

REMARKS OF U.S. SENATOR HERMAN E. TALMADGE AT A JEFFERSON-JACKSON DAY DINNER, SPRINGFIELD, MO., SATURDAY MARCH 23, 1974

Mr. Chairman, Senator Stuart Symington, Senator Tom Eagleton, Distinguished Members of the Missouri Delegation in Congress, State Officials, Honored Guests, my fellow Democrats: I thank you for according me the great privilege of being with you tonight to pay tribute to the Democratic leadership of the State of Missouri.

We pay homage to two giants of the early history of the Democratic Party—Thomas Jefferson and Andrew Jackson—and to federal, state, and local leaders who render such outstanding service to the people of Missouri. Also, we honor another great Democrat, one of the greatest in our lifetimes. I invoke his name tonight as one of the great standard bearers of our Party of all time—your fellow Missourian . . . a great Democrat . . . a beloved American . . . the 33rd President of the United States, Harry S Truman.

Georgians, like Missourians and Americans everywhere, revere the memory of Harry Truman. He was a courageous President. He said what he meant and meant what he said. Harry Truman never had to back-pedal. He never had to try to make things perfectly clear to the American people. The American people always knew where he stood. He never vacillated or backed away from any problem. He was required to make some or the most momentous and toughest decisions in our nation's history. I have no doubt that he will be recorded as one of our greatest Presidents. Our country needs a man of his courage, his candor, his integrity, in the White House today.

From the time that the Missouri territory served as the gateway for the development of the West, to statehood in 1821, and up to the present time, Missouri has provided the nation with leaders in government, national defense, arts and science.

Samuel Clemens; the first United States Senator of Missouri, Thomas Hart Benton; Generals John J. Pershing and Omar Bradley; and George Washington Carver, whose science did so much to open up industrial and other uses of the peanut . . . which, incidentally, is the leading cash crop of my State of Georgia.

All these distinguished men left Missourians and all Americans a worthy heritage that has been carried forward to this day.

One of the most distinguished and respected members of the United States Senate for the past 20 years has been your native son, and my good friend and colleague, Stuart Symington. When I first went to the Senate in 1957, Stu Symington was one of the first members I met. He's been my good friend ever since. I respect his work and envy his ability.

Senator Symington now serves as Vice Chairman of the Senate Armed Service Committee. Our nation is more secure today because of his untiring dedication to military preparedness. I am proud to serve with Senator Symington on the influential Democratic Policy Committee, where he is a senior member and a leader in formulating a sound legislative policy for the Senate majority. Right now, in the midst of our nation's present difficulties, there is a very high premium on sound leadership.

You have another fine Senator in Tom Eagleton. He is an able lawmaker. He possesses one of the sharpest legal minds in the Senate. I value his friendship and association. Tom Eagleton served your state with distinction as Attorney General, and as Lieutenant Governor. He brought these qualities of leadership to the nation's capital just six years ago. He has already established himself as one of the hardest working members of the Senate.

Even before energy became a household word, Tom Eagleton was in the forefront of efforts in the Senate to make our nation self-sufficient in its energy needs. Keep in mind that while the present Administration kept insisting there was not going to be an energy crisis, Tom Eagleton was in there working, trying to protect our nation's interests in this vital area.

Also, his work as Chairman of the Subcommittee on Aging of the Labor and Public Welfare Committee has been of enormous benefit to the senior citizens of Missouri and the nation, in terms of endeavoring to identify their problems and bring about corrective legislation.

Senator Eagleton has demonstrated that this is one of the greatest unmet needs of our time. Inflation, after all, is a cruel form of taxation which bears down hardest on people least able to stand the burden . . . people who must live on fixed incomes like Social Security or retirement benefits. In dealing with this problem, Senator Eagleton has shown great understanding and compassion for a segment of our society that many people tend to regard as "forgotten Americans."

Along with Senators Symington and Eagleton, and I am grateful for their invitation to be with you tonight, I also want to salute your distinguished and highly respected Congressional delegation in the House of Representatives.

Nobody has to remind us of the legacy left to the Democratic Party by the two Presidents, Jefferson and Jackson. You in Missouri, of course, have a very special reason to honor the memory of Thomas Jefferson. Without the Louisiana Purchase in 1803, our nation might never have become the power it is today, and the State of Missouri might not have come into being.

Although he was an aristocrat to his fingertips, Jefferson spoke for the masses—farmers, the pioneers, and the apprentices of his day. He was the intellectual architect of what we know today as the Democratic Party. Jeffersonian Democracy brought us government of and for the people, and the principle of the equality of man.

Jacksonian Democracy extended this principle to government by the people. Andy Jackson was a reformer and a champion of the little man. He regarded the so-called "average man" as the bone and sinew of the country. That was true in Jackson's day. It is true now, insofar as I am concerned.

When I refer to the backbone and muscle of the American nation, I am talking about people who work in the shops, the factories, and the offices, and pay the taxes that keep our country running . . . people who plow the land and bring in the harvests that feed and clothe 210 million Americans and a good part of the world as well. I mean people who sometimes must struggle to keep body and soul together, but who don't give up the struggle and expect someone else to do it for them. I mean people who work and sacrifice to insure their children of their birthright to a quality education, and who believe that matters of the family, the home, and the school are best determined at the local level and not in Washington. These are people who have been brought up to believe that government is set up to be the servant . . . not the master. I say . . . more power to these people.

These are the kind of people who built America and have kept it free. These are the kind of people we must look to if we seek to secure the future of America.

This is one reason why I am so opposed to a federally supported guaranteed annual income—which in reality would be supported by working people, for the benefit of non-working people. Working men and women, some of whom even moonlight and hold down two jobs, don't like the idea of having their hard-earned tax dollars spent on propping up able-bodied people who spend most of their time sitting on their front porches doing nothing.

This country wasn't built on guaranteed anything. It will, however, most assuredly be torn down if we start drawing on the federal largesse to guarantee able-bodied people something for nothing. A strong and viable economy is the best kind of social reform that can be devised.

The Democratic Party has always held the confidence of grassroots America so long as it adhered to its founding principles. The Party has been repudiated only when it lost

sight of its goals and allowed itself to become the tool of special interests and pressure groups.

Two years ago, the National Democratic Party saw that lesson in action. The folly of losing touch with a majority of the people and allowing our Party to be divided along radical ideological lines became very apparent to Democrats in November, 1972. If we are going to continue to have a strong and viable two-party system in the United States, we cannot afford that mistake again.

However, this is no time to cry over spilled milk. Having learned from that lesson, Democrats need to once again assert their strength at every level of government and to put it all together at the national level. We need to put up a strong and common front to lead the nation out of the social disorder, economic chaos, and crisis in government that threaten the security of the American people today. Never has the challenge been more severe. Never has opportunity been greater.

If the National Democratic Party will get back in the mainstream of American politics . . . If the National Democratic Party will nominate a leader who will appeal to and work for a majority of rank-and-file Americans . . . I have no doubt that the Party will once again assume its rightful role of leadership.

If the Democratic Party will produce and support a candidate concerned about the problems of men and women who work and pay the taxes in America, I am convinced it will again win the respect and the votes of the people.

If the Democratic Party will produce action instead of reaction . . . leadership instead of expediency . . . candor instead of guile . . . responsible and responsive government instead of uncontrollable and burdensome bureauacracy . . . I am confident that Democrats can and will once again capture the White House in 1976.

As a member of the so-called Watergate Committee, it is difficult for me to speak anywhere and to not comment at least to some degree on the break-in, cover-up, and other related disclosures of the past year.

The Select Committee on Presidential Campaign Activities has now voted to suspend public hearings until further notice. We are now preparing our report, and I hope it will result in corrective legislation. The matter is now primarily in the hands of three agencies, Special Prosecutor Jaworski, the Federal Judiciary, and the House of Representatives, which is presently considering impeachment.

I, of course, have no way of knowing what the House of Representatives will do. In any event, it would be inappropriate for me to try to draw conclusions or pass judgment at this time, inasmuch as I would have to sit as a juror in the Senate if the House were to vote impeachment.

Nevertheless, I have sat on the Committee since last May for hundreds of hours. I have listened to and read millions of words of evidence and material related to the case. I have seen my office virtually swamped by a veritable tidal wave of letters and telegrams from all over the nation. Under such conditions, it would be impossible for me to avoid coming to at least some conclusions—not about the Watergate case in particular—but more about the nature of our government and the people of this country.

First of all, I realize more strongly than ever the importance of the sanctity of the trust the American people put in their elected leaders. Certain principles that are fundamental to our republican form of government have obviously been seriously damaged. All of us have a job to do in rebuilding the strength and dignity of America. Those who hold public office have a responsibility to restore confidence in government by demonstrating integrity at all levels—from the Courthouse to the White House.

Also, we need a rejuvenation of the spirit of the people of the United States. The American people must get back to the ideal that the individual must accept responsibility for himself and for his government. I am often asked . . . how could anything as highhanded as Watergate happen in American government? I respond in this way: anything can happen in our society, if the people allow it to happen. It has always been a fact of life that government will respond to the people. All the people need to do is let their voices be heard in strong enough number . . . or, conversely, to remain silent and apathetic, and government will react accordingly.

There is now and there has been for years too much apathy about government. According to readings I get, people are virtually turned off about politics and government. We have a credibility gap the likes of which we have never known before in this country . . . with millions of Americans having become so disillusioned they no longer believe what the President or other elected officials tell them.

The war in Vietnam took a heavy toll, not only in American lives and treasure. It drained the American spirit as well. Now, we have a domestic crisis that even further erodes the confidence of Americans in their government. We have rampant inflation that robs working people of their earnings and the elderly of their savings. We have rising unemployment. We have shortages of fuel and energy, of fertilizer, and of other commodities and materials that are vital to our economy.

People wonder how a nation as prosperous and resourceful as ours ever got in this fix. They keep waiting on the government to do something about it. Government keeps rushing from one crisis to the next, trying to attack these problems on a patchwork, piecemeal basis. The American people once viewed their government as a sympathetic and sometimes helpful ally. Now, government is being regarded as a hostile and incompetent adversary.

In the 1930's President Franklin Roosevelt and the Democratic Party led the nation out of the worst economic depression of the century. It seems now that once again Democrats in Congress and in the White House are going to have to lead our people out of a depression of the American spirit. It is perhaps one of the worst we have ever had.

We meet tonight at a time when the country seems virtually to be falling apart. Government at the highest levels is in disrepute. The economy is nearly in a shambles. Morale and morality are at an all-time low. The needs of tens of millions of American citizens are at an all-time high. Let me share a thought with you, and I quote:

"This is preeminently the time to speak the truth, the whole truth, frankly and boldly. Nor need we shrink from honestly facing conditions in our country today. This great nation will endure as it has endured, will revive and prosper. So first of all, let me reassert my firm belief that the only thing we have to fear is fear itself."

These words were uttered by President Roosevelt in his inaugural address on March 4, 1933.

We are not in the grip of a severe economic depression. We pray to God that we never again will be. But, we do have a great depression of the spirit of the American people. Too many people don't seem to care anymore, or to trust anyone anymore. This depression of the spirit has resulted from enormous gaps of *credibility, confidence,* and *conscience.*

People have had too much government that has been too far removed from them. There have been too many leaders in government who have misled the people for too long. Government has gotten so big and complex that years ago it stopped being responsive to the people. As responsiveness has failed, so has credibility. Lack of confidence produces apathy. Apathy can result in anarchy. Under such conditions, freedom is soon gone and government becomes a symbol of tyranny and corruption.

Remember what the Roman statesman Cato said about people who care so little about their government that they neglect to get involved. I quote: "No one," he said, "but a tryant or a slave would say that the people have no right to meddle in their government."

That brings us to the matter of conscience. Just as fuel and energy run our nation, conscience drives people to do good and to be mindful of the rights, feelings, and property of everyone else. And yet, look at the frightening picture of our nation's ever-increasing crime rate, violence, terrorism, and kidnappings. Conscience must also be in short supply.

All the crises we have been going through in recent years—the gold and dollar crisis—the energy crisis—are to my mind just spin-offs from a central problem—a crisis in government. For the most part, this is not a state of affairs inflicted upon the United States' government by some alien power. It is a situation the United States' government largely brought upon itself.

In the past quarter of a century, government has been growing more, spending more, and encroaching more into the private lives of individual citizens than ever before. Government has levied taxation almost to the point of confiscation to pay for proliferating programs. I call it spending money we don't have for programs we don't need.

And, I might add that Democrats must share the blame with the Republican Party for this unhealthy situation. Each Party, it seems to me, has been trying to see which one could spend most of the taxpayers' money.

What do we have to show for it? A national debt that is fast approaching $500 billion, and interest alone on that debt is close to $30 billion a year. We have inflation that has weakened the United States at home and abroad. We have the most unemployment in 10 years. We have the highest interest rates since the War Between the States. And, two years ago, we started having our first trade deficits since 1888.

We have gotten the people in the clutches of a price squeeze, a wage squeeze, a tax squeeze, a food squeeze, and an energy squeeze.

What is it going to take before the American people rise up in righteous indignation? What is it going to take before Congress and an Administration in the White House demonstrate the wisdom and the courage and the determination to call a halt to reckless, runaway government spending?

Not satisfied with trying to spend our nation nearly into the poorhouse at home, the United States' government has tried to play policeman, banker, and Santa Claus for just about all the rest of the world. The government has been so intent upon trying to be all things to all people all over the world, that it has not measured up to its primary duty.

I submit that the first responsibility of the United States' government is to look after the United States' people. Down at the State Department, we have a desk for just about every nation in the world, that is on duty day and night. I have long maintained that what we need down there is a United States' desk that would work day and night for the American people.

Instead, we have had a government that has taken our people into wars where we have had no business, and put our troops where they are neither needed nor wanted.

I stand alongside Senator Symington in efforts in the Senate to reassess United States military and economic foreign aid. Senator Symington says we ought to bring home at least half of the American forces stationed in Western Europe, and I could not agree more.

Speaking for myself, I have never voted for a foreign aid appropriation since going to the Senate some 17 years ago. I have no intentions of doing so until the whole program is reappraised from top to bottom and until I am convinced that it amounts to more than just a global giveaway.

If I had to name any one thing that alienated the American people from their government more than anything else in the past 25 years, it was the war in Vietnam. No one understood it. No one like it. It polarized our people as they have not been divided for more than 100 years.

We now have the War Powers Act, which greatly restricts the Executive Branch of government in committing troops to a foreign battlefield without Congressional approval. I pray to God that this country never again will let itself get involved in any war, anywhere, with any nation, unless our own national security is directly threatened.

Thus, we have a challenge to restore responsibility, integrity, and confidence to our government. It is a challenge of conscience . . . challenge of leadership . . . and a challenge of devotion to our nation.

Thomas Jefferson and Andrew Jackson lived in an earlier time, and we are now struggling in a vastly different and more complex world. But, the truth they spoke and the ideals that they stood for—like the teachings of the Bible itself—are as valid today as they were then.

Only when we return to the lessons found in the Holy Writ and to the teachings of men like Jefferson and Jackson—then and only then can we hope to preserve our nation in freedom, peace, and prosperity for future generations.

I confess that I do not have all the answers. But, I do know this: this country needs strong and decisive leadership. We need it in Congress. We need it in the White House.

When we have that kind of leadership, I am confident that it will be met in full measure by the strong will of a God-fearing, hard-working, and patriotic American people.

DEATH OF DR. HAROLD D. WEST, OF NASHVILLE, TENN.

Mr. BAKER. Mr. President, I was saddened to learn of the recent death of Dr. Harold D. West, the distinguished past president of Meharry Medical College.

Meharry, which is located in Nashville, the capital of my home State of Tennessee, is the largest predominantly black institution of medical education in the United States.

Dr. West was the first black president of Meharry. He was an accomplished and dedicated medical researcher, educator and administrator, and a valued friend of students, faculty members and all citizens of Nashville.

During his tenure as president, Dr. West's innovations and achievements helped make Meharry into an even greater center of learning.

I ask unanimous consent to print in the RECORD a memorial tribute to Dr. West by his friends at Meharry.

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

HAROLD DADFORD WEST

In 1952 Dr. Harold D. West was elected the first Black president of Meharry, a choice based on his accomplishments as a biochemist and medical educator. He had served the college for 25 years as an associate professor, professor and head of the department, and for one year as vice chairman of the Interim Committee.

In the biochemistry laboratory he did original research in the synthesis of the essential amino acid threonine, and published 52 articles in scientific journals. As teacher, he was involved not only with the education of medical and dental students, but conducted graduate education as well.

His Ph. D. in biochemistry was appropriate for the needs of Meharry at the time of his presidency and he was able to expand both the basic science and clinical teaching. The faculty trebled. Sponsored research increased from $80,000 per year to $1,000,000 per year and a research wing was added to the hospital, as well as a new hospital wing known as the "West Wing" which was constructed in 1963 at a cost of $1.5 million. This new wing included a new complete department of Roentgenology, a complete new department of obstetrics and gynecology, space for the hospital pharmacy and a large well equipped emergency service, together with the new department of Psychiatry.

Dr. West was a very compassionate individual and he was always concerned about the human element. During his tenure as president, he established a department of social work and psychiatry, added to students' comfort by building its student dormitory and cafeteria, and helped faculty morale by the institution of faculty retirement system and credit union.

The students in dedicating the 1968 edition of the Meharrian to Dr. West spoke of "his wisdom, eloquence, insight, and guidance . . . both in his role as president and as a revered teacher . . . his courage to be different, determined and diligent . . . courage to go ahead in the face of defeat and discouragement . . ."

Desegregation of the student body was achieved in the face of criticism without fanfare and with the obvious stamp of Dr. West's belief in the dignity of all men.

After his retirement from the presidency of Meharry Medical College, Dr. West returned to his laboratory and again his research was fruitful. Prior to his death, he was writing a history of Meharry Medical College. He will be sadly missed by all of the Meharry Family.

JOB AND THE SUPREME COURT

Mr. ERVIN. Mr. President, I was dismayed yesterday when the Supreme Court again refused to take a stand against unconstitutional governmental invasions of individual rights and liberties. The case was California Bankers Association against Shultz which raised questions regarding the constitutionality of certain provisions of the so-called "Bank Secrecy Act." That act authorizes the Secretary of the Treasury to require the recording and reporting of private financial transactions.

With Justice Rehnquist writing for the majority, the Court refused to reach the serious constitutional issues raised by the Bank Secrecy Act, such as the right of an individual to be free from secret government snooping into his private financial affairs. Holding first that the act works no unconstitutional injuries on banks, the Court went on to hold that bank depositors lack standing to challenge the act unless their bank records are taken by the Federal Government without giving the depositors the opportunity to challenge the seizure, and these bank records are used against them. Justice Rehnquist underscores the Court's apparent newly-adopted policy of dodging hard constitutional questions, by referring to another of the Court's recent non-decisions which refused to strike down military surveillance of civilian political activities:

> The threat to any First Amendment rights of the ACLU or its members from the mere existence of the records in the hands of the bank is a good deal more remote than the threat assertedly posed by the Army's system of compilation and distribution of information which we declined to adjudicate in *Laird v. Tatum*, 408 U.S. 1 (1972).

When will the threat be serious enough to compel the Supreme Court to act?

I am reminded of the book of Job which echoes with the question, "How long?" In the second verse of the 19th chapter, Job cries out, "How long will you torment me and break me in pieces with words?" I think the words of Job very aptly express the feelings of the individual citizen whose individual liberty is besieged on every side by the forces of governmental recordkeeping, reporting, surveillance, and all manners of invasions of his privacy. Instead of recognizing the constitutional affronts posed by massive Army spying on citizens, and instead of laying down some protections against a vaguely disguised Government data bank on private financial transactions, the Court gives us words. These words serve only to hide the concrete issues raised by the Tatum case and the Bank Secrecy Act. Any nimble lawyer can drown facts in words. The Court, unfortunately, seems these days to be doing just that. It appears that the individual citizen whose privacy is violated in countless ways all of the time may have to wait a long time before the Supreme Court is willing to come to his aid.

Justice Rehnquist's view blinks at reality, just as Chief Justice Burger's did in the Army spying case. The only time Justice Rehnquist would allow a citizen to challenge the act would be in a suppression motion in defense of a criminal case. But Government's ability to spy on us invades our privacy whether or not it ever leads to prosecution. Indeed, it is more insidious to have silent, secret Government surveillance with the individual unable to defend himself in any way or in any forum. Having to rely on the exclusionary rule—which many of these same Justices would abolish—may protect against certain use of improperly gathered information. It does not prevent the Government from getting it in the first place, it does not make them give it up, and it does not protect the citizen against a snooping big brother. One of these days the Supreme Court will recall that the fourth amendment protects "the right of the people to be secure in their persons, houses, papers, and effects." It is not merely a rule of criminal procedure imposing some inconveniences on the Government in the proof of a criminal charge.

The time has come for the Congress to assert its power in the interests of the rights and liberties of the individual who is caught in the toils of what Justice Marshall aptly terms in his dissent "a hollow charade whereby fourth amendment claims are to be labelled premature until such time as they can be deemed too late."

The plain fact of the matter is that the Act's recordkeeping requirement feeds into a system of widespread informal access to bank records by government agencies and law enforcement personnel. If these customers' Fourth Amendment claims cannot be raised now, they cannot be raised at all, for once recorded, their checks will be readily accessible, without judicial process and without any showing of probable cause, to any of the several agencies that presently have informal access to bank records.

This opportunity to raise constitutional claims is precisely what the Right to Financial Privacy Act, S. 2200, introduced by Senator Cranston with broad bipartisan support, is designed to guarantee. I urge my colleagues to join me in cosponsoring that bill and in seeing to it that this important privacy protection is enacted into law.

It is interesting to note that at least four Justices have expressed their view that congressional action in this area may be appropriate. In addition to Justice Rehnquist's remarks in passing, Justice Powell and Justice Blackmun specially concur in order to express the following reservation regarding the need to bridle uncurbed executive power:

In their full reach, the reports apparently authorized by the open-ended language of the Act touch upon intimate areas of an individual's personal affairs. Financial transactions can reveal much about a person's activities, associations, and beliefs. At some point, governmental intrusion upon these areas would implicate legitimate expectations of privacy. Moreover, the potential for abuse is particularly acute where, as here, the legislative scheme permits access to this information without invocation of the judicial process. In such instances, the important responsibility for balancing societal and individual interests is left to unreviewed executive discretion, rather than the scrutiny of a neutral magistrate. *United States v. United States District Court*, 407 U.S. 297, 316–317 (1971).

Justice Douglas sounds the challenge more directly in his dissent:

This [Bank Secrecy] legislation is symptomatic of the slow eclipse of Congress by the mounting Executive power. The phenomenon is not brand new. It was the case in *Schechter Corp. v. United States*, 295 U.S. 495. *United States v. Robel*, 389 U.S. 258, is a more recent example. *National Cable Television Assn. v. United States*, —— U.S. ——, and *FPC v. New England Power Co.*, —— U.S. ——, are even more recent. These omnibus grants of power allow the Executive Branch to make the law as it chooses in violation of the teachings of *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, as well as *Schechter*, that lawmaking is a congressional, not an Executive, function.

It is high time we took up the challenge here in the financial privacy field where the Supreme Court has refused to act by enacting S. 2200, as well as in many other areas where Congress is uniquely able to act now to protect individuals from an over-intrusive government.

HIBERNIAN SOCIETY BANQUET

Mr. HOLLINGS. Mr. President, each year at the anniversary celebration of the Hibernian Society of Charleston, S.C., a member of the clergy responds to the society toast "To the Day We Celebrate."

This year, at the 173d anniversary dinner of the Hibernian Society, we were fortunate to hear an address by Msgr. George Lewis Smith, pastor-emeritus, St. Mary Help of Christians Parish and the Aiken Missions, Aiken, S.C.

So often when we celebrate a memorial, or observe a day set aside in honor of an historical figure, we go through the form without pondering the substance. St. Patrick's Day is a case-in-point. How seldom it is when March 17 rolls around that we really pause to recall what the day is all about. And even if we had the desire to do so, we more often than not lack the information to go on.

Monsignor Smith's speech brings us face to face with the historical St. Patrick, and the meaning of St. Patrick's Day. And it does so eloquently and beautifully.

Mr. President, I ask unanimous consent that Monsignor Smith's talk be printed in the RECORD, and I hope it is widely read.

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

ADDRESS BY MSGR. GEORGE LEWIS SMITH

Mr. Chairman, Mr. Vice President of the United States, Monsignor Manning, reverend fathers, distinguished guests, members and friends of the Hibernian Society of Charleston: When I accepted your gracious invitation to speak at this banquet I was told that the topic assigned to me was: "The day we celebrate." I thought it rather a foolish and futile subject to ask me to speak on for if there is a single person in this hall tonight who does not already know that the day we celebrate is Saint Patrick's Day, then all I can say is that this banquet of the Hibernian Society is no place for you.

We celebrate and commemorate Washington's birthday; Lee's birthday, Lincoln's birthday and the birthdays of other famous personages but the day we celebrate is not the birthday of Saint Patrick—No; the day we celebrate is the day his immortal soul was liberated from its mortal encasement, which, according to tradition, was either March 17, 492 or March 17, 493.

It has been aptly said that no saint has left a deeper imprint on the land he evangelized than Saint Patrick. Saint Augustine in England; Saint Andrew in Scotland; Saint David in Wales; Saint Boniface in Germany—are remembered only as the shadow of their names and their influence seems to have spent itself, while Saint Patrick still appears to be a living force not only in Ireland but the whole world over, wherever there are Irish hearts to cherish his memory and Irish lips to shout his praises.

Whether he was born at Dunbarton in Scotland or at Monmouthshire, near the mouth of the Severen, and whether he first saw the light of day in the year 387 or 389 are controversial matters which I leave to Irish scholars. This much is certain—he was born a Roman subject—a citizen of that far-flung empire which extended its sway over the British Isles long prior to his birth. His father was probably a decurian or concillar in the Roman town of Banvem Tabernia.

It was during the reign of Emperor Theodosius that a band of Irish raiders swept down on the coasts of Saul and carried off the inhabitants including Saint Patrick, who was then about sixteen. Landing on the coast of Antrim, the pirates sold Patrick as a slave to a petty chieftain in Ulster named Michlo.

It is from that wonderful account written by Saint Patrick himself, entitled the "Confession" that we derive most of our information about this period of his life. Saint Patrick's head was shaved and he was clad in the long sheep-skin tunic and leather sandals that denoted the livery of a slave. He had to tend his master's swine on the slopes of Mount Slemish and do the menial work in the pagan household.

For six long years Saint Patrick remained in servitude, never wavering in his faith in God and in the fervor of his prayers. God heard his prayers for we are told that he was divinely guided to escape from his captivity on Mount Slemish when he was 22 years of age. He made his way to the sea, over 200 miles distant, where a ship was about to sail. The captain reluctantly let the exhausted slave come aboard. After three days at sea they landed at an unknown coast and journeyed overland for 28 days until they arrived in Britain where Saint Patrick found some of his relatives who sheltered him. He resolved to become a priest and to return some day to Ireland to convert the Irish pagans from their idolatry.

His plan to return to Ireland to convert the druids persisted all through the long years of his ecclesiastical studies and after his ordination to the holy priesthood. At length, after a pilgrimage to Rome to secure the approval of Pope Celestine about the year 432 he was consecrated a bishop and sent out by sea for the Emerald Isle. He and his companions probably landed near Wiclow Head. The Druids immediately opposed him, but he was not cowed by their opposition. The first thing he did was to pay the price of his ransom to his former master, then freed from the stigma of being a fugitive slave, he set out on his mission.

Who is there who does not thrill at the magnificent challenge Saint Patrick hurled at the pagan kings at Tara! Leoghaire, the supreme monarch of all Ireland, summoned all the lesser chieftains to Tara for a special feast on March 26, 433, and decreed that all fires be extinguished throughout the kingdom until the signal blaze was kindled at the royal mansion to announce the commencement of the feast.

Saint Patrick climbed the hill of Slone, directly opposite the royal residence, and lighted a huge bon-fire in bold defiance of the edict. The druids attempted to extinguish it but in vain. Saint Patrick was brought before Leoghaire and the assembled chieftains at Tara. He appeared in his full episcopal robes, with mitre and crozier and defended himself by preaching to them the great truths of Christianity, including the doctrine of the trinity. It was on this occasion, according to tradition, that he plucked the shamrock at his feet and used it to illustrate by way of analogy the one God in three divine persons. So impressed were the chieftains with Saint Patrick that they granted him leave to preach the faith throughout the length and breadth of Ireland.

He encountered terrific opposition from the druids and pagans and had to endure all kinds of hardships. He was mis-judged by some, betrayed by others. One of his close friends brought false accusations against him and for a short time he was deposed from

his bishopric. He went to Rome to defend himself, where he was soon reinstated and returned to Ireland to resume his interrupted labors for the conversion of the Irish.

As I have already said, no saint has left a deeper trace on the land he evangelized and the race he converted than did Saint Patrick, for over 15 centuries the Irish have clung with unshaken tenacity to the faith he preached to them in spite of persecution, opposition, hardships, famine and exile. In every corner of the globe, wherever a knot of Irishmen are gathered together, the name of Saint Patrick is revered and blessed in song and speech and prayer.

As we look back in retrospect we can observe some of the outstanding traits and characteristics that caused him to achieve greatness in his own time and to retain that greatness for all time.

First of all, Saint Patrick was a giant in spirit. Prayer is the hall-mark that identifies the souls who "walk with God." It was the source of his strength and the secret of his success as a saint and as an apostle. The gift of prayer was specially characteristic of Saint Patrick and it is a gift that he handed down to his spiritual children, for it is a noted trait of the Irish to pray and to pray fervently whenever they are in the midst of trials and tribulations. Prayer was for Saint Patrick—as it should be to us—the lifting of the mind and will to God, asking help from on high!

The next outstanding characteristic of Saint Patrick was that he aimed at the ultimate objective regardless of present personal inconveniences, hardships and difficulties. This trait is marked in every man who does great things, whether he be saint or sinner. This single-mindedness of purpose—this habit of always keeping your eye on the ball, if you will—seems to be essential to achieve worthwhile things in any walk of life. And Saint Patrick possessed it in a remarkable degree. Once he decided that he would devote his life to the conversion of Ireland, nothing, not even treachery, betrayal or suspension ever deterred him even for a single instant from his goal.

The third characteristic that seems to stick out throughout his life was his undaunted courage in the face of obstacles and opposition. That magnificent challenge he flung into the faces of the assembled chieftains at Tara is but one example of his undaunted spirit that he constantly displayed during his apostolate and which he seems to have bequeathed to his spiritual descendants, for I have yet to meet a real Irishman who would run from a fight.

Saint Patrick always possessed the proper sense of balance and proportion between the temporal and the eternal phases of life. To put it in the vernacular, he had plenty of common sense. He was a saint, but at the same time a practical man as well. He foresaw that if he converted the chieftains he could convert their followers as well, and so he began at the top. He realized that a native born clergy would be a tremendous asset to the church and so he trained the sons of the people and ordained them to be priests. All through his life he demonstrated a sober and practical judgment concerning temporal things, but this never dimmed his fine sensibilities for spiritual things which always retained first place in his life. He used temporal things as a means to an end, and that end was the conversion of men's souls and their eternal salvation.

We, too, need these same traits and characteristics in our own lives if we wish to live worthwhile lives and attain the noble end for which we are created.

In this present day and age when all the world seems to be topsy-turvy and not alone political systems, but economic, social and moral systems as well are tottering precariously: when everything seems to be in a state of chaos and confusion, and there does not appear to be any material security, we, too, need to be giants in spirit and "walk with God in prayer" asking help and guidance from on high.

We need to determine our ultimate objective and to aim steadily towards it regardless of the vicissitudes of the times and present personal inconveniences, hardships and difficulties.

We need to have the undaunted courage that Saint Patrick always manifested in facing obstacles and opposition, and like him to always exemplify the courage of our convictions.

We need to regain and to maintain the proper sense of balance and proportion between the temporal and the eternal phases of our lives, and like Saint Patrick to make practical use of the mundane things of life not as ends in themselves but as means to fulfill the end which is the eternal destiny that the great God has ordained for each of us!

FINANCE COMMITTEE ANALYSIS OF BUDGET BILL

Mr. DOLE. Mr. President, in preparing the RECORD of March 22, a Finance Committee analysis of the budget bill was inadvertently omitted from my statement on S. 1541. I ask unanimous consent that this report be printed in the RECORD.

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

MEMORANDUM

MARCH 18, 1974.

To Members of the Committee on Finance.
From Michael Stern, Staff Director.
Subject: S. 1541—Congressional Budget Act.

SUMMARY

S. 1541, the Congressional Budget Act of 1974, as reported by the Committee on Rules and Administration, is designed to provide the mechanisms and procedures for Congress to establish its own annual Federal budget and to consider spending, revenue, and debt limit legislation in the context of that budget. The provisions of the bill would have a number of effects on the consideration of legislation handled by the Committee on Finance.

The major changes affecting the Finance Committee are the following:

1. The fiscal year would begin October 1 instead of July 1.

2. By April 1 of each year, the Finance Committee would have to submit a report to the newly created Budget Committee estimating the effect that Finance Committee legislation will have on expenditures, revenues, and the debt limit.

3. Certain kinds of legislation would have to be handled before specific dates; revenue legislation for the upcoming fiscal year could not be considered by the Senate before June 1. However, procedures are provided for waiving these restrictions.

4. Once the Finance Committee has reported legislation affecting welfare, Medicaid, social services, and other entitlement programs, the legislation would be referred to the Appropriations Committee for 10 days.

5. In September of each year, the Congress would debate and adopt a concurrent resolution setting appropriate spending, revenue, and debt limit levels for the coming fiscal year. The resolution could direct the Finance Committee to report legislation raising taxes or cutting back on spending programs within the Committee's jurisdiction.

A more detailed description of the impact of S. 1541 on Finance Committee activities follows:

OVERALL VIEW OF THE BILL

Purpose

The Congressional Budget Act of 1974, (S. 1541), as reported by the Committee on Rules and Administration, is designed to provide the mechanisms and procedures for Congress to establish its own annual Federal budget and to consider spending, revenue, and debt limit legislation in the context of that budget. The provisions of the bill would have a number of effects on the consideration of legislation by the Committee on Finance.

Outline of congressional budget process under S. 1541

On May 1 of each year, the new Budget Committee of the House and Senate would report to their respective Houses a concurrent resolution which would, in effect, be a Congressional budget document setting forth appropriate levels for spending, revenues and public debt for the coming fiscal year. The spending levels would be broken down into functional categories (such as "health," "income security," "national defense") and would include funding levels for continuing ongoing programs and for any proposed new legislation. The recommendations in the resolution reported by the Budget Committee would be subject to debate and amendment during May. When agreed to by House and Senate, the resolution would represent Congressional judgment of the appropriate fiscal situation for the coming year, although the amounts set forth in it would not otherwise be binding.

After the June 1 adoption of the concurrent resolution, action on spending and revenue bills would proceed during June and July. In early September, a second concurrent resolution on the budget would be considered by the Congress which would revise or reaffirm the earlier resolution and which could direct the appropriate Committees to report legislation changing spending, revenue, or debt limit levels (or any combination of the three). Upon adoption of the resolution, Committees directed to do so would report the legislation called for by the resolution and this legislation would then be debated by Congress as part of a "reconciliation bill." S. 1541 calls for action on this reconciliation bill to be completed by September 25, 5 days before the start of the new Federal fiscal year which, under S. 1541, would run from October 1 to September 30.

IMPACT OF S. 1541 ON FINANCE COMMITTEE

Legislation which results in additional Federal spending

Annual report to Budget Committee.—Each year, prior to the consideration of the first concurrent resolution on the budget, each Committee would be required under S. 1541 to make a report to the Budget Committee estimating the amount of additional Federal spending during the coming fiscal year which will result from legislation under the Committee's jurisdiction. This report would be due no later than April 1.

Deadline for reporting authorizing legislation.—Legislation which authorizes appropriations (but does not necessarily require them) would have to be reported by May 15 preceding the fiscal year for which the appropriations are authorized. (The bill includes a procedure under which this deadline could be waived by Senate resolution; the rule could also be suspended by a majority vote of the Senate.) The Committee on Finance has jurisdiction over some programs which fall in this category, such as grants to States for child welfare services and for maternal and child health.

Impact of concurrent budget resolutions on legislation.—The first concurrent resolution, which would be passed about June 1,

would set targets for spending in various areas, but would not be mandatory. A second concurrent resolution, however, would be passed shortly after Labor Day, and this resolution would not only set appropriate spending levels but could direct the Committees having jurisdiction over spending legislation to report measures which would rescind previously enacted spending authority so as to bring spending for the coming fiscal year within the levels determined to be appropriate. In the case of the Committee on Finance, this could include a requirement that the Committee report legislation which would defer or reduce benefits under entitlement programs including both trust fund programs (such as unemployment insurance or social security) and non-trust-fund programs (such as welfare, social services or medicaid).

After the beginning of a fiscal year, new spending measures for that fiscal year would be subject to a point of order if they would cause the spending limits in the concurrent resolution passed just before the beginning of that year to be exceeded. In the case of the Committee on Finance, this limitation would apply to entitlement legislation dealing with both trust fund and non-trust-fund programs. (A new concurrent resolution could, however, be passed to authorize such additional spending, or the rule could be suspended by a majority vote of the Senate.)

Appropriations Committee review of entitlement bills.—Legislation in such areas as supplemental security income, welfare, social services, or Medicaid creates an entitlement to payments on the part of individuals or State or local Governments even though these programs are funded through appropriation acts. S. 1541 requires that any future legislation which would create new entitlement programs or increase existing ones must be referred to the Appropriations Committee for a period of 10 days after it is reported by the substantive committee. The Appropriations Committee could not recommend any substantive changes in the legislation (e.g., lower individual benefit amounts), but it could recommend an amendment to limit the total amount of funding available for the legislation. If such amendment is approved by the Senate, the substantive committee might have to propose a further amendment to conform the legislation to that funding limit.

The requirement of referral to the Appropriations Committee would not apply to legislation affecting existing Social Security Act trust fund programs or other trust fund program substantially funded through earmarked revenues. It would also not apply to legislation amending the general revenue sharing program to the extent that such legislation included an exemption from that requirement.

Required report on spending legislation.—S. 1541 would require the Committee, in reporting legislation involving increased spending, to include in the report information showing how that spending compares with the amount of spending provided for in the most recent concurrent budget resolution. In addition, the report would be required, to the extent practicable, to show the impact of spending under the bill on State and local Governments and to provide a projection for five fiscal years of the spending which will result from the legislation.

Legislation relating to revenues and debt limit

Annual report to the Budget Committee.—The April 1 annual report to the Budget Committee which is described above would, in the case of the Finance Committee, also have to present views and estimates of the Committee with regard to revenues and the debt limit.

No revenue legislation prior to June 1.—Under S. 1541, debt limit or revenue legislation for the upcoming fiscal year would not be in order for consideration by the Senate (or House) prior to the adoption of the first concurrent resolution on the budget (about June 1). This rule would not apply to trust fund taxes, and it would not prevent action on revenue changes to be effective in years after the upcoming fiscal year. (A procedure for waiving this limitation is included in S. 1541; the rule could also be suspended by a majority vote of the Senate.)

Impact of budget resolution.—As with spending measures, the first concurrent resolution adopted at the end of May would set targets with respect to revenue and debt limit legislation, and the second concurrent resolution in September could direct the Committee on Finance to report legislation to achieve the changes in aggregate revenues or in the debt limit which the Congress determined to be appropriate. Such legislation would have to be reported in time to be included in the reconciliation bill which would be acted upon before the October 1 start of the fiscal year.

Required report on tax expenditures.—S. 1541 defines the term "tax expenditures" to include any revenue losses attributable to tax provisions such as income exclusions, tax credits or deferrals, or tax rates which represent a "deviation from the normal tax structure." The bill requires that the Committee report accompanying legislation to provide new or increased tax expenditures to include information as to how such legislation will affect the level of tax expenditures under existing law and a justification for the change. The report will also have to include (to the extent practicable) a projection of the tax expenditures resulting from the legislation over a period of five fiscal years.

The issue of impoundment

The Congressional budget established by the bill takes the form of a concurrent resolution which is passed by both House and Senate and consequently represents Congressional judgment of what would be appropriate levels of Federal spending, debt and revenues. The resolution is not signed by the President, however, and accordingly does not have the force of law. The levels of spending which the concurrent resolution sets forth as appropriate in the view of Congress could not, therefore, be used as a legal justification for impoundment actions. S. 1541, in addition, includes a disclaimer section which specifically states that its provisions cannot be used as a reason for Presidential impoundments. Further, the bill includes a provision limiting the circumstances under which funds can be withheld under the Antideficiency Act.

FLORIDA'S 1973 WINNERS, FREEDOMS FOUNDATION AWARDS

Mr. CHILES. Mr. President, America's founders and pioneers suffered, sacrificed, fought and died for the basic principles of individual freedom which are our inheritance. The struggle still continues and, I hope, always will, for the fight against any force that threatens our Nation's principles and aspirations is a necessary fight. A vital need for all Americans now is for renewed incentive to express, by word and deed, their faith in our country.

The Freedoms Foundation at Valley Forge, through its annual awards, encourages such expression and I am pleased that the outstanding efforts of these Floridians have been recognized:

Rev. Donald H. Eckert, St. Petersburg Beach, George Washington Honor Medal for spiritual value sermon. Rev. Richard T. Harbison, Pensacola and Rev. Ralph B. Huston, Fort Lauderdale, Honor Certificate Awards;

Carlos J. Arboleya, Miami, and Lt. Col. J. O. Cooper, U.S. Army, retired, Satellite Beach, George Washington Honor Medal Awards for public addresses;

University of West Florida at Pensacola, George Washington Honor Medal Award for college campus programs;

Americanism Committee. St. Petersburg American Legion Post No. 14, Bob Francis, chairman, George Washington Honor Medal Award for community service and Americanism—sixth award for the committee plus three previous honor certificates for the chairman;

Greater Fort Lauderdale Chamber of Commerce and Melbourne Area Chamber of Commerce, George Washington Honor Medals for community programs;

J. Earle Bowden, Pensacola News-Journal, Honor Certificate for cartoon;

Budd W. Boyer, Pompano Beach, William A. Mullen, Pompano Beach, and Arthur C. Schofield, Sarasota, George Washington Honor Medals for editorials. Waldo Proffitt, Jr., Sarasota, Honor Certificate for editorial;

Mrs. Vlasta Broz, Pinellas Park, Dr. Gilbert L. Lycan, DeLand, George Washington Honor Medals for letters to the editor;

Gen. Bruce K. Holloway, U.S. Air Force, retired, Orlando, George Washington Honor Medal for published article. John Appleyard, Pensacola, and S. L. Frisbie IV, Bartow, Honor Certificates for published articles;

School Board of Broward County and U.S. Coast Guard, Loran Station at Jupiter, George Washington Honor Medals for governmental unit activities;

John Appleyard, Pensacola, Carlos J. Arboleya, Miami, Dr. Luis M. Perez, Sanford, and Arthur C. Schofield, Sarasota, George Washington Honor Medals for general Americana. Arthur R. Barker, Fort Lauderdale, Neil Clark, Orlando, and Julia St. John, Miami, Honor Certificates for general Americana.

WASHINGTON-MOSCOW MEDICAL HOTLINE

Mr. PELL. Mr. President, as nations around the world become increasingly sophisticated in the sciences and technologies of peace, rather than of war, I hope that the sharing of important scientific information proliferates.

I believe that there is no field in which information sharing is more important than the field of health care. Researchers and practitioners from all nations need and deserve the support of their fellow scientists. Governments must lead the way in allowing that support to take place.

I believe that an excellent example of this cooperation will be seen in the International Cancer Research Data Bank, first authorized in the National Cancer Act of 1971. An important part of any data collection and distribution system is the communication link among scientists. A very good example, a first step, with great potential for the welfare of mankind, is the present teletype medi-

cal hotline between our Department of Health, Education, and Welfare, and the Ministry of Health in the Soviet Union.

An article written by Mr. Theodore Irwin about this communication link appeared in Parade magazine of Sunday, March 31. I believe that this story tells us all a great deal about the benefits of working together on the problems of all men. Accordingly, Mr. President, I ask unanimous consent that the article entitled "Washington-Moscow Medical Hotline" be printed in the RECORD.

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

WASHINGTON-MOSCOW MEDICAL HOT LINE

(By Theodore Irwin)

ROCKVILLE, MD.—At an unobstrusive cubicle in the sprawling Health, Education and Welfare Offices here, some 20 miles from Washington, a teletype machine starts chattering at 60 words a minute. The message, in Russian, comes from "Minzdraw Moskva"—Ministry of Health, Moscow. Alerted in a nearby room, a young American doctor steps in, begins translating, nods and beams with satisfaction.

The new medical Hot Line between the two nations has flashed another instant communication that could prove of lifesaving significance. The other direct Washington-Moscow transmission link is the Hot Line originally proposed by PARADE that began operating in 1963.

"That first Hot Line," HEW Secretary Casper W. Weinberger told PARADE the other day, "is to be used only in cases of extreme emergency when peace is seriously threatened—to prevent thermonuclear war. Our Hot Line for Health actually functions daily, a continuing dialogue for the most peaceful of purposes."

Conceding the activation of the medical "instant-teamwork" link last September was part of détente, Weinberger points out that health is a universal problem needing universal solutions.

"Our Hot Line," he adds, "now brings together scientists and technicians in the world's two largest health research establishments for immediate trading of information. Ultimately this could save a countless number of lives."

Until the new system was officially launched, it took at least a month, sometimes three months, for turn-around medical communications to and from the U.S.S.R. Long delays can paralyze a joint project. And with biomedical investigators in both countries experimenting on important drugs, it's essential that bad reactions to a trial drug be reported quickly. Today, if one scientist comes up with a brilliant idea or breakthrough, he can put it on the teletype and have his counterpart thinking about it in a few minutes.

Under the official agreement of the U.S.-U.S.S.R. Joint Committee for Health Cooperation, researchers are concentrating on cancer, cardiovascular disorders (heart disease is the Number One killer in both countries) and environmental health, including pollutants, radiation, noise. Arthritis was recently added.

GREATER COOPERATION AHEAD

"We are broadening our areas of cooperation," notes Dr. S. Paul Ehrlich Jr., the Minnesota-born Acting Surgeon General who heads the international section of HEW. "Joint studies are underway on mental illness such as schizophrenia and depression. We'll be getting into influenza where the Soviets are doing a tremendous amount of research and testing various vaccines. Our teletype machines will be used to report findings on preventing 'sudden death' which occur within 72 hours after a heart attack.

"In another sphere of mutual concern, the delivery of health services, we are training and using physician assistants and nurse practitioners. The Soviets have a well-developed program for using medical assistants called 'Feldschers' and we'll be able to see how they train and utilize their paramedics."

Clearly, doctors in the two countries have much to learn from each other. The Soviets, for instance, are pioneering in the use of laser beams for glaucoma; here, we've led the way in treating detached retina with the laser. In arthritis, Dr. Ehrlich points out that the Russians tend to rely more extensively on physical medicine and rehabilitation (especially hydrotherapy and mud therapy) and less on drugs than we do. American medical scientists focus on basic research to find the cause of a condition and then to seek a method of prevention or cure.

LEARNING FROM EACH OTHER

Thus far, after consulting over the Hot Line with more than 80 messages, the Soviets have sent us 13 experimental anti-cancer drugs and we have sent them 22. Both sides are testing them in the same way, thus doubling efforts to discover a cancer cure.

As word of the Hot line gets around, the U.S. project operators receive an increasing number of queries from doctors (and even some from lay citizens) asking what the Russians are doing in a specific disease such as multiple sclerosis or myasthenia gravis, a muscular debility. (The cost to us of a Hot Line message? Only $2.55 a minute on the teletype.)

On a particular research project, scores of scientists may become involved. Take the case of the handsome, 9-year-old baboon from a primate research center at Sukhumi in southern Russia. This animal is a special species wholly unlike any in the U.S. The Soviets had developed a "virus" taken from a human afflicted with lymphoma (leukemia of the lymph system, a form of cancer) and inoculated the baboon with it. After a number of Hot Line messages to speed up the shipment to us, we sent a special cage for the sick baboon in December.

MIKE THE BABOON

Quarantined at the Litton Bionetics Research Laboratories in Kensington, Md., "Mike" (as one researched dubbed him) was examined by dozens of our scientists. When Mike succumbed to the disease in January, cellular tissue material was taken from him for thorough study.

Did the baboon have the leukemia claimed by the Russians? Did the virus behave the way they described it? Could we reproduce the same kind of cancer virus? If it can be proved that the Soviets are on the right track, most of the U.S. cancer-research centers, and as many as a hundred medical investigators, will be working on a host of studies.

Obligingly, last month the Russians shipped us another baboon, this one an attractive 4-year-old female. At the age of 5 months, Soviet scientists began giving her blood from other baboons afflicted with lymphoma. Now in isolation at the Bionetics labs, she has replaced Mike as the focus of intensive research.

"This baboon research," says Dr. Ehrlich, "could greatly open up the possibilities for an ultimate cure for leukemia."

OVER BUREAUCRATIC OBJECTIONS

The idea for a medical Hot Line had been incubating for some years. One little-known factor was the collaboration by Dr. Michael DeBakey, the noted American surgeon, and Dr. Boris V. Petrovsky, the Soviet Minister of Health, on a book dealing with heart surgery. They're still exchanging chapters. This joint venture seemed to pave the way for a Hot Line which at first startled Moscow bureaucrats. Then came President Nixon's summit meeting with Brezhnev in May, 1972, resulting in a new health-research agreement—but still many Russians backed off from our Hot Line proposal, because of their own bureaucracy and concern over the use of such a bold idea as a direct link with the U.S. health community.

Finally, when HEW Secretary Weinberger visited Russia last fall, he persisted: "Let's install the Hot Line before I leave." Sure enough, as Dr. Petrovsky overrode his colleague's objections, the teletype tie opened five days later.

Another event that helped break the ice is related by Dr. Roger O. Egeberg, the President's special consultant on health affairs who accompanied Weinberger to Russia:

"At the Black Sea cottage where Brezhnev and Kosygin have spent summer vacations, Dr. Petrovsky hosted a dinner party for five of us American scientists. From 9 in the evening until 3 a.m., we ate, drank—half vodka, half Georgian wine—toasted each other and sang. Some toasts lasted 15 minutes. We learned a new method of communication and developed trust in each other, all in good humor. Until then, the Russians had been stalling about the Hot Line and I'm convinced that our long party gave it the necessary impetus."

While it's too early yet to assess the full value of the medical Hot Line, Dr. Oliver M. Korshin, who directs our health exchange program with the Soviets and who is in charge of the Hot Line, points to an important advantage for us. Here, experiments on a human patient—whether with drugs or other means—can legally be performed only with his permission and full knowledge of the possible consequences. Soviet standards and regulations on human research differs from ours, so that we could benefit from their experiments. With trial drugs, fatal or life-threatening effects in Russia can alert our own doctors over the Hot Line.

Looking ahead 10 years from now or sooner, Dr. Korshin can foresee a family in Dallas or Dubuque buying vital Soviet-made drugs imported under a U.S. license. Thanks, probably in great part, to those clattering teletype machines in Rockville and Moscow.

NUTRITION PROGRAM FOR THE ELDERLY POOR

Mr. TOWER. Mr. President, I was most pleased to note that the House of Representatives, on March 19, approved legislation to extend title VII of the Older Americans Act. This important title provides a nutrition program for our Nation's elderly poor insuring them of at least one hot meal each day.

As my colleagues know, this program has been received most enthusiastically by the States, and has gone a long way toward offsetting the effects of inflation and the energy crisis on our elderly citizens. The program is currently providing approximately 200,000 hot meals per day.

As a cosponsor of S. 3100, the Senate companion measure to the House-passed legislation, I urge its expeditious consideration and approval by the Senate.

NO PARADES

Mr. HART. Mr. President, when Johnny came marching home from World War II, he was welcomed with parades and with Federal programs to help him readjust to civilian life.

When the Vietnam war veterans came home some 25 years later, there were few parades and too little public support for adequate programs to help them.

One difference was, of course, that in

the 1940's the Nation was certain its cause had been just, while today we question the wisdom of our policy to wage war in Vietnam.

If we are to be fair, however, decisions on how to assist returning veterans should not depend on whether they were sent to fight in a popular or unpopular war.

The Vietnam veteran no less than the World War II veteran spent time abroad when he or she could have been studying, learning a skill, or pursuing a career.

A wound received while fighting in Vietnam was no less hurtful than one received while fighting in Europe or the Pacific theater.

The disabled soldier faces the same tough problems, regardless of the popularity of the war in which he was wounded.

In the sense that we sought to pursue that Vietnam conflict with a guns-and-butter policy, with a policy that asked little of those of us who stayed home, it can be argued that we should offer more rather than less assistance to Vietnam veterans.

In the sense that veterans of an unpopular conflict have a more difficult time resuming useful civilian lives, it can be argued that we ought to do more rather than less.

Friday, the Nation observed Vietnam Veterans Day, an observance I support, not as an opportunity to justify or criticize our Vietnam policy, but as a day to remind us that we do have a responsibility to help those who served in that conflict.

If observed in that spirit, the day can be an opportunity to unite rather than to divide, to heal rather than to open old wounds, to help rather than to blame.

SENATOR CLARK TELLS IT THE WAY IT IS

Mr. HUMPHREY. Mr. President, whether or not the American farmer has "never had it so good" has been the subject of a great deal of debate since the President recently raised the question with his statement before the National Association of Broadcasters convention in Houston.

It is true that prices for many farm products are higher today, but so are farm costs, and there seems to be a shortage of fertilizer, railroad cars, farm implements, and a variety of other necessities everywhere the farmer turns. As a result, many farmers are losing money, and the outlook for others is uncertain at best.

Last week, in a speech to the annual convention of the National Corn Growers Association in Des Moines, Senator DICK CLARK accurately described the problems facing the American farmer—and the potential for even greater productivity.

He outlined a number of steps that Congress can and should take to guarantee that the American consumer can continue to get the best food at reasonable prices and that the American farmer can continue to get a fair return on his investment and hard work.

Mr. President, I ask unanimous consent that the full text of Senator CLARK's remarks be printed in the RECORD.

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

TEXT OF SPEECH TO NATIONAL CORN GROWERS ASSOCIATION ANNUAL CONVENTION, DES MOINES, IOWA, FRIDAY, MARCH 29, 1974

It's a privilege and a pleasure for me to be able to spend a few minutes with you at what might well be your most important national convention. In the 15 months that I have been in the U.S. Senate, there have been a number of opportunities for me to work with your association, national chairman Walt Goeppinger, and President Gaskill. That relationship has been both enjoyable and productive, and I am looking forward to it continuing for many more months and years.

It's particularly good to have all of you here in Iowa, the largest corn producing state in the nation.

I can't think of a better time or a better place for the nation's corn growers to get together than right here and right now.

This is National Agriculture Week. And at a time when the world demand for food is growing so rapidly, at a time when we produce three-fourths of the world's corn exports, at a time when so many people depend on American agriculture, it is particularly appropriate to recognize the indispensable contribution of the American farmer, not only to the nation's economy, but to the nation's well-being and health.

The productivity of the American farmer is one of the great success stories in history. Two hundred years ago, this county began—like all others—as an agricultural society. Ever since then, the number of farms and the number of farmers has declined, but their productivity has vastly increased. The average yield from an acre of corn, for example, has gone from 63 to 92 bushels in just the last ten years, and from 32 bushels 30 years ago. Last year in Iowa the average yield was 108 bushels per acre.

One farmer today produces enough food for 51 people. Twenty years ago, the same farmer on the same land would have produced enough to feed only 15 people. And nothing in the world compares with the quality of that product and its value.

Even with the recent increases in food prices, the average family in this country spends only about 16 cents out of every dollar on food. In Europe, it's double that amount, and in the underdeveloped countries, families spend 70 to 80 cents out of every dollar on food.

The American farmer does much more than just provide food for the people of this country. Agriculture is the only thing that's keeping our international checkbook in balance. This year, for the first time in several years, the United States had a foreign trade surplus—we exported more than we imported by 1.7 billion dollars. That boosted the economy and strengthened the position of the dollar, and the most important reason it happened was agriculture. Last year we exported 17.7 billion dollars worth of agricultural products. Each of you had something to do with it because, in that year, one out of every five bushels of grain harvested went to markets overseas.

One result of all of this was a record farm income in 1973. It was long overdue. For many, many years, farm families have struggled and suffered, and until last year, they rarely really shared in the nation's prosperity. But despite what the President said, it is still a mistake to suggest that "farmers have never had it so good." That is far too great a generality to have much meaning.

1973 *was* a good year. But that will be little consolation for the American farmer or the American consumer if 1973 turns out to be the only good year for agriculture in this decade. You don't have to be reminded that one-dollar corn was the rule not long ago. This country's goal must be to continue to feed people well, to continue to export food abroad, and to continue to give the farmer a fair return on his investment and his hard work.

1973 *was* a good year, but unless we move decisively in several areas, it will not soon be repeated. And you know that better than most people.

You know the serious problems facing cattlefeeders. You know about the fertilizer shortage, and the shortages in many other products, from tractors to bailing wire. You're well aware of the incredible lack of railroad boxcars to move grain to market. And better than anyone else, you know that the price of tools, farm implements, seed, and everything you need to run your business, has gone up and is still going up.

Fertilizer prices have almost doubled since October. Land prices are 21 percent higher than a year ago. Farm equipment prices have increased by 30 percent. All in all, farm prices are expected to be 15 percent higher this year. If that happens, net farm income may fall to only $16 billion—which is what it was for three years from 1969 to 1971.

More than ever before, the federal government must show a greater concern for the problems and needs of farm families and rural communities. There have been dramatic changes in agriculture over the last few years, and government is just beginning to adjust to them.

For 25 years, Congress reluctantly legislated production controls, conservation and price-support programs—and the money to pay for these programs. Surplus production and increased productive capacity had a quieting effect on those who predicted that government programs might curtail the food supply of a hungry nation. But things have changed, and one of those changes was the 1973 Farm Bill. It passed both houses of Congress with very strong majorities. Consumer-oriented and urban Congressmen were beginning to realize that the nation's food production machine deserved their support if their constituents were going to continue to enjoy their usual eating habits.

At the time this bill was drafted in the Senate Agriculture Committee, it was a very good bill. It had provisions to deal with overproduction—authorization for set-aside acreage and production control. It had features to stimulate production if necessary—$1.53 per bushel guaranteed prices for corn, with an escalator clause to increase that target price as the cost of production increased.

However, after Senate passage, the House and the Conference Committee made the bill less effective, under the threat of Presidential veto. The lifespan was cut from five years to four years. The target price on corn was reduced from $1.53 to $1.38, and the escalator clause was eliminated for 1974 and 1975 crops.

What began as a good bill was whittled away even more by administrative interpretation. The allotment acreage, which Congress intended to be the acreage the farmer was encouraged to plant, was set at 89 million acres for feed grains. But in reality, farmers plan to plant 108 million acres. In addition, the disaster provision designed to offer a guarantee against spring floods and below-normal production was watered down.

The blunt truth is that a law less than eight months old needs major revision. The Secretary's authority to establish allotments needs to be revised and reworded—as Walt Goeppinger suggested at a Senate Agriculture Committee hearing that I chaired last month in Washington. The target price must

be adjusted upward to a level more in line with the cost of production, if it is to have any meaning at all. And the escalator clause to adjust the target price to reflect the costs of production must be put into effect immediately. Also, the disaster provisions need to be more explicitly worded to require the USDA to follow the intent of Congress.

And all of this is just a beginning. There are several other areas that deserve the attention of Congress now, and I'd like to take a moment to discuss a few of them with you.

Next week, I plan to introduce a bill that simply says that "any nonrecourse loan made by the Commodity Credit Corporation shall mature one year after the date of disbursal unless the maturity date of the loan is extended by the Secretary."

Under the bill, any commodity loan disbursed through the ASCS office will be due 365 days after you receive the money. It would alleviate the transportation problems that result from all corn loans being due July 31, soybean loans being due June 30, and oat loans being due April 30.

The chances for passage of this proposition are good. Even Secretary Butz has admitted to me that it might be a worthwhile idea.

There is also an obvious need to get more young people into farming and to keep those already on the farm in agriculture. I am working on a "Young Farmer Investment Act" in an attempt to get young couples involved in farming as property owners with a chance to survive and raise a family in this era of inflation and high-cost capital.

This plan—to be administered through the FHA—would enable young couples to buy a farm with a 10 percent down payment and then finance one-half of the balance with payments over 40 years. The other half would be paid all at once at the time of sale or transfer to an heir or if the new owners are qualified they could obtain a new 40-year loan on the balance.

Last week, the Senate Agriculture Committee held hearings on another critically important question—the need for a strategic grain reserve. After the last two years of such high and low commodity prices, and with them, unprecedented fluctuations, it couldn't be more timely. The grain reserve is designed to "skim off" excess supplies of grain in years of over-production and tuck them away to use *only* in years when production does not meet domestic demands and export commitments.

I am convinced that a grain reserve is in the best interests of the farmer, the best interests of the consumer, and the best interests of the nation.

It will provide price support and protection. In years of overproduction and depressed prices, a reserve plan like the one I have proposed would skim up to 60 percent off the estimated carryover and lock it away. Then, in subsequent years when production is below need, either by design or by accident, the reserve could be channeled back into the market without depressing prices.

An important "prevention" clause is included—in *no year* and at *no price* could the amount sold out of the reserve ever exceed the difference between anticipated need and anticipated production. This is how it might work:

In 1974, we might produce 6.5 billion bushels of corn and need 5.8 billion bushels. A 700-million bushel surplus would depress prices. Reserves could accumulate up to 420 million bushels, stabilizing prices. In 1975, we might produce 5 billion bushels but need 300 million more, and we would have them in reserve. They could be sold, but—and this is very important—they could not be sold at unreasonably low prices. My bill specifies that it must be sold at the average price of the previous five years, or 120 percent of the target price or the market price—whichever is highest. Any fears that a reserve will depress prices are unfounded.

This mechanism should provide farmers with the important guarantee that surpluses could not be accumulated and then dumped by the government to break the market. And remember—the total amount sold from the reserve cannot exceed the difference between need and production.

Regarding storage of the reserve—thirty percent of the accumulated reserves must be stored in the area of production to protect local farmers in case of disaster. We don't want all of the reserves stored in terminal or gulf elevators.

There's another area of mutual concern: the need to improve control of commodity future-contract trading.

Last year, futures contracts bought and sold on 14 active commodity exchanges accounted for $400 billion. That is a larger dollar volume than the stock exchange. It is larger than the entire federal budget. These transactions affect the price a farmer receives for his produce, the price middlemen pay for raw material, and the price the housewife pays for goods on the supermarket shelf.

Right now, the commodity exchanges and their enormous trade is regulated by an agency of the Department of Agriculture—the Commodity Exchange Authority. It is not a strong regulatory agency, and the commissioners responsible for enforcement of this business serve on a part-time basis, and each has many other obligations competing for time and attention—any business that has so great an impact on the lives of all Americans deserves much better supervision.

At my request, the Government Accounting Office last year began an extensive investigation of the commodity trade and its regulation. We expect a final report soon, and I will then introduce legislation that will use the recommendations of G.A.O. to improve federal regulation of the commodity exchange.

Legislation drafted by the Senate Anti-Trust Committee embodies many of the recommendations made by G.A.O. to date, but the bill I finally support will have to provide for a strong and independent regulatory agency with commissioners serving full-time and without conflicting interests.

There must be authority to deal effectively with violations of regulations protecting the traders and the public. And the commissioners must have the power and the initiative to direct improvements in trading—such as establishing delivery points for grain and improving delivery potential for livestock contractors.

Many other areas in which we all are concerned need attention—not necessarily legislation—but definitely better oversight.

I've been working for three months to promote production of adequate supplies of fertilizer. I believe we made some headway. The latest step came last month when the Senate passed a resolution calling on the federal government to help guarantee uninterrupted supplies of natural gas and other energy for the production and distribution of nitrogen and phosphate products. In addition, I hope Congress continues to seek ways to alleviate the problems with railroads and transportation in general. I wish we had time to discuss this very important matter. We must find a solution to the shortage of adequate rail transportation. If we do not, there will be serious problems for grain producers and users.

I would like to think this will be a year of action for agriculture. I am heartened by the fact that consumers everywhere and urban Congressmen are beginning to share some of our concern for the problems of farmers. We have a responsibility to continue to educate them. They now realize that farm exports enable us to maintain our balance of payments so vital to a sound economy. There aren't "farm" issues any more—the issues vital to agriculture are national issues, because the success and prosperity of the American farmer are indispensable to the success and prosperity of the American people.

NO-FAULT INSURANCE

Mr. BAKER. Mr. President, in a few days, the Senate will once again turn its attention to the issue of no-fault insurance with consideration of S. 354. In the last Congress, the issue was framed in debate of S. 945, which was re-referred to the Judiciary Committee.

I am concerned that copies of the committee report on S. 945 are difficult to obtain and that my views as printed in the current report of S. 354 do not fully set forth my position on this complex issue but are supplementary to my earlier views. For this reason, I ask unanimous consent that my views on both these bills be printed in the RECORD following these remarks.

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

REPORT OF THE SENATE COMMITTEE ON COMMERCE ON S. 945

MINORITY VIEWS OF MR. BAKER

During the past several years the concept of "no-fault insurance" has come under considerable discussion, and has been the subject of much debate and publicity. Unfortunately, many of the complexities of the issue have been ignored and much of the debate has been clouded by massive sales campaigns on both sides of the issue. I hope in these remarks to clarify what I consider to be the basic considerations in the development of no-fault insurance programs.

Let me start by saying that I support no-fault insurance and feel that it is an important part of needed reform in the automobile accident reparations system. I feel that the no-fault insurance programs now in effect in the States designed to cover in full the economic losses of the great majority of claims in the small to moderate ranges will produce the best results from the standpoint of both claims efficiency and cost reductions. These programs (and there are presently nine across the Nation)[1] pay all losses up to a set amount without regard to fault and retain the civil liability system for the compensation of the seriously injured. This, of course, does not preclude the purchase of first party insurance protection for extended losses by those who desire and can afford it. These State programs cover on the average the total economic loss of approximately 95 percent of the victims of automobile accidents[2] on a first party basis without regard to fault. Most are presently anticipated to lower both administrative and premium costs required for automobile reparations insurance.

Throughout the development of S. 945 the Commerce Committee has limited its study only to the most far reaching approach—total or extended no-fault coverage. The exact

[1] Connecticut, Delaware, Florida, Maryland, Massachusetts, Minnesota, New Jersey, Oregon, and South Dakota. (Illinois' program was recently declared unconstitutional.)

[2] Based upon the Department of Transportation study, "Motor Vehicle Crash Losses and Their Compensation in the United States," published in March of 1971. This evaluation of accidents showed that 96 percent of paid personal injury claimants suffered $2,500 or less in direct economic loss to the date of settlement. Of the State programs in effect economic payment under the first party coverages ranges from $2,000 in Massachusetts to $10,000 in Delaware with the mean at about $3,000.

impact of such legislation is impossible to calculate. The committee has received much expert testimony regarding the impact of the bill and we can surmise on the basis of this information that the bill will have a major, if not drastic, impact upon various sectors of our economy. Though the impact of such a program is in doubt, there are several results which I believe we could anticipate with relative certainty and which generate my opposition to this measure.

First, the bill will force the repeal of all existing State programs.

Second, this bill will produce by all actuarial accounts a very discouraging cost picture, and by some projections will result in a substantial cost increase.

Third, this bill discriminates against rural States. The program envisioned, while it would produce a poor result, I feel, in highly urbanized States, would be disastrous in rural States.

Fourth, the bill would penalize the middle-income middle-aged, average driver by severely limiting safe driver discounts.

Since the U.S. Senate must endeavor to represent the interests of all the States, and since I feel that no-fault insurance reform at the State level must be encouraged, I have attempted to identify the minimums of no-fault coverage which should be required in all jurisdictions and to embody those minimums as standards for State action.

Those minimums which I proposed for Commerce Committee consideration and which I shall again introduce during floor action on this bill provide for $1,000 of medical coverage and $5,500 for other economic categories including lost wages on a first party basis without regard to fault. These minimums will reimburse in full more than 95 percent of the victims of automobile accidents, and will, of course, defray a sizeable portion of the losses in the remainder of the cases.

I recognize that many jurisdictions will wish to go beyond these minimums and they would be free to do so on a State-by-State basis. But many jurisdictions will find that increasing these limits will result in cost increases without substantially improving the claims efficiency of the program.

No-fault insurance

What is no-fault insurance?

Chief Justice John Marshall, who spent much of his tenure on the Supreme Court plowing new ground, found that in such cases the first and most important function of discussion should be to define terms. That is especially true in the case of no-fault insurance where the popularity of the term has far out-stripped understanding of it.

No-fault insurance is at its most basic level nothing more than first party coverage: That is, insurance that I buy to pay me and my family for losses which we might experience. It is presently available in the automobile reparations insurance area in the form of medical payment, collision, and comprehensive coverages. It is available on a wider basis as medical insurance, disability insurance, and life insurance.

What no-fault insurance legislation purports to do then is not to make this insurance available, but to make it mandatory and to substitute the benefits from first-party coverages for the right of injured parties to bring actions based on the common law fault concept for repair of their injuries in some or all cases.

Popularly the term "no-fault insurance" is identified with the Keeton-O'Connell type of plan in effect in Massachusetts. This program provides for first-party coverage up to $2,000 for medical and other out-of-pocket expenses and prohibits recourse to civil liability actions unless the injured party has reached the threshold of $500 in medical expenses.

Although the dollar amounts vary from State to State, this is the basic program in effect in the nine States having no-fault insurance at present. This type of insurance program is most widely known and understood. It is this melding of first- and third-party coverages which is in common reference called "no-fault insurance."[3]

The program advanced in S. 945 goes considerably beyond these basic no-fault insurance programs, and thus I shall refer to the program embodied in S. 945 as "extended no-fault insurance" in order to make it clear that we are not talking about what most people refer to as "no-fault insurance."

My opposition to S. 945 stems in part from the fact that the gudelines specified in that bill will abrogate every one of the existing State programs before statistical information has been obtained regarding them, and will impose a program of no-fault coverages in these States which will, by all evidence received by the committee, diminish cost savings.

The Federal standards approach

Rather late in the development of S. 945 it was decided that, in order to enable the States to retain their important jurisdiction over insurance regulation, the Federal standards approach would be adopted. However, there was no attempt made to identify minimum standards or to permit the States flexibility. Rather, the extended no-fault coverages which had been considered for Federal programs were included in the bill as guidelines. The net effect of the change is to grant the States approximately two legislative sessions to adopt a Federal program.

The Federal guidelines severely limit and control State initiative over a wide range of subjects. Sections 201 and 202 of the bill give the States a limited period of time to adopt a plan consistent in substance with the provisions of S. 945 dealing with such things as the definition of an insurer, the definition of a motor vehicle, the manner of payment of benefits under the program, the amounts and manner of charge of attorneys' fees, and so on. Section 203 of the bill specifies that minimums for medical first-party benefits be $25,000, for rehabilitation be $25,000, and for general economic loss be $75,000. This program of $125,000 in first-party economic loss benefits will force the almost total elimination of general damages for all persons, and it will force higher premiums. It will allow the States no flexibility in determining the program of benefits most appropriate for their various situations.

The importance of State flexibility cannot be overemphasized. Differing geographic and demographic situations create very different accident pictures from State to State. Average incomes, medical costs and facilities, and basic motor vehicle programs also vary considerably from State to State. An insurance program appropriate for New York State could hardly be appropriate for either Alabama or Idaho.

Costs

During the final development of S. 945 it became apparent to the committee that the costs of the program envisioned by the bill would be considerable. Cost comparisons were called for from three of the leading national insurance associations.[4] These cost comparisons necessarily are based upon the costs of the present automobile reparations system, as statistical experience is not yet available on the several no-fault insurance programs in effect in the States. The cost ratios obtained are therefore more favorable than would be expected from a comparison of extended no-fault to regular no-fault programs, since the latter are anticipated to produce a considerable cost reduction from the present system.

Even so, the reports of the associations showed that S. 945 is expected by no one to produce any significant costs savings. The most favorable report (from the American Insurance Association) projected somewhat less than a 6 percent reduction nationwide, but premised that projection upon a frequency of claims substantially below claims available under extended no-fault insurance.

The most extensive national and State-by-State analysis was undertaken by the actuary for the Allstate Insurance Co. and for the National Association of Independent Insurers. A computer printout of his projections is attached as an appendix to these views. Briefly this actuary projects cost increases in the range of 20 to 30 percent nationwide under S. 945.

The reasons for these costs increases are many and complex. Chief among them is the fact that extended no-fault insurance will substantially increase the frequency of claims available against the system. In the seriously injured category (which will account for approximately half of the dollar costs of an extended no-fault program) the Department of Transportation survey found that less than half are compensable under the present fault system. The reason for this is apparent upon an analysis of the causes of serious injury. Single-car accidents account for approximately one-third of such injuries. A sizeable portion of the remainder would be operators of vehicles who were clearly at fault. Thus, in the seriously injured category extended no fault benefits would be expected to almost double the claims frequency.

This increase in large claims, though it would involve a very small percentage of the claimant population, would add substantially to the claims cost burden of extended no-fault insurance and thus would necessitate increased premiums.

The heavy weighing of small claims in urban areas dilutes somewhat this impact, while the high frequency of the single-car accident in rural areas aggravates it. Thus the cost experience under S. 945 would be most severe in highly rural States.[5]

While the present system of automobile reparations has demonstrated marked inefficiency in many situations, it is probably least efficient in the area of small injury and damage claims. These claims are im-

[3] Some jurisdictions (notably, Maryland, Minnesota, Oregon, and South Dakota) have placed no limit upon the availability of civil liability actions for damages based upon fault.

[4] The National Association of Independent Insurers, the American Mutual Insurance Alliance, and the American Insurance Association.

[5] Based upon the figures supplied by the National Association of Independent Insurers' actuary, there would be a nationwide increase in premium costs of 26 percent for minimum coverage and of 18.3 percent for maximum coverage. The following is a list of the States which exceed the national average and the increase projected for minimum coverage in those States: Alabama (30.4 percent), Arizona (35.8 percent), Arkansas (42.8 percent), Colorado (40.9 percent), Delaware (27.1 percent), Idaho (52.1 percent), Illinois (27.9 percent), Iowa (27.7 percent), Kansas (30.2 percent), Mississippi (28.4 percent), Montana (48.3 percent), Nebraska (41.9 percent), Nevada (38.3 percent), New Mexico (37.2 percent), North Carolina (31.5 percent), North Dakota (50.1 percent), Oklahoma (28.3 percent), Oregon (32.6 percent), South Carolina (35 percent), South Dakota (51.3 percent), Tennessee (30.7 percent), Utah (32.9 percent), Vermont (27.1 percent), Washington (30.1 percent), Wyoming (41.1 percent), Alaska (31.7 percent). By comparison the District of Columbia which is almost totally urban shows an increase according to these statistics of only 0.1 percent. While there are many other factors bearing on the rate of increase from State to State, the traffic density is one of the most visible factors.

possible to process through a determination of fault on a cost efficient basis. Attorneys' fees, court costs, and claims evaluation expenses run as much in most of these cases as in much larger cases and drain off a high percentage of the dollars available for the settlement or payment of such claims.

This category of claim constitutes a sizable portion of the loss experience in highly populated urban areas. Dense traffic patterns and moderate rates of speed produce an extremely high rate of minor injury cases with noncomitant court congestion and often a substantial spurious claims experience. In these jurisdictions the impact of no-fault insurance is most dramatic. The heavy weighting of small claims makes even an extended no-fault program demonstrate cost-efficiency. (See for comparison, Appendix A).

In States with a highly rural, low density, traffic pattern the high speed single-car accident becomes a major cause of injury, especially serious injury. On a recent weekend a compilation of serious accident experience in the State of Tennessee found that better than half of the accidents resulting in deaths were single-car accidents. The Department of Transportation study found that fully one-third of all fatalities result from single-car accidents in which the operator of the vehicle is at fault. Similarly the single-car accident demonstrates a far higher frequency of serious injury than multiple car collisions.

Because of this situation rural States have a far higher rate of costly accidents to be picked up by a system removing the responsibility factor as a prerequisite to recovery. Extended no-fault insurance coverage will pick up a sizable claim load in these States which no-fault insurance does not. While these serious injury cases represent a very small population of victims, the category accounts for almost half of the economic loss due to accidents in the United States. This situation in turn results in exacerbation of the cost experience under S. 945 in rural States.

Administrative cost reductions

Possibly the greatest effectiveness of a no-fault program of insurance is in the area of claims administration efficiency. By eliminating the need for establishment of fault in most cases, first party insurance should greatly reduce legal and court expenses, especially in the case of very small claims. Additionally some decreases are expected in insurance company administrative expenses.

Under the present reparations system legal and court costs account for 17 cents of every insurance dollar, while insurance company administrative expenses account for 40 cents of every dollar.

Some adherents of no-fault insurance feel that it will reduce legal and court costs to nearly zero, but others counsel caution and predict that legal expenses may well increase initially under no-fault insurance but will fall eventually to a fraction of their present level.[6]

All of the actuarial studies available to the Committee on Commerce predict that there will be little, if any, reduction in the 40 cents that goes for insurance administrative costs. This projection is substantiated by the experience under existing no-fault programs such as workmen's compensation insurance where the insurance companies expend 35 percent of the premium dollars on other than claims payments, and by collision and comprehensive insurance coverages where the companies use 40 percent of the premiums received.

[6] "A Study of Hawaii's Motor Vehicle Insurance Program," Haldi Associates, Inc., January 1972, page 115.

The administrative costs reductions under no-fault insurance will result in cost efficiency only if the basic benefits program is carefully designed to avoid addition of unnecessarily expensive items.

Cost efficiency against claims efficiency

One very important task in evaluating the impact of insurance is the identification and separation of claims-efficiency from cost-efficiency. The former represents the impact of the system upon the claiming population and the latter is its impact upon the consuming public.

The two are necessarily inter-related. For instance a grossly claims-inefficient program (for example, one which had high administrative costs) could hardly pay any significant portion of the available claims without becoming rather costly to the consuming public.

Still it is very important to keep the two factors separate for they concern two very different segments of our society. The consuming public in an average year will outnumber the claiming population by approximately 40 to 1. Of the 2.7 percent who will press a claim in an average year, 95 percent would be compensated in full for their economic losses by a regular no-fault program, while all would enjoy premium cost reductions.

By comparison, under S. 945, for every 1,000 persons who bear the increased costs of automobile insurance, only one (out of the 27 of them who will press claims) will receive any of the extended benefits of S. 945. Several of the remaining 26 claimants will receive less than they would under regular no-fault programs, because S. 945 will more drastically limit recourse to claims for non-economic losses.[7]

Distribution of costs

The present system of insurance rates policyholders on the basis of their risk of causing an accident and charges higher premiums to those who have demonstrated unsafe driving tendencies. Thus, the drivers of so-called "muscle-cars" and drivers convicted of driving while intoxicated pay higher premiums.

Under extended no-fault insurance, insurance companies will rate policyholders upon their likelihood of being involved in an accident without reference to their likelihood of having caused that accident. The exposure of the company to loss will increase as a function of the propensity of the insured or his family to entail extensive medical treatment, to lose substantially as the result of being unable to work, or to carry persons likely to have high medical expenses and wage losses as the result of an accident.

The middle-income, middle-aged operator who carries passengers of a similar class, such as a car-pool, will be the largest exposure to the insurance company and will pay proportionately larger premiums, while the operators of "muscle cars" and the chronically alcoholic drivers will pay proportionately less for their insurance under S. 945.

The imposition of mandatory automobile accident insurance in a mobile society such as ours, where substantially everyone depends upon the automobile for transportation, will have the impact of a tax upon the people. I do not argue against that proposition *per se*, for surely the use of our highways is a privilege which is frequently taxed. But I do caution that this fact dictates that we carefully and circumspectly dedicate those funds so raised.

I maintain that it is patently unfair to force increased premiums on the average motorist of a rural State so that the densely populated States can have an efficient reparations system. I maintain that it is patently unfair to impose higher premium rates on the average safe driver so that the drunken or negligent driver may have compensation for his economic losses. I maintain that it is patently unfair to remove the innocent victim's right to be compensated in full for his injuries so that this leviathan of extended no-fault insurance can demonstrate some minimal cost-efficiency.

I do not begrudge the negligent driver redress. I would have him made whole from his injuries. But I cannot support a program designed to place the cost of that insurance upon the entire motoring public as S. 945 would do.

[7] This statistical deduction is based upon data showing that in any year for every 100 automobiles insured 2.7 persons will have a claim for personal injury due to an automobile accident. Of these better than 95 percent would be covered by $2,500 in direct economic loss payments under a no-fault insurance plan.

APPENDIX

The attached tabulation—copies of which have previously been furnished to staff members of the committee—indicating the projects costs of automobile insurance, which would obtain in the several States if the provisions of title II of Committee Print No. 3 were enacted in each of the States, was prepared by Mr. Charles C. Hewitt, actuary of the Allstate Insurance Cos. Mr. Hewitt's résumé is attached for your information.

You will note that Mr. Hewitt is the president-elect of the Casualty Actuarial Society In addition, he is the casualty actuary director of the International Actuary Association.

Mr. Hewitt was deeply involved in the Department of Transportation's Auto Insurance and Compensation Study, serving as a member of the Casualty Actuarial Society which assisted the Department in the Auto Personal Injury Claims Study. He has also, in his capacity as chairman of the Costing Committee of the National Association of Independent Insurers—an insurance trade association whose members write well over 50 percent of the automobile insurance in the United States—assisted the commissioners of the National Commission on Uniform State Laws in costing no fault proposals which have been drafted by the Commission. In addition, he has, from time to time, advised the Federal Insurance Administration with respect to various actuarial matters pertinent to programs administered by it.

Mr. Hewitt has achieved particular expertise in the pricing of no fault insurance plans, having responded to requests for costing data relating to a wide range of proposals which have either been considered or introduced in 40 of the 50 States. He was appointed actuarial adviser to the California Judiciary Committee and served as an adviser to the California Assembly Committee on Insurance and Financial Institutions.

Mr. Hewitt has testified personally with respect to the costs of particular no fault proposals in the States of Michigan, Connecticut, California, and Illinois, and has presented costing data to the legislatures of several other States. In addition, Mr. Hewitt appeared as a witness for the National Association of Independent Insurers at hearings conducted by the Senate Commerce Committee, in October of 1971, relative to Committee Print No. 1 of S. 945, and at executive hearings of the committee held on the question of costs in May of 1972.

NATIONAL NO-FAULT MOTOR VEHICLE INSURANCE ACT

Minimum coverage is BI, PD, and UM—Does not elect either collision option. Medium coverage is BI, FD, UM, and medical pay—Elects collision option B. Full coverage is BI, PD, UM, medical pay, collision and comprehensive—Elects collision option A]

State	Present average premium			Ratio to present		
	Minimum coverage	Medium coverage	Full coverage	Minimum coverage	Medium coverage	Full coverage
Alabama	$68.40	$78.40	$152.20	1.304	1.429	1.163
Arizona	86.40	98.50	173.40	1.358	1.441	1.196
Arkansas	73.10	82.80	162.70	1.428	1.557	1.225
California	110.90	127.90	199.80	1.263	1.383	1.174
Colorado	70.10	79.20	145.60	1.409	1.571	1.242
Connecticut	128.40	141.30	217.90	1.070	1.258	1.095
Delaware	69.80	76.70	139.50	1.271	1.541	1.216
District of Columbia	158.00	167.30	310.30	1.001	1.278	1.080
Florida	101.30	114.10	170.10			
Georgia	83.80	94.90	181.40	1.163	1.371	1.125
Idaho	53.50	61.80	128.40	1.521	1.618	1.241
Illinois	116.60	128.40	211.30	1.279	1.424	1.195
Indiana	84.20	92.30	175.40	1.169	1.486	1.170
Iowa	64.30	73.10	134.40	1.277	1.512	1.196
Kansas	72.80	82.10	155.60	1.302	1.542	1.207
Kentucky	83.10	92.00	160.10	1.214	1.439	1.176
Louisiana	112.20	124.50	222.20	1.179	1.372	1.141
Maine	82.00	89.70	165.10	1.140	1.411	1.146
Maryland	97.80	107.40	179.30	1.181	1.345	1.144
Massachusetts	166.10	175.30	305.40			
Michigan	104.90	115.20	193.60	1.169	1.418	1.167
Minnesota	111.40	122.40	195.90	1.187	1.383	1.166
Mississippi	73.20	85.10	177.70	1.284	1.395	1.135
Missouri	96.60	106.50	189.70	1.220	1.422	1.168
Montana	60.20	69.70	137.90	1.483	1.582	1.236
Nebraska	64.40	73.90	139.30	1.419	1.572	1.235
Nevada	$79.30	$96.40	$174.70	1.383	1.413	1.169
New Hampshire	92.80	102.60	168.60	1.189	1.393	1.164
New Jersey	117.90	132.50	234.30	1.114	1.245	1.083
New Mexico	71.20	83.10	165.30	1.372	1.487	1.185
New York	153.40	166.70	279.20	1.012	1.190	1.053
North Carolina	75.50	85.00	139.80	1.315	1.461	1.211
North Dakota	51.90	59.20	129.00	1.501	1.649	1.239
Ohio	107.50	118.20	193.00	1.209	1.445	1.191
Oklahoma	67.50	76.50	150.50	1.283	1.456	1.168
Oregon	72.90	85.90	141.70	1.326	1.426	1.188
Pennsylvania	110.90	121.60	209.20	1.106	1.310	1.112
Rhode Island	107.90	117.30	204.90	1.119	1.303	1.112
South Carolina	64.60	74.90	139.70	1.350	1.463	1.186
South Dakota	47.60	57.40	133.30	1.513	1.584	1.197
Tennessee	95.30	107.90	184.50	1.307	1.397	1.177
Texas	82.30	94.90	191.80	1.154	1.442	1.134
Utah	70.50	78.30	142.60	1.329	1.575	1.235
Vermont	86.60	97.10	176.50	1.271	1.475	1.189
Virginia	85.20	93.10	163.30	1.230	1.436	1.180
Washington	84.40	95.30	158.30	1.301	1.447	1.200
West Virginia	76.60	86.70	170.10	1.238	1.420	1.149
Wisconsin	100.90	109.30	177.40	1.167	1.393	1.167
Wyoming	51.30	61.50	140.50	1.411	1.548	1.177
Countrywide	104.20	116.30	197.30	1.260	1.423	1.182
Alaska	105.10	115.40	230.20	1.317	1.500	1.192
Hawaii	111.80	124.10	193.40	1.085	1.267	1.099

APPENDIX B

STATE OF TENNESSEE,
THE DEPARTMENT OF INSURANCE,
Nashville, Tenn., May 15, 1972.

Re Committee Print No. 3 of S. 945.
Senator HOWARD BAKER,
Senate Office Building,
Washington, D.C.

DEAR SENATOR BAKER: An accurate appraisal of the cost impact to insurance buyers from enactment of the captioned legislation is virtually impossible to project. I understand that the highest projected cost figure quoted by Mr. Sutcliffe on Committee Print No. 2 was an 18-percent increase, while a major insurance company projected a 135-percent increase would result if Committee Print No. 2 were enacted.

In my opinion the benefits and the structure of the proposal differ too greatly from our existing system for an accurate estimate to be made. I do, however, even with this admitted uncertainty, feel certain there could be no reduction. I consider it most likely that the cost to the consumer would increase incrementally over a 4- to 6-year period before the premium stabilized.

I object to the concept incorporated in S. 945 since I do not believe a total elimination of our tort system can be justified. Although it admittedly has its problems, our system of reparations for serious injury should not be abandoned. In Tennessee, about 95 percent of the bodily injury losses resulting from automobile accidents amount to less than $1,000 in direct cost. In view of this it seems much wiser to me to move toward handling these relatively small losses fairly and efficiently before abolishing our entire system of reparations.

The no-fault proposal presented to the Tennessee General Assembly by the Dunn administration, which you have in your possession, directed itself to the problem and I believe would provide a workable alternative to the Committee Print No. 3. The "threshold" for "pain and suffering" could be adjusted up or down as seemed reasonable for the various States.

I cannot see, at this point, how it would be in anyone's interest to adopt a total no-fault system which will surely increase premiums when a modified no-fault will reduce premiums.

There are also some grave questions about the advisability of including property damage in no-fault legislation. We went into this question at some depth and concluded that it would be best to omit this provision from our no-fault bill.

I will make myself available if you would like this rationale for the provisions and coverages in the proposal we submitted to the Tennessee Legislature or for my objections to the essence of S. 945.

Yours very truly,

HALBERT CARTER, Jr.,
Commissioner.

REPORT OF THE SENATE COMMITTEE ON COMMERCE S. 354

MINORITY VIEWS OF MR. BAKER

I regret that I find it once again necessary to file minority views with the Commerce Committee report of the National No-Fault Motor Vehicle Insurance Act. It is my opinion that the paucity of meaninful prorgams developing in the states is clear indication of a need for federal minimum standards legislation. I had hoped that with careful attention, S. 354 might come to reflect an accurate assessment of needed federal action and that I might be able to vote to report the bill and to urge its adoption. But while several modifications have been made in the bill during the two executive meetings held on it, the bill still reflects little evidence of concern for maintaining state control over insurance, still would abrogate existing state programs, and still would substantially diminish the ability of a state to experiment within responsible limits to design the most effective, fair, and efficient no-fault program in response to its peculiar needs. Thus, I must oppose the bill as reported.

Cost implications

The evolution of S. 354 reflects the dedication of its sponsors to the "total no-fault" concept—that is to the establishment of a system whereby the total delivery of benefits for personal injury is made substantially on a first-party basis. During consideration of this legislation in the last Congress, it became apparent that the cost implications of a total no-fault prorgam were such that some allocation of benefits or restrictions on damages would be necessary in order to avoid premium cost increases. Under a modified no-fault prorgam like those developing in the states, this allocation of benefits is made by denying the small injury case access to general damages and by allowing recovery in the seriously injured case on the basis of fault. Many of these programs have produced or are projected to produce substantial cost savings.

While actuarial studies demonstrate that S. 354 also can produce significant cost savings in the states, I think that it would be worthwhile to examine some of the bill's cost savings features.

First, the basic tort threshold in S. 354 states that no injured victim may sue for general or intangible damages unless he has suffered "death, serious and permanent disfigurement or other serious and permanent injury, or * * * more than six continuous months of total disability." The Department of Transportation study of Automobile Insurance and Compensation defined serious injury in the following terms:

* * * Serious injury was defined to be an injury which resulted in: Medical costs (excluding hospital) of $500 or more, or

Two weeks or more of hospitalization, or, if working,

Three weeks or more of missed work, *or,* if not working,

Six weeks or more of missed normal activities.

So, it is apparent that the proposed threshold would exclude from recovery of non-economic loss a substantial population of *seriously* injured victims. It is estimated that the threshold of S. 354 would exclude from such recovery in excess of 95 percent of the total injured population. This, of course, will produce a significant cost savings to the system.

Secondly, the bill provides that any seriously injured victim not excluded from tort recovery by the threshold and who is able to establish his innocence from fault must return $2,500 of his award of general damages to the defendant or his insurance company. This forfeiture will, of course, reduce premiums.

Thirdly, the bill provides for the establishment of deductibles from no-fault benefits which would statistically exclude about 40 percent of injured victims from any recovery under the first party coverages. While the provision is optional, the pressures of premium costs make it likely that a significant portion of the driving public will find it necessary to opt for such deductibles, thus effectively halving their access to first-party benefits.

These "backdoor" cost saving features are clear evidence that the no-fault program in this bill is being asked to do more than it is efficiently capable of doing.

Allocation of benefits

It is my opinion that there are several important functions which the tort system is best suited to perform as a part of automobile accident reparations. The first of these is conceded, I believe, by even the staunchest advocates of total no-fault insurance—that is, the assessment of entitlement to intangible damages. Although the reason in S. 354 for assigning this function to the fault system is probably that assessment of the value of these damages is best accomplished through the judicial process, it is significant that the important category of damages attributable to the impairment or loss of one's ability to enjoy life would be paid—even under this total no-fault concept—only to those who did not author their own injuries. Thus, for this potentially expensive category of loss, the *allocation of benefits* is made on the basis of fault. The fundamental fairness of the fault concept with its concern for the innocence or guilt of the victim establishes it as the only feasible method for such allocation.

The extensive cost studies conducted for the Commerce Committee on S. 354 and S. 945 in the last Congress have established that the no-fault concept cannot provide for total economic loss recovery in catastrophic cases within the framework of present system costs. We are confronted then with three alternatives—two of which have been explored extensively by the Committee. These two are to increase premium costs or to mandate certain reductions in recoverable damages by drastically limiting a victim's access to general damages, or by imposing mandatory deductions from awards of damages as S. 354 would do.

I do not believe that it is acceptable to increase the costs of automobile accident insurance. We must recognize the vital role of the automobile in the American lifestyle. To the workingman who has little or no access to public transportation, the family car is not a luxury but an absolute necessity. And the increasing burden of the cost of living leaves little reserve in the family budget for an increased insurance premium.

It is my belief that the second alternative is unnecessary and unconscionable. It may be efficient and cost-effective to ask the innocent victims of autombile accidents to forfeit a portion of their compensation in order to produce cost savings, but it is hardly equitable to do so when modified no-fault programs can produce these same savings without such provisions.

The third, and I believe the best, alternative is to design a no-fault program which will compensate in full the economic loss of 98 to 99 percent of all injured victims, with payment of catastrophic damages on the basis of the fault concept. By thus allocating the benefits, the reparations system can demonstrate cost effectiveness without arbitrary exclusions or deductions.

No-fault insurance is clearly a part of badly needed reform of the present automobile accident reparations system, but I caution against thinking it a panacea. Clearly, if we are to compensate injury within the framework of present system costs, some allocation of benefits will be necessary. It may be efficient and simple to do that on the basis of deductibles, exclusions, and forfeitures; but it is hardly equitable to do so.

I intend to offer or support amendments during final consideration of S. 354 which are designed to remove these inequities and to modify the benefits program of the bill so that it will provide direction to the states in the development of modified no-fault programs, while leaving to the states reasonable latitude to seek the most efficient and effective program of insurance for their particular needs.

REDUCTION OF MILITARY TIES WITH GREECE

Mr. PELL. Mr. President, the news that the administration finally has decided to interrupt our expanding military ties with the repressive dictatorship of Greece is both warmly welcome in its substance, and stunning in its format.

The announcement is welcome in that it is precisely the kind of decision in our policy toward Greece that I and many of my colleagues have been pressing the State Department to advocate in this administration.

The announcement is astounding in that it came, not from the Department of State, but from the Pentagon, and was based not on strictly military factors, but on the basis of broader political considerations.

Meanwhile, the State Department, which presumably is the formulator of our overall foreign policy is said to be attributing the change in our military plans in Greece to technical delays.

This is at best a puzzling reversal of roles: The Defense Department acting politically while the State Department is concerned with technical military logistics.

It was Defense Secretary James Schlesinger who, according to a story by Dan Morgan, of the Washington Post of March 29—Friday—decided to suspend the homeporting of an American aircraft carrier in Greece until there is "greater harmony in our mutual perceptions than exists at the present time."

The homeporting of a carrier was to be phase 2 of our naval homeporting program in Greece. However, Mr. Schlesinger said that the future of phase 2 "would depend on the evolution of political developments."

Meanwhile, and sadly in my view, the State Department, according to the Post story, is attributing the suspension of phase 2 to "delays in making technical arrangements" for facilities to support the carrier's aircraft and for housing accommodations for a vastly increased number of Navy personnel in Greece.

As I have said, I welcome this decision to at least pause in our unseemly embrace of the undemocratic junta ruling Greece. At the same time, the fact that the decision came from the Defense Department tends to confirm the long-standing impression that far too much of our foreign policy originates in the planning rooms of the Pentagon.

The decision to halt expansion of the homeporting plan is a good one, regardless of who made it or announced it.

Phase 1 of the program—homeporting destroyers in Greece—was at the expense of our own home-based naval facilities. It increased our military presence abroad when it has been in the U.S. interest to reduce it.

In addition, authoritative reports on the situation in Greece paint a grim picture of disarray in the country. The junta is increasingly alienated from the Greek people, including its former supporters in the professional and business middle classes. There is a growing threat of a takeover by extremists either of the ultranationalist or Quaddafi school or by the Communist far left. There is uncontrolled inflation and economic deterioration, and a growing tendency among the Greek people to blame their troubles on the United States, because of our Government's military support and association with the junta.

In these circumstances, I believe homecoming for our naval forces makes more sense than homeporting in Greece.

Mr. President, the need is growing for the United States to indicate clearly that reliance on a junta antagonistic to the Greek people is a dangerous security risk for the United States and the North Atlantic Alliance.

The British have given such a message by canceling Navy visits to Greece. My bill—S. 2754—suspending military aid to Greece, which was approved by the Senate in January, bears a similar message. Curtailment or elimination of homeporting in Greece would be another such step.

Aside from the practical and security aspects of the Greek problem, I have been even more concerned by the lack of progress and now retrogression in the restoration of constitutional government in Greece. The shocking arrest and incarceration of the Central Unionist, moderate leader, a true Greek patriot, George Mavros, offers sad evidence of this backward movement. His only crime, apparently, was to applaud the cancellation of the British navy visits.

It preys upon the conscience of the whole Western World, I think, that Greece, the cradle of democracy, where the art of free government was practiced by the city state in its purest form; that Greece, who for centuries fought for freedom from foreign oppression—that this same proud Greece is today suffering from the worst kind of domestic oppression. In terms of classical Greek history, repressive Sparta prevails over free Athens. Not only the Greek people, but the supporters of liberty around the world will breathe a sigh of relief on the day that constitutional government is once again restored in Athens.

I have found it disquieting, therefore, that the State Department has been silent for months on the deteriorating situation in Greece, which I believe, only a return to free government and rule of law can cure. For years, the Department declared it was working toward this end. Now it says nothing. Instead, political comment comes from an unexpected quarter—the Pentagon. Why this abrogation? Has the State Department given up?

Mathematical formula for achieving balances of power can play an important role in international relations but never an exclusive one. To leave out the human factor is to pose an unsolvable equation. To ignore the spirit of man—of Solzhenitsyn, of George Mavros, of John Zighdis—is to assure ultimate failure of a policy. I think the time has come for the administration to stand up and be counted on the question of human rights in Greece.

A U.S. declaration of policy need not

be for or against any particular regime in Athens. But it should be a message, loud and clear, that we are for the restoration of freedom and the rule of law in the country that gave birth to democracy and whose people have long been our friends and comrades at arms.

Mr. President, I ask unanimous consent to have the Dan Morgan article from the Washington Post of March 29 printed in the RECORD.

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

CARRIER-PORT PLAN SUSPENDED: UNITED STATES-GREECE RIFT REVEALED

(By Dan Morgan)

Defense Secretary James R. Schlesinger said yesterday that a two-year-old Navy plan to station an American carrier in Greece has been suspended until there is "greater harmony in our mutual perceptions than exists at the present time."

The Defense Secretary's remarks at a press conference were the first public suggestion from a top administration official that political difficulties, rather then "technical" complications, were holding up the plan.

Asked if the United States' decision not to press for the basing of the carrier in Greece was permanent, Schlesinger replied, "That would depend on the evolution of political developments."

While Schlesinger was giving this assessment of the carrier-basing plan, State Department officials were giving a different one: They said that the scheme had been postponed due to "delays in making technical arrangements" for housing Navy dependents and for land-support facilities required by the 30 to 40 carrier aircraft.

Schlesinger's remarks threw new light on the United States' relations with the new military-backed Greek dictatorship. Since the six-year-old regime of Col. George Papadopoulos was overthrown in a military countercoup Nov. 25, critics of the administration's policy in Greece have warned that the new Athens leaders could veer toward a more neutralist, or even anti-American position.

These warnings were repeated Wednesday by a former Greek democratic politician testifying before a House Foreign Affairs subcommittee.

In the testimony, John G. Zighdis, a veteran Greek parliamentarian who was imprisoned by the junta for almost two years warned that anti-American feeling in Greece was on the rise because of Washington's failure to disassociate itself from the two military regimes. He painted a picture of growing economic and political instability.

House subcommittee sources who were briefed earlier Wednesday by U.S. Ambassador to Greece Henry Tasca said he had left the impression that there was a "new urgency" to the need to restore democratic rule.

Since November's coup, the de facto Greek chief has been Brig. Gen. Dmitrios Ioannidis, commander of the military police.

State Department officials denied yesterday that the Athens regime had sought any specific concessions in return for approving the carrier-basing plan.

However, U.S. officials said that the government was seeking increased quantities of new, sophisticated military equipment "to maintain NATO force goals." Last year, the United States agreed to sell Athens two squadrons of advanced F-4 fighter bombers.

In addition, officials said, some members of the Greek armed forces had urged American officers to resume the military assistance grants that ended last year.

The Navy has justified its Greek "homeporting" scheme on its strategic need for foreign deployment in the eastern Mediterranean. A destroyer squadron of six ships and about 550 naval families were stationed in the Athens area before the November coup.

However, negotiations on the second phase—which would establish the area as a base for a carrier, a hospital ship and some 1,200 families—has now bogged down.

Officials said that so far, the Greek regime has failed to give the Navy permission to use the Greek air base of Elefsis, west of Athens, to perform maintenance on the carrier wing planes. Also, so far the government has not authorized U.S.-requested changes in the use of the American-run NATO base at Souda Bay in Crete. The Navy wants to use it for training flights when its Greek-based carrier is anchored in port.

NUTRITIONAL PLAN FOR THE ELDERLY

Mr. McGOVERN. Mr. President, on March 18, 1974, the Senate Select Committee on Nutrition and Human Needs which I chair, held a field hearing in Mitchell, S. Dak., to explore the nutritional problems of the elderly.

I ask unanimous consent to have a newspaper report of that hearing, from the Mitchell Daily Republic, printed in the RECORD.

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

NUTRITIONAL PLAN FOR THE ELDERLY ANNOUNCED

Senator George McGovern announced Monday, that he is preparing a four-point action plan to better insure that the state's senior citizen's nutritional needs are met.

Speaking to a nutritional hearing at the Senior Citizens Center here in Mitchell and before some 250 senior citizens from throughout the state, McGovern outlined the program.

"First of all I hope to develop a model transportation system to help the elderly get to centers where the food is available or else to have the food delivered to those who aren't capable of leaving their homes."

"Second, we must cut through the food stamp program red tape to permit the elderly to receive food stamps for this program."

"Next, I intend to fight for legislation which is pending in Congress to continue the commodity food program to nursing homes, veterans homes, senior citizen centers and schools."

"And finally I propose that nutritional educational services are included in all such programs."

McGovern, chairman of the Select Committee on Nutrition and Human Needs, said that the current Federal Nutrition Program for the elderly, sponsored by his committee, has a dual purpose.

"The first is to provide good nutrition in the form of one well-balanced meal a day. The second is to provide nutrition in a setting that is conducive to companionship and social contact," he said.

McGovern said that he is hopeful that Federal funding of the program will be increased by $50 million in the next fiscal year and another $50 million the year after.

"Today, nearly four million elderly are receiving incomes below the poverty level. In South Dakota, 30 per cent of our citizens over 60 years of age have incomes too low to enable them to obtain a decent diet. The least the Federal government can do is to try to provide some benefits to as many persons as possible," he said.

Testimony was given by various elderly groups from around the state and the general consensus was that the added money could mean a doubling of the number of people who would be served through the program.

The program currently serves 692 meals a day in South Dakota and estimates of need indicate that 10,000 meals could be usefully served.

McGovern stated that the importance of the program has been compounded since it began.

"The impact of inflation on the budgets of elderly persons has made the hot meal program a virtual necessity for vast numbers of elderly Americans," he said.

Much of the testimony centered on the ways in which to improve the program and make it reach more people. And much of this was put forth in McGovern's plan. However, the good of the program despite its shortcomings was also pointed out.

"I've gotten letters from a number of people who say that they feel this piece of legislation is the best to come out of Washington in a long time," said a representative of the South Dakota Advisory Council on Aging.

THE U.S. AIR FORCE ACADEMY

Mr. GOLDWATER. Mr. President, just 20 years ago Monday of this week, President Eisenhower established the U.S. Air Force Academy. It is almost impossible for me to realize that 20 years have gone by since that outstanding institution was first founded, and I recall as I always do with great pride the fact that I served on the first Site Board for the Academy. The achievements of its graduates are numerous and outstanding, and I feel are indicative of the money that we wisely spent on our military schools. I ask unanimous consent that an article entitled, "Air Force Academy Anniversary," from Air Force magazine be printed in my remarks.

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

AIR FORCE ACADEMY ANNIVERSARY

On April 1, 1954, President Eisenhower signed Public Law 325 of the 83d Congress, establishing the United States Air Force Academy. It was the culmination of three decades of frequently interrupted planning by airmen and their supporters.

Two months later, Secretary of the Air Force Harold E. Talbott selected the present Academy site near Colorado Springs, from among three potential sites that had been chosen for final consideration by a Site Selection Committee. Lt. Gen. Hubert R. Harmon was named the Academy's first Superintendent. Interim facilities were constructed at Lowry AFB, Denver, Colo., where the Academy was housed until the permanent plant could be completed. The first class of cadets arrived in July 1955, and the Academy was officially dedicated on July 11 of that year.

In the two decades since its establishment, the Air Force Academy has achieved recognition as one of the nation's outstanding educational institutions. Its first fourteen classes have produced a higher proportion of Rhodes Scholars than any other US college with the exception of Harvard, Yale, Princeton, and the US Military Academy, with which USAFA is tied for fourth place.

The Academy's contributions to national security are equally impressive. Seventy-five percent of its graduates served in Southeast Asia during the Vietnam War. Eighty-one were killed in action, thirty became prisoners of war, and forty-three remain missing in action. Two of the three USAF aces of that war are Academy graduates. USAFA men were awarded twelve Air Force Crosses and 141

Silver Stars. More than 1,500 graduates earned one or more DFCs, and 2,350 one or more Air Medals.

Of the Academy's 7,789 graduates, 6,156 are still on active duty with the Air Force and thirty in the other services. Seven graduates of early classes have been promoted to the rank of colonel.

No other US educational institution, either civilian or military, has achieved in its first twenty years a comparable degree of excellence over as wide a range of activities—intellectual, public service, architectural, athletic—as the United States Air Force Academy. It is a national institution in which we may all take pride.

ADDRESS BY SENATOR HUMPHREY

Mr. HOLLINGS. Mr. President, last week, the Democratic Party of South Carolina met in convention at Columbia. On Wednesday, March 27, the assembled delegates heard one of the most dynamic speeches it has even been my privilege to hear. It was the convention's keynote address, and it was delivered by the distinguished junior Senator from Minnesota, my good friend HUBERT H. HUMPHREY.

The former Vice President addressed himself forcefully and eloquently to the issues of the day, and the South Carolina Democratic Party responded with an outpouring of enthusiasm, as did people all across the State who learned of the speech.

HUBERT HUMPHREY knows what America can do, because he knows what America has already done. He knows full well the severity of the challenges we face, but he faces them with faith in America and confidence in the future.

Mr. President, this is a speech that is right and timely not just for a political party. It is right and timely for all Americans. It deserves to be read and pondered widely. And for that reason, I ask unanimous consent that the text of Senator HUMPHREY's keynote address be printed in the RECORD.

And I wish to take this opportunity to thank Senator HUMPHREY again for making the trip to Columbia and for delivering such an eloquent address.

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

KEYNOTE ADDRESS BY SENATOR HUBERT H. HUMPHREY

South Carolina is a state that brings back some of my fondest memories. The Democratic Party of South Carolina has been kind to me. It is good to see so many of my friends again today. I am happy to be here with my good friend, Fritz Hollings.

South Carolina can be justly proud of his outstanding record and reputation for hard work in the U.S. Senate.

Do me a favor. Do yourselves and South Carolina and the country a favor: Send Fritz back to the Senate in November.

It is wonderful to see such a fine crowd of active, enthusiastic Democrats. As members of our great party, you know we have been experiencing a period of intense, sometimes painful, self-examination the past few years.

We have stood in front of a mirror and turned on a piercing light of introspection and asked ourselves, how can we do better? How can we fulfill our high ideals? How can we remake our party so that it does a more effective job of being the party of the people, the party of the future, the party of promise for every American?

The answers have not always come easily, nor have they always been easy to accept. They have occasionally divided us, caused vigorous disagreements, intense debate. But we have survived, we have grown stronger for our discomfort. We have managed not only to bring our widely different personalities and points of view closer together, but we have also attracted and retained people who formerly were outside the party. They have accepted us, and we them. They hold active and responsible positions, and we have all been enriched by their participation.

Our experiences have made us closer, and will continue to draw us together. We are like a family that has had an argument, and after it is settled, feels more like a family for having shared the pain of dispute.

The currents of change that are sweeping our party are paralleled by similar currents across our nation.

We have experienced great dissension and great difficulties in the American family.

We have seen the bounty of our great nation mismanaged at home and squandered for short-term advantage abroad.

We have seen our economy neglected.

We have seen shortages and scarcity grow through private greed and government shortsightedness.

We have seen our Constitutional system of delicate checks and balances dangerously tilted in favor of one branch of government at the expense of the others.

We have seen our political processes corrupted.

We have seen political power abused, and money abused as a means of buying power.

We have seen highly placed trustees of the public confidence betray their trust, and act as though they were above the law—indeed, they have acted as though they were the law.

These experiences, following hard after nearly a decade of dissension within our society at home and in war overseas, have been a heavy burden for the American people and their leaders to withstand.

I am sure that a nation of lesser character and strength would have buckled under such pressures.

But the American people have not lost their confidence or their nerve or their guts.

We are a nation nearly 200 years old, and in that time we have withstood other times of difficulty. We are a nation forged in trial and weened on challenge.

The first 100 years of our existence were spent in moving out beyond the next mountain range, the next untamed forest, the next desert—building and growing and enduring and overcoming.

We built a nation that spanned a continent and then fought a war that threatened to split in two what we had built, and we went on to heal the breach and build some more.

Our second hundred years have been a period of getting it all together, finding better and better ways of making use of what we gained in our first century. We moved beyond the seas to become the world's leading power and then shouldered the tremendous burdens of that leadership, fighting, winning two world wars and then rebuilding what those wars destroyed far beyond our home soil.

And in the midst of all that, we endured and pulled ourselves out of a Great Depression that not only failed to grind us down, but instead built up our spirit and taught us new ways of achieving stability and a vigorous, healthy nation of industry.

What is our secret? Why have we always been able to pick ourselves up and jump back into the fight?

Because Americans have by nature and circumstance always been a people that has learned by its experiences. We are a practical people who do it if it looks like it will work. We live by trial and error, by experimentation.

The American way may be wasteful and at times painful, but on the positive side of the balance, it is a way that provides freedom and stimulates individual initiative.

Look at what we have experienced and what we have achieved:

Our resources were being plundered in the last century and early in this one. We developed the concepts of conservation, the management of our resources, the techniques of returning when we took, so there would always be more.

Our financial institutions in the 1920's were irresponsible, and little concerned about the public good. We created the Securities Exchange Commission and an excellent system of banking laws.

The big railroads and utilities, in their early years, misused their power and harbored corruption. We wrote regulatory legislation to correct the problems.

Our older citizens were neglected. We wrote the Social Security Act, and the Medicare and Medicaid programs.

Some of our citizens were denied the rights and opportunities guaranteed in the Constitution. We passed and enforced civil rights laws.

The lessons we have learned have been learned the hard way; but pain is a teacher whose lectures are remembered.

We might have given up many times in the past were it not for the foundations on which our nation is built.

It is not a foundation of doctrine and dogma, but a foundation of faith and values, reason and pragmatism.

If we are to carry this grand experiment in democracy forward, emerge from our present set of trials and traumas once more renewed, invigorated, and triumphant, we must recapture these old values and principles that have served us so well in the past.

We must make ourselves understand the true, intrinsic value of those ideals. They are just as sturdy and dependable as they were when our nation was founded upon them nearly two centuries ago.

We believe in government by laws, not men.

We believe in government with integrity, an essential virtue that we demand of our leaders, even as we demand it of ourselves, as individual citizens.

We believe in government by public trust, and that means leaders who deserve our trust, can win it and who fulfill it.

We believe in self-reliance, but tempered by a sense of humanitarianism and compassion.

We believe in achievement; we believe in progress; we believe in work.

And we believe in justice.

Our beliefs have always been closely tied to our aspirations. We have often believed in what we have not yet achieved, and then have gone on to work for it, led onward by our beliefs.

The preamble to the Constitution spells out the faith and aspiration of America: "a more perfect union," "justice," "domestic tranquility," "the common defense," "the general welfare," "the blessings of liberty (for) ourselves and our posterity."

The Bill of Rights: the freedoms of religion, speech and the press, of petitioning government for redress of grievances; freedom for each state to maintain a militia; freedom from military takeover of private property; freedom from search and seizure; the right to fair, public, speedy trial by jury, to reasonable bail and fines and without cruel or unusual punishment; protection of

other rights enjoyed by the people, and reservation of the rights of the states.

Not one word of the Constitution protects government from the people, or public officials from the public. The Constitution was written to protect the people from government.

And it was under these guarantees, stirred by our beliefs, led by our dreams, that we built this nation.

Nations are in many ways like children: they go through phases, and these phases continue with adulthood.

As children we learned certain ways of behaving were right and others were wrong, taking the word of our parents.

But as we reached adolescence, we began to question those values and rules, and we tested and challenged. We learned by breaking a few rules and experiencing the consequences. In the end, we had a better appreciation for what we had been taught than we had before. Faith followed blindly keeps you out of trouble, like a wall. But values built on experience open the eyes and set you free.

America has been passing through an adolescence.

It has been testing and questioning. I believe the process has opened our eyes and broken the walls.

They say the repented sinner makes the best Christian.

I believe a reformed America will make a better and stronger America.

We have had our prodigal days, and now we will return, sadder but wiser—and stronger—to the values of our fathers.

In the latter days of our nation's youth, our Presidents gave us the New Deal, the New Frontier, the Great Society. Today America is embarked on a New Maturity.

Having seen leaders break rules we had accepted without question, we have learned the reasons for those rules and the consequences of breaking them. We will work to assure that they are not broken in the future.

Having seen our bounty mismanaged and squandered, we have learned the hard lessons of stewardship, prudence, and conservation.

Having endured the painful experiences of fuel and energy shortage, we will learn to become more self-sufficient.

Having seen surplus shrink to shortage in our agricultural supplies, we will learn the necessity of a national food policy and food reserves for times of scarcity.

Having learned the hard lesson of executive usurpation of legislation power, we will devise means of restoring balance.

Having seen our concern for national security and the necessary rule of executive privilege cheapened, distorted and reduced to veil executive misdeeds, we will devise new means of revealing information that the public needs.

Having watched and then gone to court to fight executive impoundment to frustrate the will of Congress, we will write new laws that prevent those kinds of arrogance.

Having seen the excess of fast and loose collection and spending of political campaign funds, we will write laws that can help clean up this process.

We will achieve all this and more, because the American people are disgusted but not disillusioned, angry but not resigned, indignant but not despondent.

The American values still live. The old rules still stand. We need only to bring them back out into the light of the American Vision.

The American Vision has always been held by the Democratic Party. And the challenge to the Democratic Party today is to reassert its leadership as the party of the people.

It is the Democratic Party that is ready and able to get on with the job of meeting the needs of the people of America.

We are the Party that stands up for the working families of this country. We are the voice of hope and opportunity for them. And we shall take to the people our agenda for action in establishing a strong and stable economy; in providing decent jobs at a living wage; quality health care at the lowest possible cost for all the people; good education for our children; clean and safe neighborhoods; a fair tax system; and the right of every American to hope in the future and have a decent opportunity to make the most of his or her abilities.

The Democratic Party stands today for a restoration of American values and for replacing the politics of slogans and rhetoric with the principles of action and performance.

So I am confident of America's future. I do not find reason to despair.

A favorite quotation of mine is from a great American poet, Carl Sandburg. In closing, let me share his words with you:

"I see America, not in the setting sun of a black night of despair ahead of us. I see America in the crimson light of a rising sun, fresh from the burning, creative hand of God. I see great days ahead, great days possible to men and women of will and vision."

PRESIDENTIAL POWER AND RULE OF LAW

Mr. CRANSTON. Mr. President, Congress can, Congress must, reclaim the equal partnership with the Executive that the Constitution envisioned and that the continuation of a free society demands.

Freedom is safe only where governmental power is diffused. No society will long remain free where governmental power remains overly concentrated in the hands of one man. Concentrated power tends to become the absolute power which, Lord Ashton warned us long ago, corrupts absolutely. Absolutely and inevitably.

That is why the Founding Fathers wisely separated governmental power, dividing it among three equal branches and designing each branch to be strong enough to thwart a ruthless abuse of power by either of the other. When one branch aggrandizes itself at the expense of another, it does so at the expense of the people's freedom, too.

The Presidency—by nature remote from the people, monolithic in structure and with a huge bureaucracy at its command—is the one branch most in danger of degenerating into dictatorship. Especially in these days of fast governmental controls over and interference in the lives of our citizens.

The Presidency must be a constant target of vigilance—by the Congress, the courts, the people, and by the occupant of the White House itself—lest it exceed constitutional restraints.

There is far less danger of arbitrary use of power by the Congress which, in a very real sense, is the spiritual embodiment of representative democracy. The very pluralism and factionalism that are decried as weaknesses of Congress are also the sources of its strengths.

Congress, being far more accessible to the people than is the President, is capable of being more receptive to their demands, more understanding of their needs.

Congress is the mirror of a free people, reflecting the multitudinous divergencies and differences, the conflicting economic drives and social and political desires of 21 million individuals living in the most advanced, most complicated technological society the world has ever known.

And if, in the process of trying to distill and synthesize this political potpourri, the Congress sometimes seems overly argumentative or dilatory or indecisive or wishy-washy, it is—like it or not—a sign of democracy at work.

Congress is often accused of being too slow. It is. It should move faster than it does. But not too fast.

The democratic process—being a process, a way of doing things that is quite as important as what we are trying to get done—takes time. We must take time for deliberation and discussion if we are to limit the incidence of unnecessary or unwise or even harmful laws.

In any democracy deserving of the name, laws—even good laws—cannot be rammed down the peoples' throats.

Controversial laws, if they are to work, must be acceptable to, if not have the active support of, an overwhelming majority of the people. And consensus among 21 million people—and among the representatives of 21 million people—is sometime painful to come by.

But consensus government—government of, by, and for the people—is well worth the effort.

Mr. President, Richard N. Goodwin, in an article published in the Los Angeles Times March 31, "Presidential Power and Rule of Law," makes a perceptive, historical analysis of our present situation, which I call to the attention of my colleagues.

It deserves careful reading and even more careful thought and discussion. Our Republic is passing through a most critical time, testing the very fabric of our constitutional experiment in limited self-government. It is imperative that we in the Congress help lead our Nation to a strengthened and more responsive government, more finely tuned to individual rights and liberties.

I ask unanimous consent that the material to which I have referred be printed at this point in the RECORD.

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

PRESIDENTIAL POWER AND RULE OF LAW

(By Richard N. Goodwin)

President Nixon's conduct of his office should awaken us from our obsessive concern with the character of individuals, and convince us that while the venalities of recent years are personal to this Administration, the fact that they could be committed can only mean that the democratic structure has broken down.

Over the past quarter century, the executive has gradually broken free of the restraints which protected democracy—popular sovereignty, personal liberty, legislative authority and the rule of law.

In the last decade, the Presidency has acquired an immense unchecked power over the society that inevitably is used to advance the ambitions of those in office.

This presidential bureaucracy is the consummation of a successful revolution, one that has already overturned fundamental elements of the democratic process. Until very recently, it was never thought that Congress was limited to passing laws and

hoping for the best. Although the executive had the principal responsibility for administering the laws, to administer was not to rule.

The actions of those who administered the laws that Congress passed and who spent the money that Congress provided, were subject to scrutiny and interrogation designed to prevent serious deviation from the legislative will. The power to legislate and appropriate was also the power to direct the activities of government, at the very least to ensure that nothing of consequence could be done without the explicit or tacit approval of Congress.

The phrase "presidential staff" is a euphemism for an extra-constitutional institution that has stripped Congress of the authority to govern—to share in the selection and regulation of officials, enforce its intent, and even to know what is being decided, and by whom.

By allowing its own powers to be diminished, Congress has seriously weakened what Alexander Hamilton described as "the two greatest securities" of the people "for the faithful exercise of any delegated power."

"First, the restraints of public opinion" which, Hamilton pointed out, would "lose their efficacy" if it were necessary to divide censure among a number or if there were any "uncertainty on whom it ought to fall; and, secondly the opportunity of discovering with facility and clearness the misconduct of the persons they trust, in order either to their removal from office, or to their actual punishment in cases which admit of it."

The impeachment of the President will not, by itself, restore these restraints; the conditions that permit abuse would still remain. It is not enough to throw out the thieves, it is also necessary to dismantle the den; to reduce the power of the executive and rebuild, as best we can, barriers against presidential ambition and desires.

To concentrate power is to increase it, the whole becomes more than the sum of its parts. Thus the growth of executive power, the dissolution of traditional divisions and restraints, has not simply made the President more important in relationship to Congress, the courts or state governments. It has increased the total power of the state at the expense of private freedom and autonomy to the point where, in modern times, the original understanding—the reconciliation of authority with democracy—has been shattered.

For decades American Presidents have been probing and extending the limits of this emerging executive power and Mr. Nixon, for all his excesses, probably fell far short of existing possibilities, undone by incompetence and triviality. For power breeds power and, if the process is not checked, will some day override all restraints; if, indeed, that point has not already been passed without our having noticed or understood.

This perilous accumulation of authority has occurred even though the constitutional provisions that assign and limit power are unchanged and remain, in the phrase of Article VI, "the supreme law of the land . . ."

The actual division of powers at any historical moment is determined, not by law, but by the willingness of the people and their representatives to protect their liberties. Clearly, for example, the existence of a mammoth defense force has expanded the content of a president's power as commander-in-chief. The modern cult of the presidency, the president as supreme celebrity, could only be sustained by the new mass media with its ability to drown the nation in passionless curiosity.

The languishing democratic process cannot be restored simply by exhorting the President to self-restraint or the Congress to self-assertion. "Power" is an abstraction, but its exercise requires tangible organization and institutions. A will to freedom is essential, but the most fervent hatred of oppression can be frustrated by those who command the instruments of power—an army, a secret police, or, in our own case, the public structures that contain and impose the presidential authority.

Those involved in women's liberation have repealed Freud's dictum that anatomy is destiny, but it is still true that in government, structure is power. The present executive metastasis can be arrested only by changes in the instruments that permit the exercise and accumulation of an authority which is both unnecessary to the national well-being and dangerous to the nation's liberty. We already have the formal power to make such changes. And one can readily illustrate the kinds of modifications that are required.

One would begin, for example, by eliminating the presidential bureaucracy—through a simple congressional refusal to renew its annual authorization and approval. The President should be permitted a few speechwriters and personal assistants, a couple of press secretaries and a crony or two. But a President, mindful of tradition, might restrict himself to 11—the number who served Franklin Roosevelt. The Presidency does not need a private superdepartment to manage the public departments whose officials he also appoints and directs.

We have been told by every president since Dwight D. Eisenhower that a mushrooming foreign policy staff was a necessity of the complex modern world. Then Henry A. Kissinger moved down the street to the State Department, trailing clouds of power as he went. The justifications for other, less sensitive activities secluded within the White House are equally mythological.

Nothing is done—legally and in the public interest—by the presidential staff that cannot be accomplished by public agencies subject to those public and congressional restraints provided by the democratic process. Perhaps a good President might be trusted with a private government, but only theologians can be permitted to rely on the coincidence of goodness with power.

The ability to conduct national affairs in secret deprives Congress and the public of influence on the process of decision; it encourages conspiracy between private interests, executive employes and a handful of powerful congressmen. Moreover, the systematic abuse of power requires a lot of time and people.

Even the most corrupt, power-hungry and energetic President cannot—by himself or with a few assistants—run a spy system, issue secret orders to "independent" agencies, infiltrate the departments with loyal subordinates, pay off friends and supporters, monitor the media and pursue "enemies." A general without a loyal army may abuse his authority, but he cannot become a tyrant.

The independent regulatory agencies should follow the presidential bureaucracy into the limbo of discarded deformities. These agencies were established to regulate important sectors of the economy—railroads, airlines, communicators and media, stock markets, etc. Since their decisions directly influence the personal fortunes of individuals and the earnings of companies—the ability to bestow or deny wealth—careful effort was made to insulate the agencies from the pressures of politics and the coercion of politicians.

Time and corruption transformed this "independence" into a shield behind which agencies and the industries they were to regulate formed alliances against the public interest they were to protect. As a result, in the late 50s and early 60s, a variety of studies—conducted privately and by the government—recommended their abolition. But the businesses which had violently protested their creation fought to preserve them. And nothing was done.

The Nixon Administration, with its genius for innovative advance, discovered that regulatory agencies could be used, not only to help business in general, but to serve those particular interests and companies thought specially deserving of presidential favor, and those who had yielded to presidential blackmail.

It is time to follow recommendations—made by many during recent decades—to transfer the judicial functions to courts, whose independence is more secure, and to place the legislative power in government departments more readily subject to the corrective scrutiny of Congress and public. Even better, Congress might enact general regulations into law, thus reassuming the legislative authority it has abdicated in the name of permitting "administrative discretion."

It will be harder to guard against the sprawling apparatus dedicated to enforcing the law, collecting taxes, compiling intelligence, spying on individuals, and protecting the national security against all enemies real or imagined. Like all good bureaucracies, these organizations want to grow—to add functions and extend jurisdiction—but never to eliminate the redundant or obsolete. And that mischief which is due to idle hands, the need to make use of an excess of money or an agent, is sheltered by their relative secrecy of operation.

By undertaking to redraft and reenact the legislation establishing those varied functions, Congress could provide a public review which might at least serve to expose waste, incompetence and obsolescence.

Although one cannot eliminate all the dangers inherent in the inconsistency between democracy and a national police, some protection could be provided by the establishment of joint congressional committees to share presidential authority over the bureaus of intelligence and law enforcement. It would be necessary to equip such committees with professional staffs large enough to monitor all their operations. It cannot be assumed that any congressional committee will prove a zealous guardian of civil liberties, but, if only from self-interest, a congressional group might be counted on to obstruct lawless acts intended to advance the political fortunes of the President and his party. Certainly, it will increase the number of those who must be enlisted for illegal conspiracies.

Reductions in presidential authority will not, by themselves, eliminate the varied incapacities that have brought the Congress to its present low estate. Congress has been enfeebled, not by the personal defects of its members, but by the nature of politics and by the inadequacies of congressional organization.

Every member of Congress must share his constituency with the President. Open conflict is a risk made to appear far more dangerous by the President's exclusive access to mass media. Even if a congressman is more popular in his district than is the President, most politicians are reluctant to relinquish a single vote, unless by so doing they gain even more.

Since a congressman's constituency also contains opponents of the President or of particular presidential policies, potentially damaging controversy can most readily be avoided by abandoned responsibility, by letting the President decide. This is the course dictated by contemporary political wisdom, except when issues touch the immediate interests of a district, or on those rare occasions when public passions force a congressman to a choice.

Moreover, the same large private interests that benefit from presidential power also support and influence members of Congress, while the President can use his power over federal resources to enrich the districts of the faithful. Reducing executive authority along the lines suggested here will dilute some of these political weapons of control.

but opposition to even a moderately popular President will never be made to seem a safe or easy course.

And even if changing political conditions instill Congress with the will and courage to reassert its powers, the way will be blocked by a legislative organization based on impotence. Congressional committees, for example, are often little more than executive enclaves within the legislative branch.

"Key congressmen"—the ranking members of important committees—are permitted to share the rewards and even the authority of the Administration, in return for helping to protect the executive against unwanted interventions by the Congress. Their relationship with the executive, with which they also share a distaste for the hazards of public debate and legislative interference, is far more rewarding than their ties to other members, or to the Congress as an institution. That is why the White House staff has hastened to assert jurisdiction over these congressional relations that once helped executive departments to maintain some independence of the presidential will.

The most important source of congressional subservience, however, is not the committee structure or the seniority system, but the inability of members to obtain and use that expert knowledge and information, which, given the complexity of modern government, has become necessary to the exercise of power. The official who visits Capitol Hill to argue the President's case is backed up by studies and memos, supported by battalions of specialists and statisticians, flanked by assistants eager to provide a missing fact or suggest the answer to an awkward question.

The congressman, on the other hand, is rarely equipped to debate the executive, or even to comprehend what is being newly proposed or what ongoing activities he is expected to support. The most diligent and conscientious member, although he may become expert in a particular field such a tax policy or the space programs, cannot also master the intricacies of defense, inflation or agriculture. He must rely on a handful of colleagues and lobbyists or on the executive.

A Congress determined to share in the conduct of affairs will need its own counterpart to the Bureau of the Budget—a congressional institution large enough to monitor and evaluate executive activities, to master the details of complicated legislation, and to provide new ideas and specific recommendations for congressional intiatives to resolve important national problems. Congress is not simply an assembly of critics, designated to censure or applaud the President's performance. It is also, and equally, as responsible for ending inflation, reducing crime, or helping the poor. We cannot be sure that congressmen will want to forfeit the relative comfort and tranquility made possible by the abdication of this responsibility. But the most zealous Congress cannot act without the resources needed to examine and understand the afflictions of the nation.

This new congressional agency will not be effective if it simply disgorges vast quantities of memos and studies for men who are already inundated by more material than they can read or master. Its officials and experts should participate directly in committee interrogations of their executive counterparts. Their expertise, their scrutiny of executive actions, and their continuing examination of national problems would be freely available to all members and, in most cases, to the public.

Congress is democracy's only public forum, and its power to force debate and disclosure is also the most important instrument for the participation of the citizen. That power is drained of all content and meaning by congressional ignorance, or by congressional dependence on information from the executive. If the deeds and policies of government are not subjected to the open clash of the diverse interests and ideas that Congress represents, there can be no public will or popular government, only a plebiscite.

It will not be easy to reverse the accumulation of presidential authority. Yet the prospects have been brightened by the emerging realization that the restoration of democratic principle is also a necessity of effective government.

It now appears that even though the President's power is a consequence of modern conditions, it is not a necessity. Our problems and circumstances do not require a usurping executive and an enfeebled Congress. Indeed, the clearest lesson of the past decade is that the removal of restraints breeds massive incompetence, increases the likelihood of actions and policies which damage the national well-being.

The large industrial bureaucracies, which dominate the modern economy, have been a principal cause and support of increased presidential power, finding it more congenial to deal in secret with a small group of fellow executives than to master the confusions of the democratic process. They now discover that the price of this support has been an end to the sustained economic expansion of the postwar period. Surely an entire decade of misrule is enough to convince even the most skeptical that we are not the victims of bad luck, but of more fundamental defects in the organization of the state.

There is no guarantee against error, but to concentrate power over the immense complexities of modern life, to reduce public debate and congressional participation, is to make error inevitable, and to ensure recurrent crises each of which will lead to further encroachments by an executive anxious to mask its failures and subdue the opposition that failure arouses.

We are far more likely to increase our economic well-being, resolve our social problems, and avoid self-destructive world policies amid the confusions of democracy than in the quiet intrigue of executive chambers.

THE ECONOMY

Mr. FANNIN. Mr. President, certain Members of Congress have been advocating an antirecession tax cut. In testimony before the Senate Finance Committee, Secretary Shultz stated:

It is difficult to see any persuasive signs of broadly-based or cumulative reduction in demand for the economy as a whole that might call for added fiscal stimulus. The continued basic strength of the economy is reflected in numerous ways. One favorable factor is the capital investment boom, which continues unabated. If anything, businesses are still revising their investment plans upward. Another is strong inventory demand, and modest ratios of stock to sales in most sectors. Government spending is on the rise, too, at both the Federal and local levels. Furthermore, it appears that housing, hampered last year by mortgage-money shortages, should soon enjoy an upswing from the improved flow of funds into the mortgage-granting institutions.

Further, Prof. Murray L. Weidenbaum, former Assistant Secretary of Treasury, has stated that the administration's proposed budget may be much more expansionary than its basic numbers indicate. Professor Weidenbaum points out that the $9.4 billion estimated deficit could easily turn out to be more than twice that size.

Mr. President, if this estimate is partially correct, a tax cut at this time would be disastrous to our economy.

Mr. President, I ask unanimous consent that a March 24, 1974, article from the New York Times entitled "Springtime in the Economy" be printed in the RECORD. This article quotes leading private economists who contend we should be directing our efforts to getting inflation under control rather than stimulating the economy which would serve to seriously increase the rate of inflation.

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

SPRINGTIME IN THE ECONOMY

(By Thomas E. Mullaney)

The swallows returned to Capistrano as usual last Tuesday, the robins are back in the East, the crocus has burst through the ground on many lawns and Washington is welcoming the perennial blossoming of its cherry trees.

Thus, the typical signs of spring abound everywhere. The buoyant new season arrived on schedule on both the calendar and in the business world last week after a winter that was less severe than anticipated from the standpoint of the weather and the performance of the American economy.

With energy supplies so tight in many parts of the country the last five months, it was indeed fortunate that temperatures held above normal throughout the fuel-needy Northeast. And the nation was blessed as well with a structurally strong and resilient economy that managed to neutralize fairly well, over-all, the severe adverse effects of the fuel shortages in certain industries.

It may be somewhat premature to be certain about it, but there seems to be a better one to the domestic economy as the end of the first quarter approaches than there was at the beginning of the year. And it is certainly true to say that business and investor sentiment is more upbeat than it was only a few weeks ago.

A sampling of opinion of leading private economists last week by The New York Times indicated little sympathy for suggestions in Washington and elsewhere that the economy be prodded with more general stimulus at this time. All of them urged strong efforts to bring inflation under better control as the principal objective of national policy at this time.

Several commentators did recommend however, that steps be taken to bolster the purchasing power of low-income families and those most affected by inflation and the energy problem.

Most also endorsed the suggestion by Secretary of the Treasury George P. Shultz last week that Congress change the tax tables to correct the massive over-withholding that has occurred in recent years. Mr. Shultz said such action would quickly restore some $6-billion in purchasing power to consumers.

The change in the general outlook has been quite sudden. And it has caused a shift in attitude in various quarters about economic prospects and appropriate economic policies.

Although many private economists are still convinced that economic activity in the country will continue to drift along sluggishly for at least another quarter, there seems to be less fear now of anything more than a very slight recession in the first half of the year. And some are even saying that an upturn may come even before that. In general, though, the forecasters still seem confused and uncertain in their predictions.

It may well be that it is still too early to discern the real course of the American economy this year, as William Fellner, a member of the President's Council of Economic Advisers, warned only two weeks ago. However, the economic community has been somewhat encouraged by several recent developments, including the lifting of the oil restrictions.

Current data suggest that the Arabs' embargo was exerting a lesser effect on the American economy and other economies than had been feared initially. Now that the embargo is off, promising some fresh aid for the sectors that had been most affected by it here and abroad, the stage may well be set for better business sooner than many had expected.

The latest economic data from Washington that offered considerable encouragement were the monthly statistics on housing activity, factory orders, total business sales and personal income. Moreover, the three-month slump in industrial production was principally related to energy problems and shortages of materials rather than a significant deterioration of demand.

A further evidence of strength in the economy is the continued firmness of business borrowing. This factor, which caused major banks to lift their prime lending rate back to the 9 per cent level last week, largely reflects the ongoing boom in capital spending, but it is also related to the strength of total business activity.

How soon and how strongly the economy rebounds from its current level of zero real growth will depend to a large extent on the behavior of the American consumer.

The high cost of energy and food in the current highly inflated atmosphere has greatly distorted the public's spending pattern and raised doubts about the level of consumer confidence. It has already drastically affected the auto business and—to a lesser though worrisome extent—the general level of retail business. But there is no evidence as yet that over-all public spending has been greatly reduced and savings substantially increased.

The spring months usually give a strong clue on the attitude of consumers. It's the major period for auto sales each year, and it's the time when department stores look for expanded sales of clothing and household goods. The auto industry remains confident of a spring upturn, with General Motors quickly canceling some planned plant shutdowns and recalling 27,000 laid-off workers when the oil embargo ended last week. But retail executives are more gloomy because of the inflation picture and the serious erosion that has occurred in the real income of every one.

The economy's major problem is the elevated level of prices. The United States, accustomed to price increases of 3 per cent or less in a typical year, is now confronted with double-digit figures in its price indexes. Consumer prices, for instance, are now running at an annual rate of 15.6 per cent after a huge 10 per cent jump in the last year.

Getting inflation under control was the recurrent theme in the responses of leading economists to questions from The Times on the state of the economy last week.

Economist Beryl Sprinkle of the Harris Trust and Savings Bank, commented: "The recent slowdown provides one more opportunity to get inflation under better control. Avoiding the political temptation to engage in massive stimulus for short-run benefits will certainly improve the prospects for less inflation over the longer run."

A. Gilbert Heebner of the Philadelphia National Bank said he agreed with Secretary Shultz that more fiscal stimulus would be unwise at this time, adding: "It would serve to sustain or worsen our seriously high rate of inflation at the very time that it is vital to begin to reduce inflation."

Prof. Murray L. Weidenbaum of Washington University said he believed the economy is "bottoming out right now" and that he opposed any additional stimulus because "the Federal budget is becoming far more expansionary than generally recognized." He expects the fiscal 1975 budget deficit to run closer to $20-billion rather the the $9-billion expected by the Nixon Administration.

Walter E. Hoadley, chief economist of the Bank of America, advocated fiscal stimulus to disadvantaged individuals but opposed general fiscal stimulus because it would aggravate inflation. "The best relief for consumers," he said, "is to check rising price expectations by strong programs to expand supply investments."

Albert G. Matamoros, chief economist for the Armstrong Cork Company, noted the accumulating evidence that the first quarter would represent the low point of the year in terms of real gross national product and said that additional fiscal stimulus taken now "would have the unfortunate lagged effect of impacting the economy precisely at the time when natural expansive forces are manifesting themselves, with the result that additional upward pressure on industrial prices would appear."

Dr. Paul W. McCracken of the University of Michigan said that "building yet more fiscal stimulus into the budget would be unwise" and that he felt the amount of current stimulus "plus normal budgetary slippage slippage will already be enough."

An opposing view came from Prof. Walter W. Heller of the University of Minnesota, who remarked: "In spite of some encouraging signs, the basic move of the economy is still downward and of employment, upward. I advocate $6-million to $8-million of fiscal stimulus, including a personal-exemption increase (on taxes), removal of the payroll tax on the working poor and a boost in public-service employment, public housing and unemployment compensation as an antidote to the recession and as a means of helping the groups hardest hit by food and fuel inflation."

It may be too early to be encouraged by the signs of better economic conditions, but it is not too early to be pressing hard for new initiatives and a firm resolution in Washington to get moving on the inflation front. Few economic observers share the Administration's public confidence that this gloomy picture will brighten later on in the year.

NEED FOR INVESTIGATION OF INTERNATIONAL OIL MONOPOLY

Mr. HOLLINGS. Mr. President, on behalf of Senator THURMOND and myself, I would like to bring to the attention of my colleagues in the Senate a concurrent resolution passed by the South Carolina State Legislature memorializing the Congress of the United States to initiate necessary procedures to provide for an investigation of an apparent international oil monopoly. I ask unanimous consent that this resolution be printed in the RECORD.

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

A CONCURRENT RESOLUTION

(To Memorialize the Congress of the United States to Initiate Necessary Procedures to Provide for an Investigation of an Apparent International Oil Monopoly Which is Doing Great Damage to the Economy of This Country and Causing Great Inconvenience and Hardship to the People.)

Whereas, this country is suffering from an acute shortage of oil, gasoline and petroleum products related thereto; and

Whereas, the efforts of the federal agencies concerned with the energy shortage are apparently inadequate to control the production, importation and refining of necessary fuel products for home and industry; and

Whereas, it is of momentous importance to determine the actual causes of the fuel shortage, and it is the opinion of many that this shortage is a contrived conspiracy of the international oil monopoly.

Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

That the General Assembly hereby memorializes the Congress of the United States to initiate necessary procedures to provide for an investigation of an apparent international oil monopoly which is doing great damage to the economy of this country and causing great inconvenience and hardship to the people.

Be it further resolved that copies of this resolution be forwarded to the President of the United States Senate, the Speaker of the House of Representatives and each member of the South Carolina Congressional Delegation in Washington, D.C.

FOOD: THE OTHER CRISIS

Mr. HUMPHREY. Mr. President, Mr. Brooks Jackson of the Associated Press has put together this past month a very thorough and comprehensive story on our presently depleted grain reserves.

The article traces the story of how we managed to dispose of our formerly large stocks and now have almost no reserves on hand.

The sad fact, which the article makes abundantly clear, is that while experts such as Norman Borlaug are giving warning about our vulnerable position and the serious possibility of famine, the administraton really has no strategy, and its hope is that the problem will go away.

Secretary of Agriculture Butz has declared his support for privately held reserves, but there is no agreement within the executive or the Congress on what policy to follow. The United Nations-sponsored World Food Conference, scheduled for November in Rome, provides a deadline against which to work, but it is not clear whether a grain reserve strategy will be worked out by that time.

Mr. President, I commend this most informative article to the attention of my colleagues, and I ask unanimous consent that it be printed at this point in the RECORD.

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

FOOD: THE OTHER CRISIS

(By Brooks Jackson)

WASHINGTON.—The world's cupboard is nearly bare. Known grain reserves are down to less than two month's supply; lowest on record. With the buffer against hunger so thin; a major crop failure this summer would trigger an accelerated surge in food prices around the world.

In the opinion of many analysts; the situation could lead to a global food panic.

The U.S. Department of Agriculture predicts record world crops in the months ahead; and some easing of the shortage. But the forecast is highly uncertain.

Administration officials, from President Nixon on down, publicly talk of the food problem and the energy crisis as twins. Food is the other crisis.

The administration is uncertain how to deal with it. Congress is divided. For the immediate future, only good weather and good luck can help.

Symptoms of the situation are widespread. U.S. grocery prices went up 14.5 per cent last year. The Agriculture Department predicts they will rise another 8 to 15 per cent this year, while Sen. George McGovern, D-S.D., foresees a 30 per cent increase.

Faced with higher prices, Americans trimmed their grocery buying more sharply last year than at any time in the previous 40 years. They tightened their belts and ate less meat, fish and poultry.

Wheat prices rose from less than $1.50 a bushel before the 1972 Russian wheat sale to $2.50 last July and up to $6 recently. Farm income hit a record $26 billion last year, and farmers continued bidding up the price of crop land and new farm machinery.

In the commodity markets, grain futures gyrated wildly. Overseas, famine claimed the lives of thousands in central Africa. Grain shortages loom in India, where U.S. Ambassador Patrick Moynihan is predicting famine within the coming months.

According to official estimates, this summer's crops will more than feed the world's expanding and increasingly affluent population, leaving enough to begin restocking the earth's severely depleted food reserves.

But this is no more than an educated guess, based on a number of assumptions that could prove faulty. "The range of uncertainties can hardly be minimized," concedes one Agriculture Department statistical report. "Admittedly there are great uncertainties," says the President's international economic report.

What the government economists assume, in making their forecast of bounty, is that farmers will plant as much as they say, that the world's weather will be normal, that a developing fertilizer shortage won't cut deeply into crop yields, and that mechanized farmers will get enough fuel.

At least one of these assumptions may already be invalid. One nongovernment agricultural economist, who asked not to be named, said he saw first-hand evidence on a recent Asian trip that lack of fertilizer is affecting rice crops.

The chief economist of the Agriculture Department, Don Paarlberg, concedes that the optimistic forecast is conjectural, and that the coming months are risky. "There is some jeopardy," he said in an interview.

There is little that can be done immediately to ease the situation. Grain stockpiles can't be rebuilt until surpluses develop. The U.S. government already has eliminated virtually all restrictions on planting, allowing American farmers to produce at full capacity this summer for the first time in nearly 40 years.

What happened to the earth's granary? And what can be done to restock it? American farm policy is at the center of both questions.

After World War II, the globe's food reserve became concentrated, almost by accident, in the United States. American farmers, with their rich land and keen technology, produced more food than the country could eat or sell. The government stepped in to prevent depression-style collapse of farm prices. First it bought up surplus food, and later it also paid farmers to idle much of their land, up to 50 million acres.

These policies, which are designed to keep farm income up, also gave the world an important buffer against hunger. The government's stored grain was so costly to keep that it gladly shipped some $20 billion worth of it overseas under the Food for Peace program. Subsidies were paid to exporters to sell grain at low world prices.

The reserves of stored grain and idled U.S. farmland cost U.S. taxpayers $4 billion in 1972 alone. They were a source of constant irritation to urban consumers, who saw part of their tax money being used to keep their grocery prices up.

When a series of events shrank world food output in 1972, Agriculture Secretary Earl L. Butz sold off virtually all the government's grain. Next year's farm programs may cost as little as one-eighth of the 1972 outlay.

What allowed this liquidation was a combination of factors. Poor weather in 1972 cut crops in India, Southeast Asia, Australia, and, most importantly, Russia. The Soviets decided, unlike previous bad years, to buy grain abroad rather than kill off livestock. Peru's important anchovy fishery collapsed, denying the world an important source of protein feed. Africa's peanut crop was poor. And meanwhile, the world's appetite continued to grow faster than its population, because of a rise in meat consumption brought about by increasing affluence in industrial countries.

Crops generally recovered in 1973, but couldn't keep pace with consumption. Known world reserves remained low, and foreign buyers drained U.S. wheat stocks to the lowest point since the food-rationing years following World War II.

There is no single, accurate tally of the world's reserve food stockpiles. Latest figures from the foreign agricultural service show about 53 days supply of wheat in the world, and 35 days supply of feed grains. Both are the lowest since the statistics were first compiled, more than 10 years ago. The actual total may be higher, because it isn't known what the Soviets or the mainland Chinese have stored.

Even the United States' own wheat reserves are a question mark, although the most optimistic estimate puts it at the lowest level since 1947. The problem is that the Agriculture Department doesn't trust the reports it began requiring of the big grain traders after they sold a quarter of America's 1972 wheat crop to the Soviets. The department assume the companies won't ship all the grain they say they have sold overseas, and it estimates America's reserves at 178 million bushels. Sen. Hubert H. Humphrey, D-Minn., who has been warning for months of a looming global food crisis, estimates that the real reserve is a scant 38 million bushels. Few observers take seriously the recent warnings from the American Bakers Association that the total is zero, and that bread prices will be forced to $1 a loaf.

By any measure, however, stocks are short. The result of short stocks is panic buying; hoarding and price runups. Wheat hit more than $6 a bushel before the price turned down recently. Corn hit $3. Exporters oversold the U.S. soybean crop last year and the price quadrupled to more than $10, causing the administration to slap on an export embargo that enraged the Japanese and other foreign buyers.

Several nongovernment experts on agriculture have voiced grave fears about the lack of reserves. Dr. Norman E. Borlaug, a Nobel Prize-winning scientist, estimates that more than 50 million people would have died last year in a worldwide famine if it hadn't been for good rainfall. Reserves are no better this year.

Dr. Lester R. Brown, senior fellow at the Overseas Development Council, says the world is in "an extremely vulnerable position," and cites evidence pointing to a conclusion that food shortages may become increasingly severe in the years ahead.

Dr. William C. Paddock, an agricultural consultant who has been warning of impending food scarcity for years, now says, "The time of famine has indeed arrived."

These are extreme views, but even more middle-of-the-road economists have warned that thin reserves mean unstable prices and less food for disaster relief in famine areas.

Even within the administration, some high officials speak of possible disaster this year. But so far there is no agreement about what to do.

President Nixon, in his international trade report, spoke last month of a need for commercial reserves "to prevent food prices from rising to unacceptable levels when harvests fall short." But he proposed nothing specific, beyond warning that buyers shouldn't count on the U.S. government to carry the burden alone.

Nixon's advisers are undecided on the issue. Agriculture Secretary Butz is outspoken in his opposition to "any kind of government manipulation in agriculture," including government ownership of reserves. State Department officials are studying proposals for an international system of grain reserves. Nixon's Office of Management and Budget is sifting through ideas for encouraging private interests to hold greater stocks.

Congress also is divided, and current betting is that no legislation will pass this year. A Senate subcommittee opens hearings March 21 on proposals by Humphrey and others to establish a government-owned grain reserve which would be a fraction the size of the old stockpiles. But Humphrey sees no better than a 40 per cent chance of passage.

Opposition to the idea comes not only from administration budget-cutters and from Butz, but from such conservative farm groups as the Farm Bureau. They see any government reserve as an anchor or farm prices.

Consumer groups back the reserve idea for the same reason that the Farm Bureau opposes it. However, consumerists haven't yet shown much enthusiasm for the proposals, which aren't very well understood by most grocery shoppers.

Administration officials say they hope to have a grain-reserve strategy worked out by next November's United Nations-sponsored World Food Conference in Rome.

One idea under active consideration within the administration is to do nothing, on the theory that things will work out by themselves. Under this scheme, higher prices supposedly would induce farmers to produce more, and the prospect of future shortages would prompt foreign buyers and private grain companies to hold their own reserve stocks.

Peter Flanigan, the President's adviser on international trade, put it this way in an interview: "I feel that there will be a reserve. But that's not to say government reserves. If companies feel they're going to be subject to considerable fluctuations, they'll hold reserves. . . . I don't think it's essential that there be a major U.S. government reserve."

In any event, nobody can build much of a reserve until, and unless, surpluses develop and prices come down. Nobody is proposing that the government stockpile wheat at $6 a bushel.

Surpluses and lower prices could come next fall, if the Agriculture Department's forecast is correct. Or it could come never, if some of the famine-prophesying pessimists are borne out.

THE COMMUNIST BUILDUP IN VIETNAM

Mr. GOLDWATER. Mr. President, on several occasions lately I have made reference to the continuing buildup of North Vietnam's strength in South Vietnam. While it is not possible for me to divulge all the information I have, there are some important points that have been made in the recent issue of Air Force magazine. I have clipped this article from that magazine and ask unanimous consent to print it in the RECORD. While the buildup is far greater than any of us thought Vietnam would be able to mount, I still feel there is no indication of any definite time when they might

put the equipment and men into a major attack, but I think we have to be forewarned and prepared for it. This is another reason why continued assistance from the United States is necessary.

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

THE COMMUNIST BUILDUP IN VIETNAM

(By John L. Frisbee)

Air Force Magazine's January 1974 editorial commented on the buildup of North Vietnam combat forces, equipment, and supplies in South Vietnam. We noted that few of the thousands of reconnaissance photos that documented the buildup had been made public. "As a result, the American people, including many in Congress, are unaware of the extent of North Vietnam's preparations [for resuming large-scale fighting] and how serious the situation is."

Since the editorial was written, a broad sampling of recce pictures has been released. But the media—preoccupied with the aftermath of the Mideast war, the energy crisis, and Watergate—have paid scant attention.

A selection of the photographs is presented here. Those of installations in enemy-held South Vietnam were taken by reconnaissance drones and demonstrate the quality of low-altitude drone photography.

More important, they leave no doubt that intelligence analysts have all the information needed to accurately assess the extent of Hanoi's infiltration of the South. So massive a buildup was not possible during the interdiction campaign conducted by US airpower prior to the cease-fire.

From reconnaissance coverage and other sources, US intelligence experts have concluded that some 100,000 North Vietnamese troops moved into the South between the signing of the cease-fire agreement in January 1973 and the end of that year (the period covered by all estimates that follow). About 43,000 North Vietnamese troops were killed in engagements during 1973: thus, there was a net gain of more than 56,000 North Vietnamese soldiers in the South, although Article 7 of the cease-fire agreement allows only a one-for-one replacement of men and supplies to be brought in at specified entry points. At the close of 1973, North Vietnam had approximately 190,000 troops in the South.

In January 1973, there were between 150 and 190 North Vietnamese tanks south of the Demilitarized Zone (DMZ). At year's end, that force had grown to between 500 and 700—a considerably larger number of tanks than Hanoi had in the South at the start of its spring 1972 invasion.

Long-range 100-, 122-, and 130-mm artillery has been increased from between 170 and 220 pieces at the cease-fire to between 570 and 715 pieces in December 1973.

Equally dramatic has been the expansion of North Vietnam's logistic base in the South. During 1973, more than 100,000 tons of supplies were brought into northern South Vietnam, much of it directly through the DMZ. About half of the supplies are believed to have been consumed or used to build military facilities, leaving the North with a stockpile increase of about 55,000 tons. The North's logistic support in the South is now adequate to sustain heavy offensive operations for at least a year. More than 3,000 permanent buildings and storage areas have been built to accommodate these supplies.

Most of the supplies were moved into the South by truck. In the first six months of 1973, 16,000 trucks were photographed along the Ho Chi Minh Trail alone. The North is using some 5,000 trucks to distribute supplies in the northern provinces and many others to transship to the central and southern regions of South Vietnam.

All-weather roads have been built leading into South Vietnam, as well as a major new highway system within the South. This system has cut in half the time needed to travel from Hanoi to the Central Highlands of South Vietnam.

The highway net is augmented by water terminals below the DMZ. One of the largest ports, Dong Ha, is estimated to handle more than 200 tons of supplies a day.

To defend their forces in the South against air attack, the North Vietnamese have vastly increased their air defenses. By the end of July 1973, they had built eleven surface-to-air missile sites near Khe Sanh and one near Cam Lo. Anti-aircraft regiments, which numbered nine at the time of the cease-fire, were increased to twenty-three, with nearly 1,400 guns, by the end of the year.

The North Vietnamese also have rebuilt or improved at least twelve airfields in the South. Khe Sanh is a good example. Its runway has been lengthened to 5,300 feet and can accommodate any aircraft in the North Vietnamese Air Force, including MiG-21s and I1-28 light jet bombers.

The permanence of construction—headquarters, barracks, steel bridges, hardened POL storage, pipelines, hard-surface roads—indictates that the North Vietnamese intend to hold large areas of South Vietnam indefinitely. Their logistic buildup—far beyond anything needed to defend the areas they now hold—is clear evidence that Hanoi plans to seize additional areas of South Vietnam.

One question remains in doubt. When will North Vietnam's all-out offensive begin?

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, article II of the Genocide Convention defines genocide as "acts committee with intent to destroy, in whole or in part, a national, ethnical, racial or religious group—". Opponents of the treaty have questioned the meaning of the phrase "in whole or in part." As one opponent put it, does it mean "driving five Chinamen out of town?"

The purpose of including this phrase was quite clear. It was to preclude any argument that the destruction of a sizable percentage of a group was not genocide because members of the group still existed. The section on individual rights and liberties of the American Bar Association had this to say:

In the context of this Convention, there can be no doubt about the distinction between intent to destroy a national, ethnical or racial or religious group and intent to destroy some individuals belonging to the group. Nothing in the history of the United States since the early Indian wars quite adds up to genocide within the meaning of this convention. If any race riot, lynching or comparable event ever grew to the scale approaching genocide as defined in the Convention, the international obligation would surely add nothing to the determination of our own state and federal authorities to bring the perpetrators to full justice.

Mr. President, the section of individual rights and liberties found nothing in the treaty that would endanger the civil liberties of our citizens. They concluded, as did the American Civil Liberties Union, that the ratification of this treaty was in the national interest. It deserves our support.

FINANCIAL STATEMENT BY SENATOR MONDALE

Mr. MONDALE. Mr. President, I ask unanimous consent that a statement of my estimated net worth as of December 31, 1973, be printed in the RECORD.

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

FINANCIAL STATEMENT OF SENATOR WALTER F. MONDALE, DEC. 31, 1973

Assets:	
Residence in Washington	$63,000
Automobiles	
Oldsmobile	1,150
Chevrolet	1,050
Cash in deposits	3,513
Household and personal goods	6,000
Cash value of life insurance	5,342
Personal contributions to Federal Employees Retirement System	25,627
Total assets	105,682
Liabilities:	
Mortgage on residence in Washington	35,488
Miscellaneous personal bills	1,000
Bank loan	2,000
Total liabilities	38,488
Estimated net worth	67,194

COOPER-RIVER REDIVERSION PROJECT

Mr. HOLLINGS. Mr. President, I would like to bring to the attention of my colleagues in the Senate a resolution adopted by the City Council of Charleston on March 26 calling for immediate construction of the Cooper River rediversion project. I wholeheartedly concur with the premises of this resolution, and I have been working toward the same end.

The Corps of Engineers is presently reconsidering its capability, and I hope we can move significantly into the construction stage this year. We can save thousands of taxpayers' dollars by completing this project at the earliest possible date.

This project is vital to South Carolina's economy, and I commend the Charleston council for adopting this important resolution. I ask unanimous consent that this resolution be printed in the RECORD.

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

RESOLUTION

Whereas, a deep harbor is essential to the economic well being and everyday life of the City of Charleston, and

Whereas, the State of South Carolina, the City of Charleston, and private interests have spent millions of dollars to construct facilities to handle commercial shipping, other types of commercial craft, and pleasure craft, and

Whereas, the United States Navy has spent unknown millions in Charleston on defense facilities for this Nation, including a nuclear submarine base, headquarters for the Atlantic Mine Fleet, and facilities to maintain and support all types of Naval craft, and

Whereas, since the construction of the Santee-Cooper Project, the Cooper River and Charleston harbor annually silt at an alarming rate, and

Whereas, the cost to the American taxpayer

is an enormous amount and growing every year to maintain Charleston's harbor at an acceptable depth, and

Whereas, suitable areas to place the dredge spoil to maintain the harbor are becoming annually more difficult to find, and

Whereas, the United States Corps of Engineers has devised a plan to divert the waters from the Santee-Cooper Project back to the Santee River, and

Whereas, if constructed, this Rediversion Canal would eliminate substantially the annual cost of dredging Charleston harbor and the Cooper River, and

Whereas, it is essential for the economic future of this City and this State that the Rediversion Canal be funded by the Congress and constructed at an early date,

Now, therefore, be it resolved that the City Council of Charleston, assembled this 26th day of March, 1974, does support the South Carolina State Ports Authority and others in urging that funds be appropriated for the construction of the Rediversion Canal, and

Be it further resolved that the Charleston City Council supports the Corps of Engineers plan of development for the Cooper-River Rediversion Project and urges that construction on the Rediversion Canal proceed, and

Be it further resolved, that copies of this Resolution be forwarded to members of the South Carolina Congressional Delegation, the Governor of South Carolina, and to the United States Corps of Engineers to be included in the record of the Public Hearing to be held on this matter 7:30 p.m., April 4, 1974, in Moncks Corner, South Carolina.

ADDRESS BY COMMANDER OF THE AMERICAN LEGION

Mr. THURMOND. Mr. President, last week the National Commander of the American Legion, Robert E. L. Eaton, made an official visit to South Carolina.

During the afternoon of March 27, he participated in a ceremony at the War Veterans Pavilion in Columbia honoring E. Roy Stone, Jr., a resident of Greenville and one of South Carolina's outstanding citizens. Roy Stone represents my State on the American Legion National Executive Committee and I have worked with him through the years on veterans' matters. I was pleased to join with his other friends throughout the State in honoring this outstanding member of the American Legion.

On the evening of March 27, in Columbia, Commander Eaton addressed a banquet meeting of the American Legion and the American Legion Auxiliary. At that meeting he made one of the finest speeches I have heard on the need for a strong national defense and a rebirth of patriotism in America.

Commander Eaton is uniquely qualified to speak on problems relating to our national security. He is a retired Air Force general officer with service in World War II and the Korean conflict. Among his decorations are the Distinguished Service Medal, the Silver Star with Oak Leaf cluster, the Legion of Merit, the Distinguished Flying Cross with cluster, the Bronze Star and the Air Medal with four clusters.

Mr. President, General Eaton has demonstrated a firm grasp of the complexities of national defense needs. It has been my good fortune to know this distinguished American for several years. He is a man of deep convictions whose leadership this year has brought honor to the American Legion.

In his Columbia speech, Commander Eaton discussed in realistic terms the need for America to maintain a position of strength from which our Government can negotiate the issue of peace in the world. He believes, as I do, that first consideration must be given to an adequate nuclear defense posture. The only way this can be done is to provide our strategic nuclear forces with the funds and personnel to keep those forces in fighting readiness.

I agree with General Eaton that there are several bare essentials for maintaining our credibility in international affairs. We must go forward with the development and deployment of the B–1 bomber as a replacement for the now obsolete B–52. We must deploy an operational Trident submarine force as soon as possible to replace our aging Polaris system. The Minuteman system must be improved with continuing research and development on advanced missiles.

The National Commander endorsed the total force policy, with which I fully agree, as being the best way to hold down the personnel costs of the Armed Forces. As he pointed out, a greater reliance on our Reserve Forces, in accordance with the total force policy, will not only provide an effective defense but will make possible substantial savings in maintaining an adequate defense structure.

Commander Eaton's remarks are relevant to many of the problems we must face and overcome if we are to survive as a great nation. They are the thoughtful and eloquent reflections of a man deeply committed to his country and to the cause of world peace.

He believes, as I do, that our relations with other countries must be based on strength—that the United States has no choice other than to remain militarily strong.

Mr. President, I commend General Eaton's timely remarks to the attention of my colleagues and ask unanimous consent that they be printed in the RECORD at the conclusion of my remarks.

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

AN ADDRESS BY ROBERT E. L. EATON, NATIONAL COMMANDER, THE AMERICAN LEGION, COLUMBIA, S.C., MARCH 27, 1974

Department Commander Wolfe, Department President Fisk, Governor Morris, Senator Thurmond, distinguished guests, members of the American Legion and American Legion Auxiliary of the great department of South Carolina. I am very pleased to be here with legionnaires and ladies of the American Legion Auxiliary. I think I was first touched this evening by the fine presentation of the key to the city by Mayor Freeman. I have been to South Carolina many times and you can understand how I always feel at home in this State, and I was deeply honored today to participate in the ceremonies honoring that great South Carolinian, E. Roy Stone, Jr., an honor which, I think, was considerable and momentous, and I thought it was really a great thing to recognize an outstanding citizen of your department. I was honored to be there, and I think it is a measure of the great things that you have here in South Carolina.

I am sure all of you know that our national theme for my legion year as National Commander is "be counted again."

In my travels to various legion departments, I have been gratified at the way each legionnaire and member of the auxiliary has been ready to "be counted again." I have seen it here in South Carolina and I know this same spirit of dedication to God and country prevails throughout the American Legion.

America today stands in need of the dedicated and devoted service that we as veterans can provide. I now call upon the legionnaires and members of the auxiliary of this great department to join with all your other legion comrades to stand and "be counted again" in service to God and country.

You were counted once as you stood to serve your country as a member of the Armed Forces in the time of war. America needs you and other concerned veterans of wartime service for continuing peacetime service in the ranks of the legion.

American Legion membership begins with the invitation to the eligible veterans to join. I implore you to see that every eligible veteran in this State receives a timely and personal invitation to join in the comradeship of the legion. We need to do it now.

We want this invitation to go to all eligible veterans with emphasis on the younger veteran. The Legion has given great emphasis to the problems of the younger veteran in recent years. Their rights and benefits under a revised G.I. bill have been priority concerns of the American Legion for years.

This was necessary action by the Legion because of the problems these young men and women faced on return to civilian life. Their war was a difficult one. Their problems were magnified because they did not have the unified support of their countrymen.

Now these new veterans are home. They deserve the best their country can provide in the way of benefits. The American Legion has worked tirelessly to help insure those benefits, and the young veteran can help his own cause by joining forces with us. He can help us strengthen our "clout" in the Halls of Congress and in the legislatures of our States. This is vitally important to winning approval for essential veterans' legislation. It is where our membership is counted again.

You can assure each new veteran that you come in contact with that the American Legion will continue its efforts to further improve their educational benefits, and we will continue to do so until the Legion is satisfied that they are adequate.

Bring the new veteran into the Legion. Make him welcome. Make him active. Make him aware that he has a stake—not only in the insuring of his benefits—but in continuing to serve in peace the Nation he fought for in war.

Our recent Washington conference put us currently on record with the Congress of the United States on the problems not only of the Vietnam era veteran, but of all veterans. Our testimony was delivered to both the House and Senate Veterans' Affairs Committees.

We renewed our petition for an allowance of up to $1,000 a year for young veterans continuing their schooling, to be payable directly to the institutions concerned to help cover the costs of tuition, fees and books. Several other congressional proposals have been made but we still consider ours to be the most equitable solution. We will pursue it.

We are asking that income limitation for purpose of determining eligibility for military pension benefits be increased to $3,000 for the single veteran and $4,200 for those with dependents to keep them from losing pension benefits because of increases in social security payment.

We are asking further increases in pension benefits to reflect cost-of-living increases and we let it be known that the 10 percent monthly increase of last December, while appreciated, is not adequate.

Secretary of Health, Education and Welfare Caspar Weinberger told us in so many words that the "plan" for National Health Insurance visualizes use of existing facilities, including these of the Veterans Administration. The American Legion sees the VA as having been created—at the insistence of veterans—for veterans, and we are going to continue our fight to keep it that away.

While our primary concern is for the veteran and his family, we are in step with issues that are national and international in scope. The American Legion has always been counted in the cause of a strong system of national security and forthright dealings with other nations. We must "be counted again" in these vital areas of our national life for here are the keys to the preservation of our freedom.

The American prisoners of war have been returned from Southeast Asia, but the accounting for the missing in action is not producing satisfactory results. The legion continues to call upon our government to bring all possible political and economic pressures to bear on North Vietnam and the Viet Cong, and their allies, to carry out their obligations concerning American servicemen missing in action in Indochina.

We are realistic in this matter. We know the fate of many cannot be determined because the land and sea area over which the war was fought will hold many secrets forever. We do ask that all possible measures be taken to positively determine the fate of as many of our men as can be done. Our country can afford to do no less for the long suffering families of these men.

On the other side of the coin regarding young men of the Vietnam era we have some different sentiments regarding draft dodgers and deserters. We stand firm in our opposition to amnesty for those people. We believe every case should be determined on its own merits. America owes much to those who served. America owes nothing to those who refused to serve.

Throughout our 55 year history, the American Legion has favored a strong national defense. Indeed, one of the principal reasons for founding our organization was the concern of farsighted World War I veterans who saw the folly of inadequate military preparedness.

Almost as a matter of course, it seems, prevailing American public sentiment urges the dismantling of the military forces following a long period of conflict. This was true following World War I and it is true again today following the long cold war years and the Vietnam conflict.

General George Marshall called attention to the dangers inherent in this type of letdown when, after World War II, he said: "We finish each bloody war with a feeling of acute revulsion against this savage form of human behavior. Yet, on each occasion, we confuse military preparedness with the cause of war and drift almost deliberately into another catastrophe. The first thing we must remember with the end of war is that to avoid war we must remain militarily strong." (end of quote)

The existing atmosphere of decreasing tensions with our cold war adversaries has also had an impact on public opinion concerning our defense posture. The doves, who are always with us, are doing their share of hand-wringing, and attempting to bring about disarmament even if it must be on a unilateral basis, their prime target is the defense budget which they would reduce to a completely unreasonable degree under the guise of "reordering priorities."

We tend to overlook the fact that in the 3400 years of recorded history, there have been only 268 years when a major war has not been in progress. The conflict which developed into major proportions in the Middle East recently, appears to bear out the lessons of history in this regard.

The rationale for maintaining a strong defense as a national priority was set forth eloquently some years ago by British Air Chief Marshall Slessor, who observed: "It is customary in democratic countries to deplore expenditures on armaments as conflicting with the requirements of the social services. There is a tendency to forget that the most important social service that a government can do for its people is to keep them alive and free."

The American Legion from time to time is characterized as being militaristic. We view our positions with regard to national security as being *realistic*. America achieved greatness in the community of nations, not through weakness, but from a position of unchallenged strength.

Nobody regrets more than the American Legion the fact that bitter warfare erupted again in the Middle East. We firmly support our government's move to bring about peace in the area, but we at the same time called upon our government to provide arms and other war materiel to Israel, to inspire the survival of that free and democratic nation.

The necessity for adequate national defense for America, to keep us in a position of unchallenged strength from which our government can negotiate, was brought into sharp focus during the Middle East crisis.

I'm sure most of you are aware that the Soviet Union implied that they might place military troops into that region. America through negotiation and by alerting our armed forces against such a move, was able to block any such attempt by the Soviets.

Let me ask you a question. If America would have reduced its armed forces, and unilaterally withdrawn its military forces from around the world, do you think the Soviet Union would have been willing to negotiate on the question of putting troops into the Middle East? You and I know the answer, but for many Americans, this realization does not strike home.

Speaking of priorities, the American legion believes that first consideration must be given to maintenance of an adequate nuclear defense posture. We give our total support to our strategic nuclear forces and those measures necessary to keep those forces in fighting readiness.

We consider the early development and deployment of the B–1 bomber, as a replacement for the now obsolete B–52, as an absolute must.

We have new evidence of a Soviet submerged missile system with a 4,000 mile range, making imperative the deployment of an operational trident submarine force at the earliest possible time to replace our aging Polaris system.

Our land missile element, the minuteman system, must be improved and updated to insure its survivability and effectiveness. Older missiles must be replaced with minuteman III, with continuing research and development action on advance missiles.

These are the bare essentials for maintaining United States credibility in International affairs. Don't think for a minute that had we lacked credibility in the Middle East situation, we could have been effective in arranging a ceasefire. Don't think for a minute we will retain our credibility without the military force to sustain it.

While updating the strategic forces, we also must act to improve the general purpose forces. We are committed to continued development and procurement of the F–14 and F–15 superiority fighters; a return to a position of naval superiority through the continued improvement of our surface and submarine fleet and a modernized air defense system.

The zero draft has contributed substantially to the skyrocketing personnel costs of the armed forces. The need for updating weapons systems adds to the burden. Increasing inflation can be expected to push these costs even higher. As an organization dedicated to the cause of maintaining peace through preparedness, the American Legion has an obligation to explain to the American people the necessity for a strong system of national defense.

The American Legion endorses the total force policy introduced by former defense Secretary Laird, as being the best available solution for holding down the personnel costs of the Armed Forces. This policy envisions making the reserve forces an integral part of the Nation's ready force in being.

We need look no further than the recent example of Israel's quick and effective mobilization of reserve forces to cope with the latest Middle East conflict to prove that it can be made to work. Sadly, we must report that despite a display of lip service, we fail to see vigorous moves toward implementation of this idea by the Congress or the Department of Defense.

We believe that developing and using the reserve forces in accordance with the total force policy will not only provide an effective defense, it is without question the most dollar effective approach. If the ceiling is dollars, more defense forces can be produced under the dollar ceiling. If the ceiling is force structure required, the force can be produced at a lower cost. These economies are possible because it is demonstrably cheaper to fund reserve forces, both from the standpoint of personnel costs and maintenance and operations costs, than it is to fund the active force.

In order for the total force policy to be a viable, living thing we must have a commitment to man the force—to equip the force and to train the force. With regard to our national security, this is where the American Legion must carry on the fight today.

So I ask you, my fellow legionnaires, to "be counted again." "Be counted again" among those who take upon themselves the very necessary, although sometimes unpleasant task, of reminding our countrymen and our Government that vigilance and preparedness are part of the price that freedom demands.

"Be counted again" my friends, with your personal involvement in the never-ending struggle to perpetuate America's greatness. Let us continue our absolute insistence that our Government's approach to international affairs always be from a position of strength.

The voice of the American Legion is a force for good in America and it can and shall be heard. The voice of the Legion has been heard, and the influence of its works have been felt throughout the Nation and around the world for 55 years.

A good example of the Legion's voice on the homefront is our policy on law and order. The Legion has stood for law and order for 55 years. It was one of the basic points written into the preamble to our Constitution.

We have supported law and order at home and abroad. It has always been the policy of the legion to support and respect law enforcement agencies at all levels. We particularly believe that the Federal Bureau of Investigation is and always has been one of the prime factors in maintaining the freedom of America. We certainly pledge our continuing support of the FBI and all law enforcement agencies.

Ladies and gentlemen, one of the great missions of the American Legion as a patriotic organization, is to fan the flame of patriotism. We need to nourish the spirit of love of country. We must "be counted again" in the effort to keep alive the great rebirth of patriotism brought home to America by our returning veterans.

Those absolutely marvelous men came home to the land they loved. Publicly and proudly they reaffirmed their love of country and immediately they put to shame the dissenters and the protestors who had held center stage for all too long. Let's work to keep that newborn spirit of patriotism alive in all Americans.

I have talked about a few of the mighty challenges that confront us as we stand to "be counted again" in service to America. When any feeling of inadequacy or despair comes over us—whenever the odds seem insurmountable—let us remember once more the achievements of the returning prisoners of war. A small handful of men turned the spirit of a mighty Nation completely around and restored national pride to the hearts of all Americans.

One of the great problems in America today is our failure to believe. We have lost our ability to believe in anything, including the sacred things that have been so important in the history of our country. When Saint Matthew came to write the gospel according to Saint Matthew, he did not investigate the matter by interviewing witnesses or collecting data. This happened some 60 years after the death of our Lord. Instead he took his disciples up into the hills and they fasted for three days so that they could answer the question—Do you really believe? Today, do you really believe in America?

Smith Hempstone writing in the Philadelphia Inquirer stated, and I quote,

"The most serious crisis we face, both as individuals and as a nation, is the one nobody talks or writes about: We are mired in an age of disbelief which is eroding our will not only to succeed but to survive.

"Sons do not believe fathers, blacks do not believe whites, stockholders do not believe corporate executives, the public does not believe the President . . . if any one thing built this country it was a sense of self confidence, a perhaps naive pride in the past, an almost certainly overly optimistic faith in the future.

". . . We owe it to ourselves and to our children to dream new dreams, to have pride in our past and faith in our future. For without such dreams, such pride, such faith, we will have no future."

Ladies and gentlemen, it has been my very great pleasure to be here and be able to visit with members of the American Legion and American Legion Auxiliary of South Carolina. As we leave to return to our respective homes, let us look to the future in a positive way. Let us do so with our faith renewed, our courage revitalized and our strength restored as we firmly resolve to "be counted again."

Thank you very much.

ESTABLISHING A SOCIAL SECURITY BRANCH OFFICE IN GEORGETOWN, DEL.

Mr. BIDEN. Mr. President, on March 5, 1974, the Delaware State Senate passed a resolution asking the Delaware delegation in Washington to investigate the possibility of establishing a social security branch office in Georgetown, Del. I ask unanimous consent that the text of the resolution be printed in the RECORD.

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

SENATE RESOLUTION No. 157

Memorializing the Delaware Congressional Delegation to investigate the possibility of establishing a Social Security branch office in Georgetown, Delaware.

Whereas, as of December 31, 1972, latest statistics available, there were 14,381 benefits in force in Sussex County, indicating the following breakdown:

(a) Retired workers	7,704
(b) Disabled workers	931
(c) Dependents of retired workers	1,389
(d) Dependents of disabled workers	653
(e) Survivors	3,550
(f) Special age 72 benefits	154
Total	14,381

And whereas, many of our senior citizens under existing conditions must travel all the way to Dover to receive services, of which the above latest statistics reflect that a vast majority of those benefits in force are considered our senior citizen population; and

Whereas, hardships are created, particularly during the current energy crisis, plus the fact that those who are unable to drive to Dover must rely upon their family and friends or public transportation, which in many instances is not available, particularly in rural areas of Sussex County; and

Whereas, it is most obvious that the wheels of government move rather slowly, consequently, recipients of Social Security benefits must frequent the nearest office which is located in Dover to answer questions, sign documents, etc.; and

Whereas, our senior citizens, who live in many instances on fixed incomes and whose means or travel is somewhat limited, should not have to travel such long distances to receive services for which they are rightfully entitled; and

Whereas, the Medicare, Medicaid Programs plus the institution of Supplemental Security Income which went into effect on January 1, 1974, alone, all of which affect the indigent and retired, is sufficient reason in itself to warrant a branch office in Georgetown, Delaware. Now, therefore:

Be it resolved by the Senate of the 127th General Assembly of the State of Delaware that members of the Senate strongly urge the Delaware Congressional Delegation, namely Senators William V. Roth, Jr., Joseph R. Biden and Representative Pierre S. duPont, IV, to investigate the possibility of establishing a Social Security branch office in Georgetown, Delaware, to serve the citizens of Sussex County rather than have them travel to Dover, Delaware, to transact Social Security business.

Be it further resolved that the Members of the Congressional Delegation incorporate a copy of this Resolution into the Congressional Record or into the record of any committee hearings that may relate to the subject.

Be it further resolved that a copy of this memorial be mailed to Senators William V. Roth, Jr., and Joseph R. Biden and Representative Pierre S. duPont, IV, at their Senate and House offices in Washington, D.C.

DAN PARKER

Mr. PERCY. Mr. President, Jack Anderson, one of the Nation's most persistent and effective investigative reporters, is not known for lavishing praise on public officials. Therefore, when he takes the time and space to give credit to a public official, that official must be doing his job extraordinarily well.

In the Washington Merry-Go-Round column, published in the Washington Post, March 21, 1974, Anderson draws attention to the excellent job being done by Dan Parker as Administrator of the Agency for International Development. My own information confirms Anderson's positive assessment of Dan Parker's performance to date.

So that all our colleagues will note Anderson's comments about Dan Parker's work, I ask unanimous consent that part of the column which pertains to Dan Parker be printed in the RECORD.

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

ABLE AMERICAN

The foreign aid program, whose blundering overseas gave its representatives the nickname "Ugly American," offered refrigerators to the Eskimos, built sawmills in countries where there were no forests and shipped toothpaste to nations whose people had no tooth brushes.

But last September, the Nixon administration persuaded Dan Parker, head of the Parker Pen Co., to take charge of foreign aid. Parker impressed Congress with his background and intelligence.

Since his takeover, he has begun quietly to straighten out the problem-plagued agency. It is too early yet to pronounce his reforms successful. But increasingly, the Ugly American is becoming known as the Able American.

Or as one old-line bureaucrat, referring to the cumbersome agency, told us: "The monster has been harnessed."

DEATH OF LAWRENCE PHELPS TOWER

Mr. PELL. Mr. President, it is with a deep feeling of loss that I call to the attention of my colleagues the death of Lawrence Phelps Tower.

Mr. Tower's distinguished career was devoted, in large measure, to providing his countrymen with a more profound understanding of the American flag, its symbolic meaning, its origins, its significance to the history of our country.

I had the privilege of working closely with Mr. Tower for many years on legislation to help protect the dignity of our flag. In this respect I was coauthor of the present law, providing for appropriate safeguards, with Mr. Tower's cousin, the distinguished Senior Senator from Texas.

Lawrence Tower carried out careful research on the history of our flag, both in this country and abroad. "The Untold Story of Our Flag," which he wrote, was the result of 15 years of study and contained a wealth of information on our flag's origins. Mr. Tower traced these back almost 200 years before American independence. He believed that the striped design had its origins on English frigates which sank the Spanish Armada in 1588.

In keeping with his scholarly and patriotic concerns, Mr. Tower served as president of the Sons of the American Revolution and as secretary of the Society of Colonial Wars. He was governor of the Society of Colonial Clergy and a board member of the Mayflower Society.

Mr. Tower's life is an exceptional example of individual dedication. I admired his patience, his perseverance and his ideals. I feel the personal loss of an old friend.

I am sure I can speak for other Senators in extending to his widow and to his daughter our heartfelt sympathy and our high regard.

EXORCISING THE ANTI-PSRO DEVILS

Mr. BENNETT. Mr. President, yesterday, I described for the Senate some of the progress being made in implementing the professional standards review

legislation which I sponsored. My remarks included extensive excerpts from the Finance Committee report on H.R. 1 as a means of refreshing memories with respect to the overwhelming arguments in favor of enactment of the PSRO amendment.

As I noted yesterday, the PSRO legislation was designed to afford practicing physicians at local levels the opportunity, on a voluntary and publicly accountable basis, to undertake review of the medical necessity and quality of care provided under the $25 billion medicare and medicaid programs.

Mr. President, I promised yesterday to provide the Senate with specific and detailed responses to the allegations, distortions, half-truths, misrepresentations and downright hypocrisy which have characterized an almost unparalleled campaign against the professional standards review program.

That campaign of vilification has been conducted, in the main, by three organizations, each representing and apparently speaking in behalf of overlapping segments of medicine. These three groups are the Council of Medical Staffs, the American Association of Physicians and Surgeons and the American Medical Association.

I want to emphasize that these organizations do not speak for all doctors—but only some physicians. In sharp contrast to the negativism and shrill hyperbole of the CMA, AAPS and the AMA, hundreds of State and local medical society sponsored organizations have applied or are in the process of applying for formal PSRO status. These constructive elements in medicine are pursuing active PSRO roles in behalf of many thousands of practicing physicians.

There is a curious and noticeable similarity to the allegations directed against PSRO by the trio of opponents. The American Medical Association recently assumed for itself the lead role in propagandizing these themes of the Council of Medical Staffs and the American Association of Physicians and Surgeons. The AMA's contribution to distortion and misrepresentation took the form of a public relations kit entitled "PSRO—Deleterious Effects."

As one might expect, the AMA kit includes "canned" editorials for local newspapers, but its high point is a speech "for general use" entitled: "Exorcising the Devil from PSRO." The speech title says it—the text matches the title in terms of objectivity and scientific inquiry. The generalized allegations contained in the speech do run the gamut of the stuff that has been leveled against PSRO.

PSRO is a complex law. It is complex because it deals with a highly sensitive area and effort was made, to the extent feasible, to assure chapter and verse clarity in the statute. There has been a failure by its opponents to call attention to the onerous alternatives to PSRO which are already on the statute books and which stand ready to operate in the absence of PSRO. I have attached as an appendix, references to those other provisions in present law. One example is the abortive proposal by the Secretary of Health, Education, and Welfare to require prior approval on all elective medicare and medicaid hospital admissions. The authority for that requirement lay in non-PSRO provisions of the Social Security Act. This, of course, is apart from the drastic and almost radical legislative proposals to control medical practice which are waiting in the wings and which, of course, I do not support.

The voluntary nature of PSRO establishment and participation by practitioners in an area should also be stressed. Where they choose not to do so, the community of physicians in an area are not required in any way to undertake a PSRO operation. PSRO is an opportunity for professional self-control which may be declined.

I will try to respond to the principal allegations which have been raised by advocates of PSRO repeal. Before doing so, it might be helpful to note that all of the review activities which a PSRO is expected to undertake were generally authorized under the Social Security Act prior to the PSRO legislation. Our motive in enacting PSRO was to give practicing physicians priority in undertaking this activity rather than utilizing bureaucrats and insurance company personnel to review care provided under the $25 billion medicare and medicaid programs.

Mr. President, I now propose to lay the AMA's "devil" to rest. I trust that the Senate will bear with me during the course of my extensive response to the anti-PSRO allegations. A substantial amount of time and effort was devoted to the preparation of detailed and specific answers. It is my hope that Members of the Senate and others will find these remarks helpful in placing a vitally necessary and significant statute in proper perspective.

ALLEGATION:

"A law of such consequence should have been written with a proportionate amount of forethought. But the forethought was meager. It is the law itself that was a creature of impulse—as its background makes clear."

ANSWER:

The professional standards review legislation was the product of years of effort representing the input and testimony of many individuals and organizations. Its genesis was the American Medical Association's own PRO proposal which they asked me to consider introducing in early 1970.

In fact, this amendment was before the public from July 1970, when I first announced my intention to introduce the legislation, to October of 1972 when it became law. It was the subject of extensive public testimony in hearings before the Finance Committee in 1970 and 1971—including testimony from the American Medical Association, the Council of Medical Staffs and the American Association of Physicians and Surgeons—and it was also testified to during the course of overall health insurance hearings before the House Ways and Means Committee in 1971. It was formally before the Committee on Ways and Means in the form of H.R. 7182, a bill "to amend the Social Security Act to provide for the establishment of Professional Standards Review Organizations." That bill, in many respects similar, and in others identical to mine, was sponsored by Congressmen DEVINE and Betts. Mr. Betts was a member of the Committee on Ways and Means. It was passed twice by the Finance Committee as an amendment to appropriate social security-medicare bills, twice by the full Senate—including Senate rejection by a vote of 18 to 48 of a specific amendment by Senator CURTIS of Nebraska to delete the PSRO provision—and it was considered and approved by a conference committee of both Houses and finally signed by the President into law was Public Law 92-603 on October 30, 1972.

In addition, the amendment was subject to much discussion in the health care field. It might be an interesting exercise to total up the column inches in the AMA News—the weekly newspaper of the AMA—which were devoted to PSRO from August of 1970 to October of 1972.

The AMA's own "Medical Backgrounder" on PSRO's legislative history contains the following statements:

Senator Wallace Bennett of Utah used the AMA concept as a base and developed the PSRO Program. A basic difference between the AMA and Bennett approaches was that under PSRO, a State medical society could not be the reviewing agency. Rather, a new organization must be created."

AMA had other objections: The requirement for advance approval of admissions to hospitals for elective surgery, national "norms" of health care, monetary fine for violations of certain provisions and Government ownership of the records of patients and physicians. *The Senate Finance Committee modified PSRO in each of these areas to at least some degree."* (emphasis supplied)

Mr. President, the AMA's own words leave very little to the imagination. Basically, what they wanted they could not have—the formal and legal vesting of PSRO responsibilities with State medical societies. That would have been highly inappropriate in a public program utilizing public trust funds.

ALLEGATION

The law requires development and application of "norms of care" which would lead to "cookbook medicine."

ANSWER

Here is another area where private health insurers and the medicare and medicaid administrators had been applying their own criteria of care—almost always retrospectively—in determining whether to approve or disapprove a claim for payment. In contrast, the PSRO legislation seeks to substitute professionally developed norms and parameters of care which are the product of the work of practicing physicans in the area. It seems a far more acceptable approach to have the community of physicians in an area determine these factors than for them to be the province of an anonymous insurance company or Government bureaucracy. Further, virtually all of these parameters will be known to the community of doctors—who have developed and approved them. The effect of this should be to virtually end the retroactive denials of payment under medicare and medicaid.

The statute does not speak to a single norm or way of treatment as the definitive and only type for which payment will be made. Rather, it refers to the "range of norms" acceptable to the PSRO for a given diagnosis. Section 1156(b) states:

Such norms with respect to treatment of particular illnesses or health conditions shall include (in accordance with regulations of the Secretary)—(1) the types and extent of the health care services which, *taking into account differing but acceptable modes of treatment and methods of organizing and delivering care are considered within the range of appropriate diagnosis and treatment of such illness or health condition, consistent with professionally recognized and accepted patterns of care.* (emphasis supplied)

This acceptable range may well include patterns of care which serve to decrease the concern with and incidence of "defensive medicine." Further, and of great importance, is the fact that these norms and parameters are only checkpoints—developed by the practitioners themselves—related to age and diagnosis which simply serve to establish reasonable points at which the attending doctor should indicate the need for continued care or service or why certain services were not provided. Assuming the PSRO approves care beyond these checkpoints, it would be paid by medicare and medicaid without each case being second-guessed by carriers, intermediaries, or State agencies. This would replace the use of arbitrary 7th day, 12th, or 18th day kind of review unrelated to age or diagnosis which has obtained in the programs heretofore. It allows a physician to explain to another practicing physician—rather than those same carriers or intermediaries—why his patient needs certain care and treatment.

The alternative to appropriate professionally developed checkpoints in determining reasonableness for payment with public funds is to have no reference points, which obviously is an untenable position. The PSRO manual, just released, has two sections which put this all in perspective:

In each of its review activities the PSRO will use norms, criteria, and standards which are useful in identifying possible instances of misutilization of health care services or of the delivery of care of substandard quality. *The PSRO is responsible for the initial development and on-going modification of the criteria and standards and the selection of the norms to be used in its area.* While PSRO's will structure themselves in many ways to perform these duties, *the overall responsibility for the development, modification and content of norms, criteria and standards rests with the PSRO.* (emphasis supplied)

Norms, criteria, and standards should be used in each type of PSRO review. They should, at least, be used for the initial screening of cases to select those cases requiring more in-depth review. *In-depth review should be performed by peers using a combination of more detailed norms, criteria and standards and an assessment of a patient's individual clinical and social situation* and the resources of the institution in which care is provided. (emphasis supplied)

And as the Finance Committee stated in its report on PSRO:

Neither should the use of norms as checkpoints nor any other activity of the PSRO, be used to stifle innovative medical practices or procedures. The intent is not conformism in medical practice—the objective is reasonableness.

Resolution 56 approving the development of PSRO norms was adopted by the American Medical Association at its Clinical Convention in 1972. That resolution is as follows:

No. 56 SPECIFICATIONS FOR DEVELOPMENT OF NORMS FOR CARE, DIAGNOSES, AND TREATMENT

HOUSE ACTION: ADOPTED

Resolved, That the American Medical Association supports the development of "norms" for medical care as stated in Public Law 92–603 calling for the establishment of "professionally developed norms of care, diagnoses and treatment, based upon typical patterns of practice in its regions," provided such "norms":

1. Have a content which:

a. Recognizes the separate concern for cost and quality.

b. Recognizes that medical care often deals with patient problems rather than specific diagnoses.

c. Recognizes the frequent occurrence of multiple problems in a single patient.

d. Recognizes the uniqueness of individual patients.

e. Recognizes the fact of regional variations in medical care patterns, e.g., differences in availability of facilities and services.

2. Have a structure which:

a. Is developed by organized medicine.

b. Has major input from national and regional specialty societies.

c. Is acceptable to the practicing physician at the regional level.

3. Are applied so as to:

a. Be useful for assessment of professional performance.

b. Recognize deficiencies in medical care in order to identify appropriate areas for continuing education.

c. Assure continuing evaluation and amendment of the "norms" by the medical profession.

The AMA's resolution is completely in agreement with the language and intent of the PSRO statute and report.

ALLEGATION

The PSRO program would violate confidentiality of patient records.

ANSWER

Private health insurers, such as Blue Cross-Blue Shield, have been reviewing medical records for many years—long before PSRO and long before medicare. Granted, that review has not always been done discreetly nor confidentially. The PSRO legislation, however, in contrast, has specific statutory safeguards designed to safeguard patient identity and confidentiality. First, section 1155(a)(4) states that each PSRO shall utilize—

. . . to the greatest extent practicable in such patient profiles, methods of coding which will provide maximum confidentiality as to patient identity and assure objective evaluation.

Second, section 1166 is entitled "Prohibition Against Disclosure of Information," and reads as follows:

(a) Any data or information acquired by any Professional Standards Review Organization, in the exercise of its duties and functions, *shall be held in confidence* and shall not be disclosed to any person except (1) to the extent that may be necessary to carry out the purposes of this part, or (2) in such cases and under such circumstances as the Secretary shall by regulations provide to assure adequate protection of the rights and interests of patients, health care practitioners or providers of health care.

(b) *It shall be unlawful for any person to disclose any such information* other than for such purposes, and any person violating the provisions of this section shall, upon conviction, be fined not more than $1,000, and imprisoned for not more than six months, or both, together with the costs of prosecution. (Emphasis supplied)

PSRO was developed building upon the PRO proposal of the American Medical Association. The AMA's legislative proposal did not contain any specific provisions directed toward safeguarding confidentiality.

The PSRO statute—section 1155(a)(1) and section 1155(b)(3) specifically limit review activities and access to records to Social Security Act health care programs—namely, medicare and medicaid.

The provision authorizing access to medicare or medicaid patient records in a physician's office is a residual authority intended to be exercised only in highly unusual or exceptional situations—certainly not routinely. For example, a PSRO may have reason to believe that in a given case, substantial discrepancies may exist between the services indicated as provided on a claims form and those actually provided. It is my understanding that the Office of Professional Standards Review in Health, Education, and Welfare is developing extensive guidelines on the maintenance of confidentiality, including material spelling out the intent that this access to records in an office is limited to highly unusual or exceptional circumstances as delineated in the guideline.

ALLEGATION

The costs of PSRO review will outweigh any savings.

ANSWER

Appropriate professional review mechanisms do cost substantially. However, the experience with the operating PSRO prototypes—such as those in Colorado, New Mexico, Utah, and Sacramento and San Joaquin Counties in California—evidences substantial cost savings above the costs of the review process itself—apart from considerations of enhanced quality of care—as well as establishing the fact that the review activities do not require inordinate or unjustified requirements on physician time.

Of course, the Government is already spending a significant amount on review activities in medicare and medicaid. As the PSRO's assume full responsibility, those other review activities would terminate with commensurate cost offsets against PSRO expenses. Considering the $25 billion now spent on medicare and medicaid, the cost of PSRO review efforts will be relatively small.

ALLEGATION

Under the law, fines may be imposed upon a physician and these fines will have a stultifying effect on medical practice.

ANSWER

In actuality, the law does not contain any provision calling for fines. The original Bennett amendment did include a provision authorizing fines, but that was dropped subsequently. The PSRO statute does contain a provision allowing the local doctors to recommend a series of sanctions on a physician who fla-

grantly or consistently orders or renders services which are either unnecessary or of improper quality. Under sections 1862 and 1903 of the Social Security Act—non-PSRO sections—the Secretary has the authority to suspend a physician from the programs. Under the PSRO provision, the local physicians themselves, rather than the Secretary, would have the authority to recommend appropriate sanctions. These sanctions could either be suspension or, if they decided a less severe sanction was called for, they could recommend repayment by the practitioner of the actual costs paid by the Government, not to exceed $5,000, if excessive services had been rendered. It would be difficult to construct an effective peer review law which had no sanctions—such as the recovery provision—since the local physicians would then have no way to deal with an improper situation.

Mr. President, I believe that I have dealt with the principal allegations of the PSRO opposition. During the next week or so, I shall have more to say to the Senate concerning additional positive developments with respect to professional standards review.

Mr. President, I ask unanimous consent that a listing of the principal review provisions in the Social Security Act—other than professional standards review—be printed in the RECORD.

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

PRINCIPAL GENERAL AND SPECIFIC PROVISIONS OF SOCIAL SECURITY ACT (OTHER THAN PSRO PROVISIONS OF LAW) AUTHORIZING AND REQUIRING REVIEW ACTIVITIES

I. ACCESS TO RECORDS AND OTHER DATA

Medicare

Intermediaries—Section 1816(a)(2)(B) . . . "to make such audits of the records of providers as may be necessary to insure that proper payments are made under this part . . ."

Carriers—Section 1842(a)(1)(C) . . . "to make such audits of the records of providers of services as may be necessary to assure that proper payments are made under this part . . ."

Medicaid

Section 1902(a)(27) . . . "provide for agreements with every person or institution providing services under the State plan under which such institution or person agrees (A) to keep such records as are necessary fully to disclose the extent of the services provided to individuals receivinug assistance under the State plan, and (B) to furnish the State agency with such information, regarding any payments claimed by such person or institution for providing services under the State plan, as the State agency may from time to time request . . ."

II. GENERAL REVIEW REQUIREMENTS

Medicare

Section 1862(a)(1) . . . "Notwithstanding any other provisions of this title, no payment may be made under part A or part B for any expenses incurred for items or services—(1) which are not reasonable or necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member . . ."

Medicaid

Section 1902(a)(30) . . . "provide such methods and procedures relating to the utilization of, and the payment for, care and service available under the plan (including but not limited to utilization review plans provided for in Section 1903(1)(4)) as may be necessary to safeguard against unnecessary utilization of such care and services and to assure that payment (including payments for any drugs provided under the plan) are not in excess of reasonable charges consistent with efficiency, economy and quality of care . . ."

III. STATEWIDE PROGRAM REVIEW TEAMS

Medicare

Section 1862(d)(4) . . . "(4) For the purposes of paragraph (1)(B) and (C) of this subsection, and clause (F) of section 1866(b)(2), the Secretary shall, after consultation with appropriate State and local professional societies, the appropriate carriers and intermediaries utilized in the administration of this title, and consumer representatives familiar with the health needs of residents of the State, appoint one or more program review teams (composed of physicians, other professional personnel in the health care field, and the consumer representatives) in each State which shall, among other things—

(A) undertake to review such statistical data on program utilization as may be submitted by the Secretary.

(B) submit to the Secretary periodically, as may be prescribed in regulations, a report on the results of such review, together with recommendations with respect thereto.

(C) undertake to review particular cases where there is a likelihood that the person or persons furnishing services and supplies to individuals may come within the provisions of paragraph (1)(B) and (C) of this subsection or clause (F) of section 1866(b)(2), and

(D) submit to the Secretary periodically, as may be prescribed in regulations, a report of cases reviewed pursuant to subparagraph (C) along with an analysis of, and recommendations with respect to, such cases."

IV. AUTHORITY TO SUSPEND PRACTITIONERS AND PROVIDERS

Medicare

Section 1862(d)(1) . . . "No payment may be made under this title with respect to any item or services furnished to an individual by a person where the Secretary determines under this subsection that such person— . . . (C) has furnished services or supplies which are determined by the Secretary, with the conçurrence of the members of the appropriate program review team . . . who are physicians or other professional personnel in the health care field, to be substantially in excess of the needs of individuas or to be harmful to individuals or to be of a grossly inferior quality.

(2) A determination made by the Secretary under this subsection shall be effective at such time and upon such reasonable notice to the public and to the person furnishing the services involved as may be specified in regulations. Such determination shall be effective with respect to services furnished to an individual on or after the effective date of such determination (except that in the case of inpatient hospital services, posthospital extended care services, and home health services such determination shall be effective in the manner provided in section 1866(b)(3) and (4) with respect to terminations of agreements), and shall remain in effect until the Secretary finds and gives reasonable notice to the public that the basis of such determination has been removed and that there is reasonable assurance that it will not recur."

Medicaid

Section 1903(1) . . . "Payment under the preceding provisions of this section shall not be made . . . (2) with respect to any amount paid for services furnished under the plan after December 31, 1972, by a provider or other person during any period of time, if payment may not be made under title XVIII with respect to services furnished by such provider or person during such period of time solely by reason of a determination by the Secretary under section 1862(d)(1) or under clause (D), (E), or (F) of section 1866(b)(2) . . ."

GENERAL AUTHORITY OF SECRETARY TO ISSUE REGULATIONS AND ASSURE COMPLIANCE

Social security act programs

Section 1102 . . . "The Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health, Education, and Welfare, respectively, shall make and publish such rules and regulations, not inconsistent with this Act, as may be necessary to the efficient administration of the functions with which each is charged under this Act."

Medicare

Section 1871 . . . "The Secretary shall prescribe such regulations as may be necessary to carry out the administration of the insurance programs under this title . . ."

WARNING ON OPIUM POPPY CULTIVATION

Mr. BIDEN. Mr. President, in the past few weeks, there have been a few articles in the press saying that the Turkish Government has officially informed the U.S. Government that it will probably again permit the cultivation of the opium poppy. The Turkish Government ordered the ban on poppy growing in July of 1971. This was in exchange for a promise of $35 million in aid from the United States. To date, only $15 million has been paid. This aid was to compensate the Turkish Government for legitimate export losses and to develop programs to replace the income lost by the farmers. Poppy farmers are estimated at about 100,000.

The political situation has changed since 1971. The new Turkish Premier, Bulent Ecevit, ran on a platform that advocated the resumption of poppy growing. Mr. Ecevit has since said that although he planned to allow cultivation, he would impose strict controls, presumably on the export market. In 1971, the United States encouraged the banning of poppy because supposedly 90 percent of the heroin reaching the United States addicts originated in Turkey. It is believed that Mr. Ecevit's decision may be based on internal Turkish political pressures. When the ban was imposed in 1971, by Premier Nihat Erim, a military-backed government was in power. The current government which claims to be "democratic" insists that the ban was imposed without seeking "citizens' views." Turkish citizenry would probably not voluntarily agree to the banning of one of their most traditional agricultural products.

At this stage, the Turkish poppy is still a nonissue. Unfortunately, opium poppy cultivation has been resumed, in southwest Turkey. Reports say that 45 acres have already been sown on state farms and that many thousands of private farmers are awaiting permission to resume cultivation. The problem lies in the fact that even with limited cultivation, there will be black market smuggling of the drug—opium. I, for one, do not want to see it in our Nation's cities and towns again to the degree that it was sold and used previously.

Drug trafficking is a lucrative business. It is imperative that we take a strong stand to convince the Turkish Govern-

ment that they must take strong measures to control the export of opium poppy to smuggling rings.

In areas of foreign policy, it is very delicate for the Congress to enunciate its disapproval. I would go so far as to say that I am totally opposed to the possible reintroduction of processed opium or heroin from Turkish sources into the United States. In the event that it is, I would support the cutoff of all foreign aid to Turkey. To some, this may represent unwarranted interference in Turkish domestic affairs. I contend, however, that their actions may directly affect our very constituents.

The U.S. attorney in Delaware, Ralph Kell, informs me that the heroin problem is "now under control" because the amount of opium imported is so low, therefore making the heroin purity as low as 2 to 3 percent. In the event the imported quantity increases again, the rise in the rate of addiction will increase again. This problem, of course, would not be limited to Delaware.

Mr. President, Turkey, I realize is not the only source of opium, but we should do whatever we can to discourage production, whatever its numerical importance.

SST

Mr. PERCY. Mr. President, I would like to briefly review the subject of supersonic transports. This is a particularly appropriate moment, because the energy crisis has confirmed the wisdom of the decision of Congress to terminate American SST funding.

The late President Kennedy originated the SST project, but its genesis was very much the product of the whole cold war struggle. In the late 1950's, the Soviet Sputnik had stunned Americans, and the drive was on to vindicate our national prestige and prove our continued technological superiority. When John Kennedy assumed office, he proposed two national objectives toward these ends: An American on the Moon before the end of the decade and the development of a supersonic transport.

Although proposed in the same spirit, there were manifest differences between these two projects. It was obvious that the only means of achieving the first goal was through direct involvement of the Federal Government. This was not necessarily true for the supersonic transport. Further, the spinoff benefits of the space program were likely to be extremely significant. The SST project, by contrast, held little promise for the development of new technology. In any event, the President placed a $750 million limit on Government expenditure for the SST.

At the time of the proposal, and through the 1960's, there was strong support for SST development both in Congress and the Nation at large. I myself was an early supporter of the project, taking too much on its face the arguments presented to me by the administration. However, after an intensive personal examination of the SST, and especially its economic effects, I changed my position, and I became a staunch opponent of the program as then conceived.

By the time Congress called a halt to federally funded SST development in March of 1971, the Government had already spent in excess of $1 billion. There were a number of good reasons for termination, not the least of which was cost. The $1.3 billion expenditure had gone exclusively for research and development and, although private financing was stipulated for production, there was little likelihood in 1971 that it would be forthcoming, thus requiring substantial further Federal financing. One top airline executive advised me that in his judgment the Federal Government would have to invest up to $20 billion in the project to see it through production.

The Government had initiated the SST project and offered it to the companies on a contract basis. Consequently, there was little corporate risk involved. If the companies fulfilled their contracts they were paid, but there were no performance guarantees, nor did the contractors have the principal worry about a possible market for the craft. They simply paid 10 percent of the cost and the Government paid the remainder.

The usual incentives that make a business venture constantly adjust to the market outlook were absent. A Government research and development program, albeit one contracted out, is not a reliable place to build a plane that has to survive the market test.

To assess why there was no real market demand for the SST, it was necessary to examine the project from the airlines point of view. To begin with, a fully equipped SST had a proposed price tag in excess of $50 million, which is twice the price of a fully equipped Boeing 747. Yet, this amount purchases a craft with approximately 100 seats, less than one-third the seating capacity of a 747, and a range much shorter than present jets, a mere 3,000 to 3,500 miles.

The airline industry, faced with the prospect of such a dubious bargain, was already in considerable financial difficulty. Its debt-to-asset ratio was approximately 80 percent. In 1970, the three major transatlantic airlines, potentially the primary SST customers, lost a total of $130 million. Adverse economic conditions in recent years coupled with sharp competition from the charters resulted in a general decline in the average fares paid by customers in the heavily traveled North Atlantic sector. Above all, there was no indication that a large demand for speedier but costlier transatlantic flight existed.

In short, removing the program from the market context resulted in forcing supply and presuming demand. It substituted hard sell for hardheaded business sense.

Aside from these practical market considerations that made the airlines themselves skeptical about the SST, I had a basic philosophical objection. The Federal Government has no business paying for a plane that is strictly for commercial use and private profit. That is the business of the private sector. The only reason the Government assumed the cost of SST development was that private financing was not forthcoming. The decision of private investors not to proceed with the SST should have been allowed to stand. It is their role, not the Government's to assess the viability of a commercial venture.

Related to these economic considerations was the question of national priorities. Three years ago we argued that the Nation could ill afford an expensive project to provide speedier intercontinental flight for those few able to afford the inevitably higher SST fares, estimated to be 40 percent over first-class fares. Priority items which at that time were being slashed or underfunded include housing, health services, education, labor training, and clean water. While all these areas remain of great importance, in this age of energy shortage, urban mass transit becomes another important national priority as does stepped-up research and development costs to increase future energy sources. The entire concept of the SST was a cruel hoax when we consider the transportation needs of the bulk of our people, especially low income groups in our cities, who have had to endure antiquated and underfinanced mass transit.

There were also serious environmental threats posed by the SST. The question of the effect of the nitrous oxide in the SST's exhaust on the ozone level in the stratosphere remains unresolved. Injection of additional nitrous oxide might well cause depletion of the ozone level, permitting undesirable ultraviolet radiation to reach Earth. Were this to occur, serious climatic effects could result.

Noise pollution was a more immediate environmental danger. The noise level of the SST was set at 115 decibels, which was higher than the maximum permitted for new subsonics by FAA regulations. This decibel count made a cruising SST as noisy as the noisiest existing subsonic craft.

The sonic boom inherent in the acceleration and deceleration of a supersonic craft represented a still more ominous problem. It is a matter of record that the military has paid substantial damage claims as a result of sonic booms. Construction of new single dwellings would have to be avoided, according to a reliable estimate, as far as 9 miles away from metropolitan airports where there were 100 SST takeoffs per day. Furthermore, schools, hospitals, churches, theaters, and auditoriums within this radius would be incompatible with such a noise level.

For these reasons, the cities of New York and Los Angeles banned SST's from landing at their airports. This action was followed by Congressional legislation prohibiting supersonic flight over United States territory. This meant that an SST would have to decelerate to subsonic levels to avoid sonic booms over land. To cruise at a subsonic speed, it would cost an SST three times the fuel a 747 or similar plane would require.

In the midst of an energy crisis of as yet undetermined length and severity, the fuel aspect of the SST assumes great significance. The SST critics who warned us 3 years ago about the need for fuel conservation seem prophetic today.

There are other chilling figures in this

regard. The Anglo-French Concorde burns nearly four times the fuel per passenger-mile as an efficient wide body subsonic like the 747. Just to give some idea as to the amount of fuel we are discussing, if the output of the Prudhoe Bay oil strike of approximately 12 billion barrels of crude, one of the largest deposits of crude oil known, were all refined into jet fuel, a fleet of 500 SST's would consume the entirety in less than two decades. Apart from all the foregoing drawbacks, these figures alone demonstrate just how undesirable an ongoing SST program would be at this time.

Broadly speaking, commitment to an American SST production program would have been most harmful. In view of the fuel shortage, and the attendant cutbacks in fuel allocation to the airlines and the number of conventional jets now grounded because of the fuel shortage, if we now had a fleet of SST's, they would all probably have been grounded. And, apart from the fuel problem, it is highly unlikely that there would be a sufficient number of travelers willing to pay the higher SST fares in this time of economic dislocation. These projections assume that the airlines actually would have purchased any SST's, an assumption that the Concorde experience to date would hardly bear out.

Rejecting the SST has also served to prevent further distress for the airlines and airline manufacturers, thereby keeping them in the private sector. As I have already indicated, their financial situation was, and remains, precarious.

The economic effects of continuation of the project would not have ended with the airlines and manufacturers. The Government would have had to borrow 100 percent of the funds required for the project, spurring the already overwhelming pace of inflation, especially in the area of interest rates. This would have caused, for example, a further dropoff in new housing construction, with all its accompanying economic consequences.

Briefly stated, had the Congress voted to continue SST funding, our already serious economic problems would have been further exacerbated.

The British and French experience with the Concorde is particularly instructive. I ask unanimous consent that two articles, one from the February 17 Washington Post and one from the February 20 Washington Post, on the problems experienced with the Concorde be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. PERCY. Mr. President, to date, after very large expenditures by both governments, only nine firm sales have been made—five for British Airways, four for Air France. Both these airlines are, of course, state owned.

In the last few weeks, the British and French have apparently reached an agreement to cut back SST production to 4 or 5 a year. There is a proposal to add fuel tanks to the craft to increase its range by 173 miles. This modification would reduce transatlantic passenger loads from one hundred to eighty. As a consequence of these recent decisions, at least 1,000 of the 9,000 Concorde work force will be laid off. Most British and French taxpayers wish they had never heard of the project. The prestige factor is zero.

It is quite clear from the foregoing that the termination of the U.S. SST 3 years ago was a most wise decision by the Congress. It would have been most unwise for us to go ahead pumping tax dollars into this gas-guzzling financial albatross.

EXHIBIT 1

[From the Washington Post, Feb. 17, 1974]

FRENCH CUT BACK CONCORDE OUTPUT

(By Jonathan C. Randal)

PARIS, February 16.—Faced with virtually zero sales prospects, France has reluctantly decided to cut back construction of the Franco-British Concorde supersonic airliner and to scrap production of a short-range twin jetliner.

The agonizing decisions—an admission of failure for the most controversial of Gaullist prestige projects—were taken at a special meeting last Thursday with Prime Minister Pierre Messmer and five of his ministers in attendance.

The government said nothing would be announced until next week.

Out of deference for British involvement in an election campaign, the planned cutback in Concorde production—and a suggested $90 million modification to boost range by adding extra fuel tanks—is not likely to be announced until after the Feb. 28 British voting date.

The government of Prime Minister Edward Heath has favored cutting back Concorde production to four a year since only nine solid sales have been made—five for British Airways, four for Air-France. These state-owned airlines had little choice in the matter.

France had been demanding production of eight planes annually, but is expected to accept as few as six in the knowledge that a Labor Party victory might signal British willingness to scrap the whole project despite the punitive damages provided for under the contract.

The sudden official French realism about Concorde's shaky commercial future followed years of self-congratulatory pronouncements without much doubting from press and politicians, contrary to the frequent expressions of doubt in Britain.

First concrete signs of the French government's change of heart came earlier in the month when a supposedly secret report of Gen. Rene Bloch, head of France's rocket testing center, was leaked to the press.

It suggested that a fuel tank modification could be incorporated on the Concorde, starting with the tenth plane, and could add a vital 173 miles to its range—enough to answer sales objections by major companies, but apparently reducing transatlantic passenger loads from 100 to 80. Lufthansa, the West German flag carrier, Japan Air Lines and Braniff had refused to buy the Concorde on grounds of insufficient payload and/or range.

A more ambitious Bloch suggestion, amounting to building a brand new airplane costing as much as $400 million, called for a 10 per cent increase in engine thrust, but requiring 8 per cent more wing area.

Nothing apparently could be done to improve the 16 aircraft now under construction except for the added fuel tank.

That more ambitious option was believed rejected at the high-level meeting.

Left unsolved were such major problems as the Concorde's inability to meet U.S. noise standards, its fuel consumption per passenger running at four times that of jumbo jets, and fares recently estimated at 15 to 20 per cent more than the original quotations.

Another embarrassment was a decision to scrap production of the 120-seat, 750-mile range Mercure after the initial production run of only 10 planes.

Built by Dassault-Breguet, the builders of military aircraft—such as the Mirage, the writeoff costs were reported to be in the $120 million range.

Air Inter, the internal French airlines, was the only—and reluctant—customer of the Mercure, which found the competition too tough from established DC-9s and Boeing 727s and 737s. Air Inter is demanding a state subsidy to fly the Mercure.

Over the past two years, French officials have blamed their aerospace industry's problems on unfair American competition taking the successive forms of dumping Vietnam war surplus aircraft, devalued dollar prices and cheap financing.

Consequences of the government decisions were expected to result in the laying off of at least 1,000 of the 9,000 Concorde work force in Toulouse. The writeoff of the Mercure was not likely to have much adverse employment effect since Dassault-Breguet has plenty of orders for helicopters and military aircraft at its Istres plant in southern France.

[From the Washington Post, Feb. 20, 1974]

CONCORDE CUTBACK

PARIS.—The French government confirmed its desire to cut back production of the Concorde supersonic airliner to four or five a year, but announced plans for a slightly longer range version in hopes of increasing flagging sales interest.

In what constituted a serious setback for Gaullist dreams of becoming a major civilian aircraft manufacturing power, Transport Minister Yves Guena also conceded that sales and options for the medium-range airbus were well below those hitherto published.

Also the minister told a news conference that no more government funds would be spent on the short range Mercure airliner.

THE BINKIN RESERVE STUDY

Mr. THURMOND. Mr. President, the national president of the Reserve Officers Association, Rear Adm. B. Hayden Crawford of Tulsa recently made a public statement on the Binkin Reserve study.

In his remarks Admiral Crawford highlighted some key points in stating his position that the Binkin study was misleading and vague.

Mr. President, I ask unanimous consent that this article 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:

[From the Tulsa Daily World, Jan. 22, 1974]

TULSA ADMIRAL BLASTS STUDY SUGGESTING CUTS IN RESERVES

A civilian research organization says the military Reserves and National Guard could be cut by one third without loss to combat readiness.

The president of the Reserve Officers Association of the United States warned further force reductions could mean "disaster" for the U.S.

The study, by senior analyst Martin Binkin of the Brookings Institution, said as much as an annual $1.4 billion could be saved by reductions in both forces, which together spend $4.4 billion a year.

Rather than trying to keep up 900,000 reservists and guardsmen, such forces should

be honed to create a combat force capable of quick reaction, the study says.

"I'm very disappointed in the report," commented B. Hayden Crawford, Tulsa attorney, a rear admiral in the U.S. Naval Reserve and ROA president.

"Our reserve forces were cut in Congress last year to a critical point. It would be detrimental to the country to cut them any more." Crawford predicted both forces would "unanimously oppose" the report's findings.

The ROA, a 70,000 member organization composed of reserve officers from all military services, was chartered by Congress to support a military policy that provides adequate military security, and encourages Congress to provide necessary funding for the national defense.

He said recruiting and training centers are already being merged where feasible, but he objected to merging reserve units. He noted that naval reservists are now used as "contributory services."

He asserted the statement on weekend training areas was "misleading" and vague, saying all reservists train on a regular basis, some one night a week.

Binkin thinks if his suggestions are implemented there would be a manpower saving of 310,000 men in addition to 60,000 men in the active military force.

Discussing further manpower reductions, Crawford said, "Soviet Russia has 3 million men in active service, we have 2.2 million. They have a strong reserve, they're increasing their navy. Communist China is working to develop nuclear capability.

"Why? That's my question. This is no time for us to reduce the quality and quantity of our guard and reserve. This would put our political leaders in a position where they could not negotiate from strength.

"If that should happen we could very easily lose the United States," Crawford said.

Rather than offering expensive recruiting inducements of higher pay and benefits to increase current shortages, the emphasis should be on quality, Binkin said, asserting sizable forces are often maintained because of local and political pressures.

On the contrary, Crawford said, "the emphasis in the guard and reserve today is already on quality and combat readiness. To reduce reserve forces further would be to reduce the quality and combat readiness. If the purpose is to save money, the reserve and guard could be abolished, and even acting forces abolished, which obviously would invite national disaster."

The study recommends implementations of a decade-old idea of merging National Guard and Reserve headquarters, training and recruiting facilities; integration of some Army Reserve units into a "hybrid" division of five active combat divisions and using naval reservists to work on overhauling ships, thus reducing the active military force.

The study says about 60 per cent of reserve combat units have no weekend training areas, most of which are located in big cities.

CASUALTIES OF THE WORKPLACE

Mr. MONDALE. Mr. President:

According to recent estimates there were at least 390,000 new cases of disabling occupational disease in the United States each year . . . [T]here may be as many as 100,000 deaths per year from occupationally caused diseases.

These alarming words of former Secretary of Health, Education, and Welfare Elliot Richardson reflect the theme of part IV of Paul Brodeur's series of articles entitled, "Annals of Industry: Casualties of the Workplace." The article, which appears in the November 19, 1973, issue of the New Yorker magazine, is an excellent study of industrial health and safety, and is worthy of the Senate's attention.

In the article, Mr. Brodeur reviews the history of health standards pertaining to industrial exposure to toxic materials such as asbestos. It was not until 1970, when Congress passed the Occupational Safety and Health Act, that any significant legislative action was taken to protect our Nation's workers from workplace hazards. And it was not until June 6, 1972, that, over strong industry protest, a safety standard was created for asbestos fibers. To say the least, in view of the fact that investigations have revealed that cancer accounts for approximately 75 percent of the excess deaths among asbestos-industrial workers and that even slight exposure has been proven to cause asbestosis, mesothelioma, and other malignant tumors, the 1972 ruling was long overdue.

The article also explores the potential conflict between governmental regulation and the attempts of industry to suppress medical data. The article reveals how deeply the tentacles of the medical industrial complex have penetrated the workings of the Government in matters relating to industrial disease. Dr. Irving J. Selikoff, the director of the Mount Sinai School of Medicine's Environmental Science Laboratory, has predicted that—

Tens of thousands of workers would die because of the inadequate regulations issued by the Occupational Safety and Health Act and . . . that if the Administration showed the same disregard for essential precaution in setting standards for other toxic substances we face an unparalleled disaster to the working people of our country.

Throughout Mr. Brodeur's article are alarming examples of industry's efforts to hinder the development of safe working conditions, to hide the facts about industrial disease, and to prevent State job-safety agencies from taking effective action. The article represents a sad commentary on the state of occupational safety and health enforcement in this country.

I ask unanimous consent that the article entitled, "Annals of Industry: Casualties of the Workplace," by Mr. Paul Brodeur from the November 19, 1973, issue of New Yorker be printed in the RECORD.

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

ANNALS OF INDUSTRY: CASUALTIES OF THE WORKPLACE

IV. NO TANGIBLE EFFECT ON SALES AND EARNINGS

Under the provisions of the Occupational Safety and Health Act of 1970, Congress authorized the Secretary of Labor to promulgate mandatory standards for exposure to toxic materials, so that no employee would suffer diminished health or life expectancy as a result of his work experience—a considerable undertaking, since American workers were being exposed to thousands of toxic substances, and since federal standards, often inadequate, existed for fewer than four hundred and fifty of them. Of all the industrial hazards, none was considered to be more serious than occupational exposure to asbestos. Indeed, mortality studies conducted by Dr. Irving J. Selikoff, the director of the Mount Sinai School of Medicine's Environmental Sciences Laboratory, and by Dr. E. Cuyler Hammond, vice-president for epidemiology and statistics of the American Cancer Society, indicated that one out of every five deaths among asbestos-insulation workers in the United States was due to lung cancer; that almost one out of every ten deaths among these men was due to mesothelioma, an invariably fatal tumor of the linings of the chest or abdomen which rarely occurs without some, even if slight, exposure to asbestos; that another one out of ten deaths among them was due to asbestosis, which is scarring of the lungs resulting from inhalation of asbestos fibres; and that almost half of the men were dying of some form of asbestos disease. In spite of these findings, and in spite of the fact that the insulation workers constituted only a fraction of the total work force exposed to asbestos, no action was taken on the problem until December of 1971. At that time, under intense pressure from the A.F.L.–C.I.O.'s Industrial Union Department—an organization representing labor unions with several million members who had either direct or indirect exposure to asbestos—and partly as a result of disclosures made by Dr. William M. Johnson and Dr. Joseph K. Wagoner, of the Division of Field Studies and Clinical Investigations of the Department of Health, Education, and Welfare's National Institute for Occupational Safety and Health, who had uncovered data long buried in the files of their predecessors that showed extraordinarily high levels of asbestos dust in asbestos factories across the land, Secretary of Labor James D. Hodgson declared a temporary emergency standard of five asbestos fibres greater than five microns in length per cubic centimetre of air to replace the grossly inadequate standard of twelve fibres per cubic centimetre then in effect. (Five microns is one five-thousandth of an inch, and a cubic centimetre of air is the amount that could be contained in a small thimble.)

This, however, was more than double the standard—two fibres per cubic centimetre—that had been urged upon the Secretary by Dr. Selikoff and the union people. It is not known what medical data, if any, prompted Secretary Hodgson to choose the five-fibre standard, or why he chose to disregard data furnished by Dr. Selikoff and other leading epidemiologists indicating that disease could occur at this level of exposure, and that even a two-fibre standard could be expected to prevent only the occurrence of asbestosis, and not the development of asbestos-induced cancer. It is believed, however, that he was seeking some middle ground that he hoped would be acceptable both to industry and to the unions. In any case, the Act required him to replace the emergency standard with a permanent standard within six months, and to hold public hearings before doing so, and since this ruling would be the first he would make under his mandate to redefine occupational-safety-and-health regulations, industry and labor were prepared to look upon it as an indication of how determined or easygoing the federal government would be when it came time to set new standards for other hazardous substances.

The public hearings, which took place in Washington, D.C., in March of 1972, provided a confrontation between those members of the independent medical and scientific community who had been studying the hazards of asbestos and members of the medical-industrial complex who were wholly or partly supported by the asbestos industry. On the one hand, the independent medical and scientific community strongly endorsed a recommendation made to the Secretary of Labor by the National Institute for Occupational Safety and Health (NIOSH) that the exposure to asbestos be set at two fibres per cubic centimetre—a level that had also been recommended to Secretary Hodgson by the Advisory Committee on the Asbestos Stand-

ard, which was made up of five men chosen by the Secretary himself. On the other hand, the major asbestos companies, led by the giant Johns-Manville Corporation, presented testimony at the hearings which purported to show that the five-fibre standard would prevent disease, and put forth economic statistics to demonstrate that the cost of meeting a two-fibre standard would drive them out of business. Since the doctors working for the asbestos industry were unable to furnish any conclusive proof that asbestos disease would not occure at the five-fibre level, many observers felt that in setting a permanent standard the Secretary of Labor would surely follow the advice of NIOSH and his own Advisory Committee.

This view, however, was not shared by Anthony Mazzocchi, the director of the Legislative Department of the Oil, Chemical, and Atomic Workers International Union—the union that had represented employees at the Pittsburgh Corning Corporation's asbestos-insulation plant in Tyler, Texas, where Dr. Johnson and Dr. Wagoner had found an extremely critical health situation because of atrocious working conditions, which eventually led to Pittsburgh Corning's closing the plant. Mazzocchi considered the Tyler situation a prime example of how the medical-industrial complex could for years neglect and even suppress occupational-health data without opposition from key industrial-health officials of state and federal government, and, at a press conference held in Washington on February 10, 1972, he had harshly criticized not only Pittsburgh Corning and its medical consultant, Dr. Lee B. Grant, for having ignored the peril of workers at the factory but also the Department of Labor's Occupational Safety and Health Administration for having failed to enforce at the Tyler plant even the totally obsolete standard of twelve fibres per cubic centimetre. Because of similar failures involving dozens of other hazardous substances in hundreds of factories across the land, Mazzocchi was highly skeptical of the Administration's commitment to carry out the provisions of the 1970 Act. Insofar as the asbestos hazard was concerned, his skepticism was reinforced early in April, shortly after the public hearings were concluded, when word got out that the Administration had hired Arthur D. Little, Inc., a research and consulting firm based in Cambridge, Massachusetts, to perform an economic-impact study of the proposed two-fibre standard. There were several disturbing factors in this development. First, there was no provision in the Act requiring the Department of Labor to undertake a cost-benefit analysis before promulgating a health regulation. Second, the impact study was apparently initiated in response to an executive policy handed down by President Nixon's Office of Management and Budget—an organization notably well disposed toward big business. Third, by sending out questionnaires soliciting "guess estimates" from doctors as to what the incidence of disease might be at various levels of exposure to asbestos over long periods, the Arthur D. Little people not only were questioning the exhaustive research already conducted by NIOSH but also were apparently bent less on collecting scientific data than on arriving at a consensus standard that would be more acceptable to industry than the standard recommended by NIOSH.

However, the most ominous aspect of Arthur D. Little's involvement came to light at the beginning of May, when it was learned that even as the firm had been negotiating a contract with the federal government to conduct the cost-benefit analysis of the two-fibre standard, it had urged Raybestos-Manhattan, Inc., a major producer of asbestos products, to move a plant from Stratford, Connecticut, to Mexico, where, of course, asbestos operations would be unhindered by any regulations that might be established in the United States. This obvious conflict of interest was simply another indication of how many tentacles the medical-industrial complex had acquired, and how deeply it had penetrated the workings of the government in matters relating to industrial disease.

While waiting to see what action the Secretary of Labor would take in the first week of June, his deadline for setting a permanent standard for asbestos, I received a copy of "The President's Report on Occupational Safety and Health," which described what had been done to carry out the provisions of the Act during its first year of operation. The report, addressed to Congress, actually consisted of two separate reports, submitted to President Nixon in May by Secretary of Labor Hodgson and by Secretary of Health, Education, and Welfare Elliot L. Richardson. Hodgson's report began by saying that each year, out of eighty million people employed in the civilian labor force, more than fourteen thousand are killed and two million two hundred thousand suffer disabling injuries on the job. He then said that there were no reliable figures on the number of employees who suffer minor, nondisabling injuries or become ill after being exposed to hazardous conditions. Toward the end of his report, however, Hodgson stated that occupational illnesses were "at least as great a problem as injuries" but that "it was much more difficult to develop a special program that would allow O.S.H.A. [the Occupational Safety and Health Administration] to effectively focus on them." He went on to say that, through its Target Health Hazards Program, the Administration would concentrate on five substances—asbestos, cotton dust, silica, lead, and carbon monoxide—which were among the most hazardous of more than eight thousand toxic substances currently identified by NIOSH.

Secretary Richardson was considerably more explicit in his assessment of the problem. His report matter-of-factly stated that according to recent estimates there were at least three hundred and ninety thousand new cases of disabling occupational disease in the United States each year. This figure was followed by one that boggles the mind: "Based on limited analysis of violent/non-violent mortality in several industries, there may be as many as 100,000 deaths per year from occupationally caused diseases." Richardson went on to say that at the end of 1971 NIOSH had completed a criteria document for the Secretary of Labor which recommended a two-fibre asbestos standard. According to Richardson, the two-fibre standard proposed by NIOSH would "protect against asbestosis and asbestos-induced [cancer]; be measurable by techniques that are valid, reproducible, and available to industry and official agencies; and be attainable with existing technology."

In appendixes to Richardson's report, there were long lists of contracts and grants that had been awarded by NIOSH to various universities, medical schools, corporations, and research institutes for studies relating to occupational safety and health. Among them were two grants and one contract, totalling more than a hundred and forty-six thousand dollars, that had been awarded to the Industrial Health Foundation, Inc., in Pittsburgh, and to Dr. Paul Gross, the director of the foundation's research laboratories, for studies relating to asbestos disease. As it happened, Dr. Gross had testified for Johns-Manville in at least one workmen's-compensation case, and the Industrial Health Foundation, Inc., was none other than the old Industrial Hygiene Foundation of America, Inc., the self-styled "association of industries for the advancement of healthful working conditions," which was hired by Pittsburgh Corning in the summer of 1963 to evaluate the asbestos-dust hazard at its plant, then newly acquired, in Tyler. Moreover, NIOSH's project officer for a contract under which more than fifty-eight thousand dollars had been supplied up to that time was Dr. Lewis J. Cralley, who, when director of NIOSH's Division of Epidemiology and Special Services, had ignored that data showing excessive asbestos-dust counts at the Tyler plant. One of the appendixes to Richardson's report also listed a contract for forty-eight thousand nine hundred and seventy-six dollars which had been awarded to Arthur D. Little, Inc., of Cambridge, Massachusetts, to "develop a priority rating system and identify general areas and specific problems where fruitful and necessary research in occupational safety should be undertaken."

In the middle of May, something occurred to shed light on the role of Johns-Manville—the world's largest producer and user of asbestos, with mines, mills, and some sixty manufacturing plants in the United States and Canada—in the public hearings in Washington, where acting as *éminence grise* for the entire asbestos industry, it had mounted strenuous opposition to the proposed two-fibre standard. On may 18th, speaking before the annual meeting of the American Industrial Hygiene Association, in San Francisco, Dr. William J. Nicholson, of the Mount Sinai Environmental Sciences Laboratory, described a mortality study he, Dr. Selikoff, and Dr. Hammond had conducted which showed that a hundred and ninety-nine deaths had occurred during thirteen years—or sixty-five more than were to be expected according to the standard mortality tables—among six hundred and eighty-nine workers at Johns-Manville's plant in Manville, New Jersey. An examination showed that a vast majority of the excess deaths were the result of asbestos-induced disease. On May 23rd, Johns-Manville issued a press release quoting Wilbur L. Ruff, the manager of the Manville plant, as saying that the asbestos-dust levels that caused the fatal disease among the workers were those of past years, "when conditions were much worse than they are now." After praising the corporation's dedication to medical research and industrial hygiene, Ruff said that "though spending money doesn't mean a thing where human health is concerned, the six and a half million dollars we've spent on dust-control projects since 1949 does show that we're a company with conscience." Ruff also said that a recent dust survey conducted by the Occupational Safety and Health Administration indicated that the Manville plant had "an outstanding record in dust control."

This was the first I had heard of the Administration's inspection at Manville, so I called Robert Klinger, vice-president of Local 800 of the United Papermakers and Paperworkers Union, whom I had met at the public hearings in Washington, and asked him to tell me about it.

"Since April of 1971, when a government survey showed that some dust counts in the Manville textile operation were running as high as twenty fibres per cubic centimetre, there has been considerable improvement," Klinger said. "The 1971 survey and a previous survey that was conducted back in August of 1967 were buried in the files of the old Bureau of Occupational Safety and Health's Cincinnati offices, until Dr. Wagoner and Dr. Johnson brought them to light in the summer of 1971, along with a 1969 medical survey showing that seventeen per cent of a hundred and seventy-nine workers in the Manville textile operation had X-rays that were consistent with asbestosis.

When we learned about these hidden studies, last fall, we requested an immediate inspection of the Manville plant by the Occupational Safety and Health Administration. Its people came in November and December of that year, and returned in April of this year. Their latest survey shows that eighty-one per cent of the dust stations in the plant are operating at between zero and two fibres

per cubic centimetre of air; that seventeen per cent are operating at between two and five fibres; and that only two per cent indicate dust counts above the five-fibre level. This has come about simply because J.-M. has expended a great amount of money and effort over the past two years to engineer improved dust-control equipment and install it throughout the Manville plant."

I asked Klinger what had impelled the company to make this expenditure, and he told me that it was probably a combination of things. "We had a long and costly strike here in the autumn of 1970," he said. "As part of the settlement, the company guaranteed to make a real effort to reduce dust levels in the plant. Then, too, in 1969 Johns-Manville paid out nearly nine hundred thousand dollars in workmen's compensation in New Jersey for asbestosis alone, over and above what it may have settled out of court in litigation brought against it by workers, or families of workers, who had contracted asbestos-induced cancer. In addition, the work of men like Dr. Selikoff and Dr. Hammond was by then piling proof upon proof of the association between asbestos and disease. So the J.-M. people simply saw the writing on the wall, and decided they had better act."

At this point, I found myself remembering that without exception the testimony delivered by Johns-Manville officials and their medical associates at the public hearings in Washington had strongly urged the Secretary of Labor not to lower the standard for occupational exposure to asbestos from five to two fibres per cubic centimetre of air. Yet during the previous two years the company had undertaken to accomplish just that in the bulk of its operations in Manville, which has the largest complex of asbestos plants in the world. When I remarked upon this seeming contradiction to Klinger, however, he was not at all surprised.

"There's a simple explanation," he told me. "The Johns-Manville people sell huge amounts of raw asbestos fibre to competitors here and all over the world. In fact, they've pretty well got the chrysotile-asbestos market cornered. For example, according to their own announcement of 1970 earnings before taxes, the mining, milling, and selling of raw asbestos brought in twenty-five million dollars, which was nearly half of their total gross for that year. So, you see, a lower standard might drive the competitors to whom they sell raw fibre out of business, or cause them to look about for asbestos substitutes."

On June 6, 1972, Secretary Hodgson and George C. Guenther, who was the Assistant Secretary of Labor and the director of the Occupational Safety and Health Administration, announced the long awaited decision on a permanent standard for asbestos. It served to confirm the doubts that had been expressed by Mazzocchi and other labor leaders about the Department of Labor's commitment to the provisions of the Occupational Safety and Health Act, for, despite the recommendations of both the Department of Health, Education, and Welfare's National Institute for Occupational Safety and Health and the members of the Secretary's own Advisory Committee on the Asbestos Standard, the new regulations stipulated that the five-fibre standard would remain in effect for four more years, and that a two-fibre level would become effective only on July 1, 1976.

Reaction to the ruling was immediate, and it came from all quarters. On June 7th, John B. Jobe, vice-president in charge of operations for Johns-Manville, issued a statement from the company's headquarters, in Denver, assuring stockholders that the new controls would have "no tangible effect on sales and earnings." On the same day, the *Times* ran a short article on its inside back page that said, "The Occupational Safety and Health Administration ordered today a continuation of asbestos dust exposure limits for four more years despite the recommendations by a scientific panel that they be cut by more than half." The *Wall Street Journal*, in an article in its June 7th issue, put a slightly different interpretation on the news. "The Occupational Safety and Health Administration announced tough new curbs on asbestos in plants, but gave employers four years to comply," it stated. That same day, Sheldon W. Samuels, the director of Health, Safety, and Environmental Affairs for the A.F.L.–C.I.O.'s Industrial Union Department, told me that, in addition to giving industry two extra years in which to comply, the Administration had rejected recommendations from NIOSH for medical surveillance of asbestos workers, for medical recordkeeping, and for labels on asbestos products warning that inhalation of asbestos could cause asbestosis or cancer. "Moreover, because the Administration has only a handful of industrial hygienists, the determination of actual levels of asbestos dust in workplaces will depend upon tests conducted by the employers," Samuels said. "No controls will be required if an employer finds, or believes, that dust levels do not exceed the standard, which, of course, makes a monstrous joke of the whole business. In fact, the new standard is so appallingly deficient that we plan to fight it in the courts."

Dr. Selikoff was quoted by one source as saying, when he was asked his opinion of the new standard, that his remarks "would have to be written on asbestos-coated paper." Then, in a speech he gave in Washington on June 12th, which was quoted in an article in the *Times*, he predicted that tens of thousands of workers exposed to asbestos would die because of inadequate regulations issued by the Occupational Safety and Health Administration, and added that if the Administration showed the same disregard for essential precautions in setting standards for other toxic substances "we face an unparalleled disaster to the working people in our country." He charged Assistant Secretary Guenther with creating a situation in which "workers exposed to asbestos in any trade are required to work under conditions which permit them to inhale twenty million or even thirty million fibres in a working day."

In the same article, Guenther was quoted as saying that Dr. Selikoff had chosen to overdramatize the matter. "There is no question that exposure to asbestos is most hazardous," Guenther declared. "We believe that the new standards will provide substantial and real protection for exposed workers, and that they provide for reductions in levels of asbestos exposure that are reasonable and, in our judgment, based on tests from any quarters." Guenther did not identify the tests and the many quarters from which they supposedly came, but he certainly would not have been referring to any tests described in a story entitled "Asbestos: Airborne Danger," which appeared in the May–June 1972, issue of *Safety Standards*, the official bimonthly magazine of his own Occuptional Safety and Health Administration. After stating that "asbestos has been recognized as one of the most hazardous of air contaminants," the article described only one test concerning the effects of asbestos exposure. That was the study of the disastrous mortality experience of the asbestos-insulation workers which had been conducted by Dr. Selikoff and Dr. Hammond.

For sheer irony, however, there was an event in the early part of June that rivaled Guenther's contradiction of his own house publication. On June 9th, NIOSH held its first-anniversary celebration and awards ceremony, at the Cincinnati Convention Center. Among the recipients of awards was Dr. Cralley, who was presented with the Public Health Service Meritorious Service Medal, "in recognition of his research into developing safe worker exposure levels to such potential occupational hazards as uranium, asbestos, silica, beryllium, and diatomaceous earth dust."

Up to that time, no one knew what conclusions the Arthur D. Little people had drawn in their study of the proposed asbestos standard, because the firm did not receive permission from the Department of Labor to print and distribute a report of the study until June 8th. Within a few days, however, Dr. Nicholson, of Mount Sinai, received his copy of the report and a letter from Dr. Donald W. Meals, of Arthur D. Little, Inc., thanking him for "your support as a member of one of the panels of experts." One indication that the Arthur D. Little people must have put the report together very hastily was that Dr. Nicholson, who had contributed to the study, was not listed in the report as a member of the panel of health experts, while Dr. Selikoff, who had written two letters to the Arthur D. Little people telling them that the methodology of their study had little scientific validity, did not receive a copy of the report or a letter of appreciation from Dr. Meals for his contribution to the study but was listed in the report as a member of the panel of health experts.

No one seems to know what the Arthur D. Little people had in mind in all this, but the possibility that they felt the need to achieve some semblance of balance and impartiality in their panel of health experts presents itself to anyone examining the roster of eleven men listed as its members. In the order in which their names appeared, they were Dr. Edward A. Gaensler, professor of surgery and director of thoracic services at Boston University's Medical Center, who has made useful contributions to the study of asbestos disease, and who has also been retained by Johns-Manville, to examine workers at its asbestos-wallboard plant in Billercia, Massachusetts; Dr. Thomas H. Davison, medical director of Johns-Manville; Dr. John Corbett McDonald, the chairman of the Department of Epidemiology and Health of McGill University, in Montreal, and the author of a study entitled "Mortality in the Chrysotile Asbestos Mines and Mills of Quebec," which was financed by the Quebec Asbestos Mining Association, of which Johns-Manville is a leading member; Dr. Cralley, the former director of the Division of Epidemiology and Special Services, in whose files Dr. Johnson and Dr. Wagoner had uncovered hidden data showing grossly excessive levels of asbestos dust in the Tyler plant and other asbestos factories across the land as well as data showing an appalling rate of deaths from asbestos disease among asbestos-textile workers; Howard E. Ayer, the former assistant director of the division, who, as its senior industrial hygienist, was involved in the interpretation of the dust levels measured over the years at asbestos factories; Dr. George W. Wright, head of medical research at St. Luke's Hospital in Cleveland, and a longtime paid consultant of Johns-Manville, who testified for the corporation at the public hearings in Washington.

Dr. Hans Weill, a professor of medicine in the pulmonary-diseases section of the Tulane University School of Medicine, who had been given financial support by the Quebec Asbestos Mining Association to conduct a study of asbestosis among men working at a Johns-Manville cement-products plant at Marrero, Louisiana; Dr. W. Clark Cooper, a former head of the old Bureau of Occupational Safety and Health and a partner in Tabershaw-Cooper Associates, Inc., a consulting firm in Berkeley, California, which has done research contract work not only for the National Insulation Manufacturers Association, of which Johns-Manville is a member, but also for Pittsburgh Corning; Dr. Philip E. Enterline, a professor in the Department of Biostatistics of the University of Pittsburgh, who was retained by Johns-Manville to study the health experiences of its retired employees;

Commander Samuel H. Barboo, an industrial hygienist in the Medical Service Corps of the United States Navy (a large purchaser of asbestos insulation), who had never been involved in any studies concerning the health effects of asbestos; and, lastly, Dr. Selikoff.

Considering the backgrounds of most of the members of the expert health panel, and the fact that two additional panels of experts consisted of a committee of thirteen men representing private shipbuilding companies and a group of twelve men from various asbestos-producing companies (including two executives of Johns-Manville), it was hardly surprising that the Arthur D. Little people concluded in their report that "reduction of the exposure of workers to asbestos dust from present levels to five fibres per cubic centimetre will significantly reduce asbestos-related diseases and achieve more than 99% of the benefits attainable from the control of dust levels." (In talking about a reduction "from present levels," they apparently forgot that an emergency five-fibre standard had been in effect for nearly five months.) Their report went on to say that because of the cost the two-fibre standard very probably could not be met by the asbestos industry within the two-year period recommended by NIOSH; that the standard could not be achieved at any cost within two years by companies engaged in on-board ship repair in private shipyards (asbestos insulation being used extensively in shipbuilding); and that it would certainly lead to intensified foreign competition in this field and to the imposition of "difficult problems and costly solutions" upon United States Navy shipyards.

In making this statement, the Arthur D. Little people overlooked evidence and statistical tables in the NIOSH criteria document showing that many asbestos plants were already operating at or below a two-fibre level, and that most of the asbestos industry could comply with a two-fibre standard without undue technical hardship. And, piling oversight upon oversight, they went on to say that estimates of when each segment of the asbestos industry could meet various fibre levels "show at a first glance that only a twelve-fibre standard can be met immediately"—an assertion that ignored the fact that a twelve-fibre standard was supposed to have been in effect from 1968 until the temporary emergency standard of five fibres was declared by the Secretary of Labor six months earlier.

Later in their report, in a section that was entitled "Benefits from Asbestos Exposure Control Standards," the Arthur D. Little people got around to defining what they meant by benefits:

"The case against asbestos dust is firm and unquestioned by those familiar with available research data. Selikoff and others have amply demonstrated an association between exposure to asbestos fibres and increased morbidity. It follows that reduction of the hazard will provide increased freedom from disease and longer life for those working with or near asbestos.

"The question of how closely the goal of zero risk to asbestos-related diseases can be approached requires further exploration. The removal of this hazard requires changes that inevitably involve the expenditure of time and money, and in the world of business (including working men when jobs are at stake) the relationship between benefits and costs is an important issue. Numerous examples of the refusal of people individually and collectively to pay even modest inconvenience costs to completely remove risks demonstrate that eliminating a hazard at any cost is not always feasible. However, those who must pay the price for removing the hazard may be willing or able to do so within limits. Finding these limits usually involves comparing less than the maximum obtainable benefits with associated costs. This, of course, is the familiar cost/benefit framework for evaluating alternative courses of action. While we do not believe a purely quantitative cost/benefit analysis is feasible or desirable here, the conceptual scheme is useful. In the next section, we examine the probable costs for various reductions (fibre levels) in the hazard of asbestos dust. To place these costs in a perspective that may be useful in setting policy, it is important to estimate the benefits associated with each of several such levels of risk."

At this point, the Arthur D. Little people drew attention to Table 2 of their report, which incorporated estimates from eight of the eleven listed health-panel members as to the incidence of abestosis, lung cancer, and mesothelioma among a hundred workers exposed to various levels of asbestos fibres during an eight-hour working day over a period of forty years. A footnote stated that by the time the report went to press two additional responses had been received, which did not change either the median or the range. The footnote did not mention that Dr. Selikoff's responses to this questionnaire were the only ones not included. As a result, Table 2 concluded that not one worker in a hundred would develop asbestosis after being exposed to two fibres per cubic centimetre for forty years, whereas Dr. Selikoff had estimated that fifty-five of a hundred workers would develop the disease under these conditions. In addition, Table 2 concluded that only one worker in a hundred would develop asbestosis after working for forty years in an environment containing five fibres per cubic centimetre, whereas Dr. Selikoff had estimated that eighty-five workers out of a hundred would contract the disease under such conditions. As for mesothelioma, the Arthur D. Little report concluded that only one out of a thousand workers would be afflicted with the disease after forty years of exposure to two fibres per cubic centimetre, whereas Dr. Selikoff had estimated that four out of every hundred workers would develop mesothelioma under these circumstances. And Table 2 concluded that only two out of a thousand workers would develop mesothelioma after forty years of exposure to a working environment containing five fibres per cubic centimetre of air, whereas Dr. Selikoff had estimated that seven out of a hundred workers would be affected with mesothelioma at this level.

Now, using Table 2 as a springboard, the Arthur D. Little people leaped to other unfounded conclusions. "It is apparent from this set of judgments that relatively large benefits correspond to the reduction of exposure from thirty to twelve fibers, and from twelve to five fibres," they wrote. "The judgments suggest, however, that a further reduction of the exposure level to two fibres is attended by very small benefits—on the order of less than one per cent." They could make such an assertion, of course, only because they had not seen fit to include in Table 2 the responses of Dr. Selikoff, who is widely regarded as one of the world's foremost epidemiologists in the field of asbestos disease, and whose epidemiological investigations of asbestos disease had never been supported by any segment of the asbestos industry. Having made the assertion, however, the Arthur D. Little people bounced along to others:

"Data on bronchogenic cancer and mesothelioma suggest that these diseases are also related to the degree of exposure. The numbers are small, however, and experience more limited than that available for asbestosis. The only inference we are prepared to draw from these data is that their explicit consideration by the panel members very probably yields better estimates than if they had not been included. Continuing studies of these diseases among asbestos workers should contribute to estimates that better justify interpretation and speculation than these."

All this, of course, overlooked the fact that in their studies of the disastrous mortality experience of six hundred and thirty-two asbestos-insulation workers in New York City and Newark, and of nine hundred and thirty-three men who had worked at an asbestos-insulation factory in Paterson, New Jersey, Dr. Selikoff and Dr. Hammond had furnished incontrovertible proof that two hundred and thirty out of three hundred and nineteen excess deaths among these men were caused by some form of cancer.

The rest of the Arthus D. Little report consisted of analyses of such things as the gross-sales profits of various segments of the asbestos industry and the estimated economic impact of various asbestos standards on shipbuilding companies and on manufacturers of asbestos products. A section entitled "Economic Impact on Manufacturers" contained this passage:

"With regard to technical feasibility, we judge that the five-fibre level is achievable. Even with the best available techniques, however, we do not know whether a two-fibre limit could be met. (In fact, we cannot be completely certain about the five-fibre limit until the best available equipment has been installed and evaluated.) Thus a reliable assessment of the validity of the "guesstimates" put forth on the cost of compliance to the two-fibre level is not really possible until technical feasibility has been established. In the meantime, the estimates shown in Table Six are the best that have been developed."

The estimates, or "guesstimates," in Table 6 may well have been the best that were available, but to me they were incomprehensible, so I went to Mount Sinai and asked Dr. Nicholson, whose copy of the report I had been reading, to interpret them for me.

Dr. Nicholson shook his head and gave a weavy smile. "The cost estimates obtained by Arthur D. Little from its panel of experts are inappropriate on two counts," he said. "First, the panelists were asked to estimate time and costs to achieve specific dust levels, and not costs to achieve effective worker protection. Second, the cost estimates were obtained by soliciting guesses from representatives of the asbestos industry rather than by reviewing the cost and effectiveness of existing installations. The whole approach is like the old story of asking the fox to guard the chicken coop. Here the fox has been asked how many chickens he would kill. 'Why, hardly any,' he replies. Then the fox is asked how much it would cost to keep him from killing just those few chickens. 'Oh, much too much to consider,' he answers."

Glancing over the names and corporate affiliations of Arthur D. Little's twelve-man expert panel from the asbestos industry, I saw that all eleven of the companies they represented had sent officials to the public hearings to testify against the proposed two-fibre standard. When I pointed this out to Dr. Nicholson, he shook his head again.

"The ins and outs of this whole affair constitute an endless labyrinth that never ceases to amaze me," Dr. Nicholson said. "I just noticed, for example, that both the Certain-teed Products Corporation and Nicolet Industries, Inc., are represented on the panel, and that reminds me of a story I read in the *Wall Street Journal* earlier this month. It was about the old Keasbey & Mattison Company, which used to make milk of magnesia in the town of Ambler, Pennsylvania, near Valley Forge. The article described an incident in the early history of the company, when Dr. Royal Mattison accidentally spilled some milk of magnesia on a hot pipe and found that it adhered. That brought the Keasbey & Mattison people into the insulation business. In 1962, however, the company

went out of business and sold its facilities to Certain-teed Products, which started manufacting asbestos-cement pipe. Since that time, Ambler has also been the site of a plant operated by Nicolet Industries, which manufactures other asbestos-cement products. In the *Journal* article, there was a description of a large open-air dump that has existed in the town since 1867, that is owned by Nicolet and Certain-teed, and that is still used by Certain-teed, which adds twenty-seven hundred tons of crushed asbestos pipe to the dump each year. Naturally, this aroused my curiosity, so I drove down to Ambler the other day to take a look at it. When I got there, I could hardly believe my eyes.

The dump not only snakes diagonally through the very center of the town, which has a population of about eight thousand, but it is fifty feet high, anywhere from one to two city blocks wide, and about ten city blocks long. In fact, it is estimated to contain some million and a half cubic yards of waste material. I brought back a dozen or so samples of debris to our mineralogy laboratory for analysis, and we found that all of them contained large amounts of chrysotile-asbestos fibre. The incredible thing, however, is that while the townspeople of Ambler want to get rid of the dump—it's an eyesore, of course—almost no one down there seems to be aware of the health hazard it poses. Kids play on an asphalt basketball court that has been built smack on top of material from the dump, and is literally covered with loose asbestos fibre and wads of waste material containing asbestos. Not only that but the dump itself is pockmarked with holes and tunnels dug over the years by kids searching for old milk-of-magnesia bottles, which have become collector's items. As you may already be aware, cases of mesothelioma have been reported among people whose exposure to asbestos was that as children they had played on asbestos dumps.

A few days later, I was reminded of the Ambler dump while looking at an exhibit submitted as evidence during the public hearings by Bruce J. Phillips, a senior vice-president of Certain-teed. "We do not feel that there is sufficient medical justification for a two-fibre limit at this time," Phillips had said. "We propose a five-fibre standard." However, this statement of Phillips' aroused my curiosity less than the next. "We feel that asbestos scrap and waste, including asbestos dust, can be disposed of in quantity only in a landfill, where the waste can be covered each day, and will present no danger to anyone. Furthermore, these disposal problems are solid-waste-management problems to be covered by the Environmental Protection Agency, and not O.S.H.A.," he said. Whether Phillips had the Ambler dump in mind when he made this statement is a matter of conjecture, but it is a matter of record that the Environmental Protection Agency had not then got around to declaring a standard for asbestos dust in the ambient air.

Toward the end of June, Herman Yandle, the former union committee chairman at the Tyler plant, called me from Hawkins, Texas, to inform me that ten thousand-odd bags of asbestos fibre left in the warehouse after Pittsburgh Corning closed the factory, and either buried or otherwise disposed of virtually all of the rest of its innards, had been shipped to Canada during the last part of May. Yandle had been told that the fibre had been bought by a company with facilities on Manitoulin Island, in Ontario.

That piece of information sent me to a map, where I discovered that Manitoulin is a very large island in the northern part of Lake Huron, about a hundred miles east of Sault Ste Marie. As a result of inquiries I made to find someone who might be able to tell me something about the company, I got in touch with Dr. Ernest Mastromatteo, who is the director of the Environmental Health Services Branch of the Ontario Ministry of Health, in Toronto.

"Manitoulin Island is way up in the wilds, and I've never heard of any asbestos plant up there," Dr. Mastromatteo said. "But I'll have our people look into it, and get back to you as soon as we have something to report."

During July, another intricate tier was added to the labyrinth constructed by the medical-industrial complex in its dealings with the problem of occupation exposure to asbestos, and I heard about it from Dr. Selikoff. I had not seen him since the Department of Labor decided to keep the five-fibre standard for four more years, and I had gone to Mount Sinai to ask him about an article from England which, I had been told, bore on the question of the asbestos standard.

"As you know, the two-fibre standard we had hoped for was designed only for the prevention of asbestosis, and not for cancer," Dr. Selikoff said. "It was first proposed back in 1968 by the British Occupational Hygiene Society's Committee on Hygiene Standards. At that time, the committee reported in the *Annals of Occupational Hygiene*, a respected British medical journal, what appeared to be strong evidence suggesting that a person working with chrysotile asbestos could be exposed for fifty years to a level of two fibres per cubic centimeter with practically no risk of developing asbestosis. The committee therefore recommended a two-fibre level for occupational exposure to asbestos—a proposal I considered to be reasonable, and one which was adopted by the British Inspectorate of Factories that same year.

The British action was one of the chief determining factors in the decision of NIOSH to recommend a two-fibre standard to the Secretary of Labor. The report of the society's committee noted that its recommendation was based entirely upon information provided by two of the committee's members who were employees of the Turner Brothers Asbestos Company, Ltd., of Rochdale, England—one of the largest asbestos companies in Britain. They were Dr. John F. Knox, who was then chief medical officer for Turner Brothers, and Dr. Stephen Holmes, the company's industrial hygienist. Dust counts had been made at the Turner Brothers factory in Rochdale for many years, and in 1966 Dr. Knox and Dr. Holmes had undertaken to correlate the health status of current employees with past exposure levels. Accordingly, they had reviewed chest X-rays of two hundred and ninety workers at the factory who had been employed for ten years or more after January 1, 1933, and were still employed there as of June 30, 1966. They then reported to the committee that among these employees they had found only eight whose X-rays could be diagnosed as asbestotic. Among the eighty-one men exposed to levels of somewhat more than ten fibres per cubic centimetre for twenty years or more, they found only six with relevant X-ray changes, and out of thirty-seven workers exposed over a twenty-to-thirty-year period to levels of about four fibres per cubic centimetre, they found only one man with a possibly asbestotic X-ray abnormaliyt. This was comforting information indeed, and the committee, after providing a safety margin by halving the four-fibre level, recommended the two-fibre standard in the full assurance that it would prevent the occurrence of asbestosis."

I was reminded by Dr. Selikoff's remarks that Dr. Holmes had flown to the United States in March to testify in behalf of the American asbestos industry at the Department of Labor's public hearings, and had stated his opinion that workers could safely inhale air containing four or five fibres per cubic centimetre. When I mentioned this to Dr. Selikoff, he told me that not long after the hearings ended, the April, 1972, issue of the *Royal Society of Health Journal* arrived in the United States. "It contained an article by Dr. Hilton C. Lewinsohn, a young South African physician, who had replaced Dr. Knox as chief medical officer of Turner Brothers," Dr. Selikoff said. "Dr. Lewinsohn wrote that in December of 1970 he had given chest X-rays to workers employed at the Turner Brothers Rochdale factory. Although some workers had left the firm or had died, and although others had only recently completed ten years of employment, the men with long-term exposure who were examined by Dr. Lewinsohn were in large part the same men who had been studied four and a half years before by Dr. Knox and Dr. Holmes.

However, Dr. Lewinsohn's assessment of X-ray findings among them was quite different from that of his predecessor, Dr. Knox. He reported that more than half of those men X-rayed twenty years or longer after first exposure to asbestos showed some abnormal lung changes. Moreover, upon analyzing these changes he determined that almost forty per cent of the men who had been employed at the factory for twenty years or more had lung scarring consistent with asbestosis. Unfortunately, our hearings were concluded by the time the *Royal Society of Health Journal* arrived, so there was no opportunity to ask Dr. Holmes about the apparent gross discrepancy between the two sets of findings."

I asked Dr. Selikoff how he explained the startling discrepancy, and he replied that it must lie in the interpretation of the X-rays, since it was highly unlikely that there could have been such a marked increase in detectable lung disease in four and a half years. He added that Dr. Nicholson had prepared a statistical analysis of the dose-disease responses that could be derived from these two conflicting sets of data, and had determined that they showed as much as a tenfold difference in the incidence of X-ray changes characteristic of asbestosis among the workers at the Turner Brothers Rochdale factory.

"Do you mean that Dr. Lewinsohn found ten times as much disease among some Turner Brothers workers as Dr. Knox and Dr. Holmes had found four and a half years earlier?" I asked.

"Yes," Dr. Selikoff replied. "At least, that is what the data published so far suggest."

"So the two-fibre standard, even if it had been adopted without the four-year delay, is not sufficient," I said.

"Until the discrepancy is resolved, it would appear useful only as an interim measure for the prevention of asbestosis," Dr. Selikoff replied. "Further, one should remember that when the British Occupational Hygiene Society recommended the two-fibre standard in 1968, it took the prudent position that the standard was intended only for the prevention of lung scarring, since it was not possible at that time to specify a concentration of asbestos in the air which was known to be free of the risk of inducing cancer."

The possibility presented by this new data—that industry influence might have had an effect on medical considerations concerning the problem of occupational exposure to asbestos in England—came as a surprise to me for two reasons. The first was that until Dr. Selikoff and Dr. Hammond had conducted their pioneering studies of the asbestos-insulation workers, in the early nineteen-sixties, by far the best and most thorough investigations of asbestos disease had been conducted in England, where asbestosis had been recognized as a serious occupational-health hazard since the nineteen-twenties. The second was that I had talked at length with several leading English epidemiologists in London some months earlier, and when I told them that occupational-health data were being suppressed and ignored in the United States, they had solemnly assured me that, because of the independent character of English medicine and of the British government's occupational-health agencies, such a situation could not exist in their country.

When I told Sheldon Samuels the news from England, he was not at all surprised. "Business is always business," he said. "In fact, I have a new wrinkle for you here at home. When I came to the Industrial Union Department last year, I undertook an investigation of the company-doctor system, because it occurred to me that the system was operating to thwart the Occupational Safety and Health Act. A month or so after I began the investigation, I talked with Dr. Norbert Roberts, who is associate medical director of the Standard Oil Corporation of New Jersey, and was then president of the Industrial Medical Association. Dr. Roberts told me that he and his associates in the Industrial Medical Association hoped to reform and improve the industrial medical profession by setting standards for the professional performance of company doctors. They proposed to set up an organization called the Occupational Health Institute, which would derive its chief support from the Industrial Medical Association, the American Industrial Hygiene Association, and the American Association of Industrial Nurses, Inc.—all of which are organizations supported and controlled by industry. The institute would undertake to create a program to validate occupational-health programs and to set up standards that would enable industry, through voluntary compliance, to clean up the major health problems afflicting workers in the United States.

After listening to him, I told Dr. Roberts that in any opinion voluntary ethical standards would not accomplish the purpose of raising the professional performance of company doctors but should be part of enforceable O.S.H.A. regulations in order to guarantee the participatory role of workers envisioned in the Occupational Safety and Health Act, such as their guaranteed right to have access to medical records and to records pertaining to exposure to toxic substances. That was the last I heard of the matter for some time. Last November, however, I sent Dr. Roberts the results of the NIOSH survey of Pittsburgh Corning's Tyler plant and asked him to have the the Industrial Medical Association conduct its own investigation of the situation. Then, in February, I sent him an account of the charges Mazzochi had levelled against Pittsburgh Corning at his press conference, which included some information about how the affair had been handled by the company's medical consultant, Dr. Grant. In the meantime, Dr. Roberts and his associates had pursued their plan to set up the Occupational Health Institute. At their request, a meeting to discuss the aims of the institute was held here at the Industrial Union Department on March 24th. In addition to Dr. Roberts and myself, the meeting was attended by Dr. Duane Block, medcal director of the Ford Motor Company; by Dr. Gilbert H. Collings, general medical director of the New York Telephone Company, who had been named to head the Occupational Health Institute; and by Dr. Marcus M. Key, who is the director of NIOSH, who was being asked to give NIOSH support to the new institute and its programs. According to Dr. Roberts and Dr. Collings, an accreditation commission initiated by the institute would pressure management to become enlightened in the field of occupational health by certifying valid industrial medical programs. Imagine my surprise, however, when I learned that Dr. Roberts and his colleagues were proposing Dr. Grant as one of the members of this accreditation commission. I pointed out that the very fact that Dr. Grant was being considered for such a position while serious allegations concerning his professional conduct remained to be resolved scarcely inspired confidence in the purpose and viability of the Occupational Health Institute. Subsequently, Dr. Roberts and his associates must have brought pressure to bear upon Dr. Grant to remove himself from consideration for the commisson, for early this month I received a telephone call from William D. Kelley, the director of NIOSH's Division of Training, in Cincinnati, telling me that he had received a letter from Dr. Grant complaining that, because of his consultant relationship with Pittsburgh Corning, I considered him to be anti-labor and, therefore, unacceptable as a commissioner. Now, what do you think of that?"

I told Samuels that I found it surprising, but I was really thinking that the medical-industrial complex went about its business in ways whose intricacies were a wonder to behold, and that the story I had been following for so many months seemed not only to repeat itself endlessly but to employ the same cast of characters.

"And now for the clincher," Samuels said. "Guess what outfit has just received a seventy - one - hundred - thousand - four - hundred - and - eighty - one - dollar contract from NIOSH, in order to—and I quote—'develop and validate criteria for program performance standards of occupational-health programs which will provide guidelines to NIOSH in promoting the development of such programs as well as provide guidance to facilities in establishing and/or upgrading their own operational program standards.' "

"The Occupational Health Institute?" I said.

"Of Chicago, Illinois," Samuels replied.

A few days later, I telephoned Dr. Mastromatteo in Toronto, and asked him if he had been able to find out anything about an asbestos plant on Manitoulin Island.

"I'm sorry to say I haven't," Dr. Mastromatteo replied. "We've checked all the available records and made inquiries by phone, but there doesn't appear to be any asbestos industry at all on Manitoulin Island."

I apologized to Dr. Mastromatteo for bothering him with what was obviously a false lead, and thanked his for taking the trouble to follow it up. Then I telephoned Herman Yandle in Hawkins, and told him what had happened.

"Well, that's what they told the boys at the plant when the stuff got sent out," Yandle said, with a chuckle. "But I got a new address for you just the other day, from a fellow who saw a shipping tag. The asbestos went to Canada, all right, but not to Manitoulin Island. It got sent to a company called Holmes Insulation, Ltd., at Point Edward, Ontario."

I called Dr. Mastromatteo back and told him what I had learned from Yandle.

"We'll try to run it down for you," he said. "I've never heard of Holmes Insulation, but I know where Point Edward is. It's about two hundred miles west of here, in the middle of a large petroleum-chemical complex."

In the second week of September, I received some rather interesting mail. From the August issue of the *Archives of Environmental Health* I learned that Dr. Grant had been elected treasurer of the American Academy of Occupational Medicine. In a clipping from the August 25th edition of the Cincinnati *Post*, I read that Dr. Wagoner and Dr. Johnson had been looking into the spraying of asbestos insulation on the steel girders of a new Procter & Gamble technical center in the Blue Ash, Ohio, a suburb of Cincinnati. The *Post* article stated that the spraying of asbestos insulation in construction had been banned in New York, Boston, Philadelphia, and Chicago, but that in Cincinnati and the rest of Ohio there were no ordinances either banning or controlling its use. The article went on to quote Dr. Mitchell R. Zavon, Assistant Health Commissioner for Cincinnati, who said that he had not seen fit to issue any regulations, since the evidence incriminating asbestos as a health hazard "is not sufficiently clear-cut." This surprised me, since I knew that Dr. Zavon was a member of the sixteen-man Threshold Limit Value Airborne Contaminants Committee of the American Conference of Governmental Industrial Hygienists, so I filed the newspaper clipping away with a mental note to make some inquiries about him.

A week or so later, Samuels sent me a copy of a statement delivered before the House Select Committee on Labor by Jacob Clayman, administrative director of the Industrial Union Department, concerning the activities of the government in enforcing the Occupational Safety and Health Act. It was obvious that Clayman did not think much of the government's performance. After reminding the committee members that the Department of Health, Education, and Welfare had estimated that there might be as many as a hundred thousand deaths each year from occupationally caused disease, he told them that seventeen months after the Act went into effect there were only four hundred inspectors to enforce its provisions in more than four million workshops, and that only one new health standard—that for asbestos—had been set during that time. "Even then, we have had to complain about its inadequacies," Clayman said. "Indeed, we have gone to court to emphasize its failure, in our judgment, to pursue the basic purpose of the law." Clayman said that his organization had never ceased to point out that not one of the nine carcinogens rated by the Conference of Hygienists and by forty-five states as being too dangerous for any exposure at all was included in the federal standards. "Benzidine is one of these," he declared. "More than seventeen hundred tons of this chemical and three of its most commonly used compounds are produced, distributed, and used in this country each year. We have no idea how many workers are exposed. We have no idea as to how many of the hundred thousand deaths that H.E.W. reports are due to exposure to this and other carcinogens."

Up to that time, my investigation of the workings of the medical-industrial complex had evolved out of the critical situation that had existed at Pittsburgh Corning's Tyler plant, and had focussed on the problem of exposure to asbestos. During the past six months, however, I had been told by Mazzocchi, Samuels, and others that the complex was hard at work trying to put the lid on dozens of occupational-health problems involving, among others things, beryllium, benzidine, and beta-naphthylamine. (Indeed, Samuels and the Industrial Union Department had been pressing unsuccessfully for the Occupational Safety and Health Administration to take action on known chemical carcinogens for more than a year.) Now, reminded by Clayman's testimony of the multiplicity of the hazards, I decided to take a closer look at some of them.

On Monday, September 25th, I caught an early-morning flight to Cincinnati and went to the Division of Field Studies and Clinical Investigations to ask Dr. Johnson, whom I had not seen since March, what was being done about the problem of occupational exposure to beryllium, benzidine, and beta-naphthylamine. "Let's start with beryllium," Dr. Johnson said. "It is a metal that has been used in the United States since the nineteen-twenties, when it was alloyed with copper and other metals in order to give them greater tensile strength and fatigue resistance. During the late nineteen-thirties, it was used extensively in the manufacture of flourescent-lamp tubes. Subsequently, however, thanks to the pioneering work of Dr. Harriet L. Hardy, who was then an occupational-health physician at the Massachusetts Institute of Technology, beryllium was found to be a cause of acute and chronic pulmonary disease among workers in the fluorescent-lamp industry, and in 1949 its use in the manufacture of those appliances was

discontinued. Because of its light weight, its rigidity, and its stability, beryllium has achieved wide use in other areas. It is employed in nuclear reactors, in aerospace structural materials and inertial guidance systems, and in satellite antennae, rocket-motor parts, heat shields, rotor blades, and airplane brakes. It also appears to have considerable potential as a solid rocket fuel. Suffice it to say that beryllium and its components have an important use in modern technology, and that, as I have indicated, exposure to them can result in beryllium disease, which can cause death from pulmonary insufficiency or right-sided heart failure."

Dr. Johnson went on to say that during the summer of 1971, while he was unearthing from his predecessors' files the data on the Tyler plant and other asbestos factories, he had come across the report of an environmental survey that had been conducted in 1968 by engineers from Dr. Cralley's Division of Epidemiology and Special Services at a factory owned by Kawecki Berylco Industries, Inc., in Hazleton, Pennsylvania. "As in the case of Tyler studies, no action had been instituted as a result of the Hazleton-plant survey," Dr. Johnson told me. "Yet the data showed incredibly high airborne levels of beryllium dust, especially in the factory's attrition-mill operations, where beryllium powder is made. Indeed, the engineers had recorded concentrations in the Hazleton plant as high as two hundred micrograms of beryllium per cubic metre of air, though the Conference of Hygienists had already adopted the Atomic Energy Commission's standard of a peak value of twenty-five micrograms per cubic metre of air and a time-weighted average of only two micrograms per cubic metre."

When I asked Dr. Johnson what he had done with the information he uncovered, he told me that, just as in the case of the data on conditions in the Tyler plant—data that were collected and ignored—he had relayed them to Anthony Mazzocchi and Steven Wodka, of the Oil, Chemical and Atomic Workers International Union, which, as it happened, also represented workers at the Hazleton plant. "As a result, just as in the case of Tyler, the union expressed concern to our division, and we conducted a comprehensive environmental survey of the plant last November," Dr. Johnson said. "The beryllium-dust levels we measured at that time showed that the company's powder-handling operations were still grossly out of control. In March of this year, beryllium levels at the Hazleton plant were measured again by the Pennsylvania State Department of Health, and once more the levels far exceeded the recommended threshold limit value of two micrograms per cubic metre of air. Consequently, on July 28th, Harry M. Donaldson, one of our industrial hygienists, wrote a letter to the Kawecki Berylco people saying that we planned to conduct another survey of the Hazleton plant in the near future and asking what improvements they intended to make in their powder-handling operations, how they were going to make them, and when they would complete them. On August 3rd, I set a second memo of concern to the regional administrator of the Occupational Safety and Health Administration in Philadelphia—I had sent him one on the same subject last December 22nd. I told him again that a potential for serious medical consequences existed in the Hazleton plant, and I enclosed the results of a medical survey of two hundred and nineteen of the plant's employees which had been conducted last November by Dr. Homayoun Kazemi, the chief of the pulmonary unit of Massachusetts General Hospital, in Boston. Dr. Kazemi had found symptoms possibly related to beryluim disease in twenty-five cases and significant beryllium disease in half a dozen cases."

I asked Dr. Johnson if he or Donaldson had received any reply from the company, or if any action had been taken with regard to the situation at the plant. He smiled grimly and handed me a memorandum. It was sent to division directors, deputy directors, and assistant division directors; it was headed "Policy Memorandum," was dated September 12, 1972, and was signed by Dr. Edward J. Fairchild II, acting associate director for NIOSH's Cincinnati Operations, who was working under the direction of Dr. Key, the director of NIOSH. It read:

"There have been in the recent past certain communications, verbal as well as written, with distinct overtones of abatement-type language. It is not the intent, nor the policy, of NIOSH to convey to the outside world that our role under the Occupational Safety and Health Act of 1970 is one having authority for enforcement. Rather, we must present an image more in keeping with that of a research agency. The Act distinctly separates enforcement, the primary activity of the Department of Labor (O.S.H.A.), from research, the primary activity of HEW (NIOSH).

"Accordingly, you are requested to monitor those actions which could evoke connotations of enforcement, especially those which may be so borderline that NIOSH involvement could be appropriate under certain circumstances, yet highly inappropriate under different circumstances. Those of your people who may have occasion for involvement should be informed of this policy.

"Through authority delegated to me by Dr. Key, and by copy of this memorandum, I assign Dr. [William S.] Lainhart as your contact in the extent that questionable issues arise. Thus, if you are in doubt as to whether actions constitute abatement-type language or policy or if activities infringe upon enforcement, you will bring such situations to the attention of Dr. Lainhart. If, then, the issue is not yet resolved, it will be brought to my attention by Dr. Lainhart.

"Your cooperation and diplomacy in this delicate, but important, matter of policy is expected and appreciated."

I remembered Dr. Lainhart very well. He had been chief assistant to Dr. Cralley in the old Division of Epidemiology and Special Services, and had been in charge of the medical-environmental teams that surveyed the Tyler plant and other asbestos factories during the middle and late nineteen-sixties. It was Dr. Lainhart who—in March of 1968, shortly before notification of the high asbestos-dust counts taken by his environmental team at the Tyler plant was sent to Dr. Grant and Pittsburgh Corning without any warning that they constituted a high risk of disease and death for the men who were working there—had said to me that the ideal method of tracing the natural history of asbestos disease would be to take a bunch of twenty-year-olds, put them into an asbestos plant where the exact dust level was known, and observe them for the next fifty years or until they died. I had often wondered about that statement, and now, remembering the poor condition of men I had met who had been employed at the Tyler plant for only ten or fifteen years, and the number of deaths from cancer and asbestosis that had occurred among the unfortunate workers at the Paterson factory. I found myself wondering about it again.

Then Dr. Johnson showed me a second memo. It was dated September 13, 1972, and it had been sent to the director of the division. It was headed "Short- and Long-Term 'Epidemiology,'" and was also signed by Dr. Fairchild, who was once again acting under the direction of Dr. Key. It started out:

"Pursuant to our discussion earlier with Dr. Key, as well as followup discussion you and I have had, this will verify for the record the resulting decisions.

"Short-term field studies which have been referred to as "firefighting activities" will be assessed prior to obligating resources. We are mutually agreed that you and/or Dr. Johnson will keep Dr. Lainhart apprised of such categorical activities. When necessary I can be brought into the discussions. Dr. Lainhart is aware of this arrangement which is commensurate with his experience and the responsibility of his position.

"Also, in connection with our earlier discussions and in keeping with the indication given by Dr. Key to Mr. Edmund Velten, Vice-President, Kawecki Berylco Industries, Inc., there will be developed for NIOSH policy the proposed regulations whereby industry-wide studies are to be conducted. Accordingly, I am requesting that this also be coordinated with Dr. Lainhart so that he is kept informed throughout the process of regulations development."

When I had finished reading the second memorandum, I asked Dr. Johnson to give me an example of a short-term field study, or "firefighting activity."

"Well, in some ways you might call our survey of Pittsburgh Corning's Tyler plant a short-term field study," Dr. Johnson replied.

"And what about the reference to the 'indication' given by Dr. Key to Edmund Velten, of Kawecki Berylco?" I inquired.

"That simply means that the beryllium industry will be consulted by NIOSH with regard to any proposed industry-wide studies involving beryllium," Dr. Johnson said. "The fact is, our criteria document for beryllium was completed and forwarded to the Occupational Safety and Health Administration several months ago. As of this date, however, the Administration has not seen fit to convene an advisory committee on beryllium, much less announce public hearings. Meanwhile, workers in beryllium plants are still being overexposed to beryllium dust and running the needless risk of developing beryllium disease. Incidentally, Mr. Velten must have complained to Dr. Key about the letter that Donaldson sent to his company about improvements in the Hazleton plant. In any case, Dr. Key wrote Velten a letter containing an apology for the tone of Donaldson's letter."

At this point, I asked Dr. Johnson what was being done about the problem of occupational exposure to beta-naphthylamine and benzidine.

"Beta-naphthylamine, which is commonly known as BNA, and benzidine are aromatic amines—chemicals derived from coal tar—and are used as intermediates in the synthesis of dyes," Dr. Johnson said. "Both are highly potent carcinogens, known to cause bladder cancer, and both are on the list of nine carcinogens that have been rated by the Conference of Hygienists as being too dangerous at any known level of exposure. Neither of them, however, has been so rated by the federal government. Before I go into our involvement with BNA and benzidine, I think you ought to take a look at a study of workers exposed to them in a plant operated by the specialty-chemicals division of the Allied Chemical Corporation, in Buffalo, New York. It was carried out back in 1962, by Dr. Morris Kleinfeld, director of the Division of Industrial Hygiene of the New York State Department of Labor; by Dr. Leonard J. Goldwater, a consulting industrial-hygiene physician; and by Dr. Albert J. Rosso, an associate industrial-hygiene physician in the Division. It was published in the *Archives of Environmental Health* in December, 1965. Dr. Kleinfeld, Dr. Goldwater, and Dr. Rosso studied three hundred and sixty-six workers at the plant in Buffalo, going back to 1912. Half of these men were between twenty and twenty-nine years old when they were first employed at the plant; about a quarter were between thirty and thirty-nine; and the remainder were between forty and fifty. Some of them were exposed to BNA alone; some to BNA and benzidine; some to BNA and alpha-

naphthylamine, which is similar to BNA; some to benzidine alone; and some to various combinations of all three compounds."

Dr. Johnson handed me a copy of the study by Dr. Kleinfeld and his associates. From the introduction I learned that cancer of the bladder resulting from exposure to aromatic amines was discovered in Germany in 1895; that between 1905 and 1932 bladder tumors in dye workers were reported in Switzerland, Great Britain, Russia, and Austria; that the first cases of this condition in the United States were reported in 1934; and that the disease had subsequently been recognized in Italy, Japan, and France. Toward the end of the introduction, Dr. Kleinfeld and his associates described a large series of bladder tumors caused by aromatic amines which were reported by Dr. T. S. Scott in England in 1964. Dr. Scott found that of six hundred and sixty-seven persons exposed to the chemicals for more than six months a hundred and twenty-three had developed bladder tumors, and that bladder tumors occurred in fully seventy-one per cent of those who were exposed for thirty years or more.

As for the results of the study of three hundred and sixty-six men exposed to aromatic amines at the Allied Chemical plant in Buffalo, Dr. Kleinfeld and his associates reported in the main body of their article that ninety-six of the men had developed bladder tumors—an over-all incidence of slightly more than twenty-six per cent—and forty-six of these had died as a result. "By any reasonable standard it can be stated that the incidence or attack rate for bladder tumors in workers exposed to coal tar dye intermediates is frighteningly high," they concluded.

After I read the study, Dr. Johnson told me that the manufacture and use of BNA had been banned in Switzerland in 1938, and that the production and use of the chemical had virtually stopped in Pennsylvania after 1961, when the state adopted strict regulations for carcinogens. "The British abandoned the manufacture and use of BNA way back in 1952," Dr. Johnson said. "Why our government has not taken similar action is beyond my comprehension, especially in the light of conditions we uncovered recently in Georgia and South Carolina. During the early fifties, the Augusta Chemical Company, of Augusta, Georgia, which had been receiving shipments of BNA from the du Pont people, began manufacturing and using the chemical at its Augusta plant. In 1967, the company was purchased by the Blackman Uhler Chemical Division of the Synalloy Corporation, of Spartanburg, South Carolina, and thereafter BNA was manufactured at the Augusta plant and shipped in drums by truck to Synalloy's Spartanburg plant, where it was used as an intermediate in dye synthesis. Our regional director in Atlanta learned of this activity last fall, and got in touch with officials of the Georgia State Department of Health, who told him they knew of no problem associated with the manufacture of BNA in Georgia. In January of this year, however, we sent three of our people in the Division of Field Studies and Clinical Investigations to take a look at the Augusta plant. They found men shoveling BNA from a large slurry tank into drums, and discovered that none of them had ever been given a urinalysis to determine whether blood or atypical or malignant bladder cells were present in the urine. In April, I visited Spartanburg and Augusta, and told the Synalloy people the medical facts implicating BNA as a potent bladder carcinogen. They claimed that because the chemical was handled in wet slurry form it was not hazardous, whereupon I informed them that the primary route of entry of BNA into the body under these circumstances was not by inhalation but by absorption through intact or unabraded skin. As a result, the production and use of BNA have been discontinued at the Augusta and Spartanburg plants, and Tobias acid—a relatively safe substitute for BNA, which has been available for years, and which costs only a few cents more a pound—is now being used as an intermediate in dye synthesis.

We have begun a program of urine cytology on the workers currently employed at the Augusta plant, but since BNA wasn't used there until the late nineteen-forties, and since the latent period for the development of bladder cancer is about twenty years, we probably won't know their true health situation for some time. One big problem we're faced with is that, because of rapid turnover in the work force, past employees exposed to BNA are unavailable for medical followup, so we have only the present workers to evaluate. The thing to remember is that until 1972 no federal occupational-health agency had ever visited either of the plants—and this despite the fact that the hazard of BNA was brought up in congressional testimony in 1970 as justification for passing the Occupational Safety and Health Act, and had been cited repeatedly as being one of the health hazards the government was anxious to control. Moreover, none of the appropriate state occupational-health agencies had ever taken effective action to bring the hazard under control. We're now trying to track down other plants where BNA may be in use, because we've heard that the chemical is being imported into the United States from South America."

Dr. Johnson went on to tell me that the Allied Chemical plant in Buffalo had manufactured BNA until the middle fifties and had received shipments of the chemical from a plant in Pennsylvania from then until 1961, when the Pennsylvania plant was forced by the state to shut down. "Shortly thereafter, the Allied Chemical people discontinued the use of BNA in their Buffalo plant," he said. "However, they continued to handle benzidine, which they not only manufactured and used there but also shipped to the Toms River Chemical Corporation's plant, in Toms River, New Jersey, until sometime in 1971. Now I understand that they are using dichlorobenzidine, which they claim is less hazardous than benzidine. However, we are concerned about dichlorobenzidine because it is known to cause cancer in test animals, and because it is also on the list of carcinogens rated by the Conference of Hygienists as being too dangerous at any level of exposure. In fact, we'll be conducting a field survey of the Buffalo plant next month."

I asked Dr. Johnson what other industrial carcinogens the Division of Field Studies and Clinical Investigations was looking into. He replied that there were many, and that new ones came to his attention almost daily. "Recently, we've been worried about a chemical called bis-chloromethyl ether," he said. "It is formed as an intermediate in the production of anion-exchange resins, which are manufactured by a number of large outfits, including Rohm and Haas and Dow Chemical. Bis-chloromethyl ether has been demonstrated to be a potent lung carcinogen in test animals, and it, too, is on the list of dangerous cancer-producing agents. Last March, at the request of Jack Washkuhn, an industrial hygienist from the San Mateo County Health Department, in California, I went out with Harry Donaldson to visit the Diamond Shamrock Corporation's plant in Redwood City, where the chemical has been encountered as a by-product since 1957. The plant employs only about a hundred men, but we reviewed the cases of four employees who, Washkuhn had learned, had died of lung cancer within the past eight years, and we learned that two former workers at the plant had developed lung cancer but were still alive. The first death among these men occurred in 1964, the second in 1965, the third in 1967, and the fourth in November of 1971. Something that causes us great concern is that the age at death of these four men ranged from thirty-two to forty-eight—which is considered to be under the age at which most lung cancers develop in association with cigarette smoking. Moreover, we are particularly concerned about the worker who died in November of 1971, because he was only thirty-two years old, and he had worked in the plant for only two years—a circumstance indicating that bis-chloromethyl ether may be a far more potent carcinogen than had previously been suspected. Accordingly, we recommended to the company that chest X-rays and sputum cytology be conducted on its workers. A subsequent survey by a special field team from our Salt Lake City facility showed considerable amounts of abnormal cells in the sputum of men who had been working at the plant. As a result, the company has initiated a periodic sputum-cytology screening program of its current and former employees, which is being carried out with the cooperation of Dr. Geno Saccomanno, head of the pathology department at St. Mary's Hospital in Grand Junction, Colorado, who is well known for his sputum-cytology studies of uranium miners."

Dr. Johnson was then called away to attend a meeting. I told him that I hoped to talk with him again soon, and thanked him for his time and help.

"You're entirely welcome," he replied. "By the way, you asked me earlier for an example of the kind of short-term epidemiology, or firefighting activity, we are now required to clear through higher authority. Well, it just occurred to me that our visit to the Diamond Shamrock plant in Redwood City is a perfect one."

Back in New York, I telephoned Dr. Mastromatteo in Toronto, to find out if he had been able to discover anything for me about Holmes Insulation, Ltd., in Point Edward, Ontario. Dr. Mastromatteo told me that not only had he acquired some information about the company but that an industrial hygienist from the Ontario Ministry of Health had visited the company's plant in August to take airborne dust samples and to arrange for X-rays examinations for the workers there. "A few months ago, claims for asbestosis put in by workers employed there began to appear before our Workmen's Compensation Board," he said. "During our August inspection of the plant, we found that, generally speaking, asbestos-dust levels were well over two fibers per cubic centimetre, which is our unofficial standard. Since we always take action if dust levels exceed the five-fibre level, we recommended that the company install better ventilating equipment in order to avoid the use of respirators."

"What did your X-rays show?" I asked.

"They indicated," Dr. Mastromatteo replied, "that out of a work force of between fifty and seventy-five men, six or seven had signs consistent with the development of asbestosis."

During the second week in October, I called on Dr. Selikoff at Mount Sinai and asked him whether he had heard anything from his British colleagues concerning the marked discrepancy between the findings of Dr. Knox and Dr. Holmes and those of Dr. Lewinsohn in regard to asbestosis in the Turner Brothers workers. Dr. Selikoff had just returned from a World Health Organization Working Group to Review the Biological Effects of Asbestos, in Lyon, France, and by way of reply he handed me a copy of a paper that Dr. Holmes had delivered at the conference. The paper was entitled "Criteria for Environmental Data and Bases of Threshold Limit Values—Environmental Data in Industry," and the first sentence read, "The need for hygiene standards for airborne asbestos dust based on wider studies than were available to the British

Occupational Hygiene Society in 1968 is emphasized."

Of the study that he and Dr. Knox had conducted of the workers at the Turner Brothers Rochdale plant, and the data they had furnished the society, Dr. Holmes said, "The information, although the best available at the time, was, to say the least, scanty for the purpose, and some of us who were associated with it have become increasingly concerned with the authority with which it has become invested in the international field." Dr. Holmes ended his paper by noting that in collaboration with Dr. Lewinsohn arrangements were being made to have the information from the factory brought up to date.

Essentially, what Dr. Holmes appeared to have admitted was that the data he and Dr. Knox had furnished the society concerning the incidence of asbestosis in the Turner Brothers workers were questionable. The ramifications of this were, of course, staggering, for if the data were inaccurate, the two-fibre standard for asbestos—which would not even go into effect in the United States until 1976—would be without medical or scientific validity. In the meantime, American asbestos workers had been assured by Secretary of Labor Hodgson that it was safe to breathe air containing five fibres per cubic centimetre, which was higher than the dust concentrations inhaled by a significant number of the Turner Brothers asbestos workers, many of whose chest X-rays had been interpreted by Dr. Lewinsohn as showing abnormal lung changes. All this, of course, could affect the health of tens, if not hundreds, of thousands of asbestos workers, and it had come about simply because two men—a medical doctor and an industrial hygienist—employed by the British asbestos industry had, one way or another, furnished questionable data, which may have misled occupational-health agencies on both sides of the Atlantic. One could only wonder exactly when Dr. Holmes had become "increasingly concerned" about the authority and validity of Dr. Knox's interpretation of the chest X-rays of the Turner Brothers workers. It can hardly have been prior to his appearance in behalf of the asbestos industry at the Department of Labor's public hearings six months earlier, when he declared that a standard of four or five fibres per cubic centimetre would provide adequate protection from disease for asbestos workers in the United States. Was it, then, only after the publication of Dr. Lewinsohn's findings, which suggested that Dr. Holmes and Dr. Knox could have understated by as much as tenfold the extent of asbestos disease among the Turner Brothers workers?

DICK CARVER—MAYOR OF PEORIA, ILL.

Mr. PERCY. Mr. President, recently the Peoria, Ill., Journal Star newspaper assigned Barbara Mantz, one of the papers' many fine reporters to discover what made Peoria's mayor of 10 months tick as a unique political phenomenon and why he was setting a new pattern in the political structure of this busy, industrial Illinois city.

Miss Mantz uncovered some remarkable facts. Mayor Carver is a new breed of municipal leader. She was amazed because she could find no enemies that he was making. A city administrator who rapidly got things done was not making enemies and she could find practically no critics, only ardent followers and boosters. She discovered a political romance between a man and the near entire citizenry of a city of 150,000 population.

When elected the young and enthusiastic mayor took the reins of power which go with the office of mayor and in a short time had turned a cynical community into a city of new hope, enthusiasm, pride and positive strides toward a better life for all its citizens.

For example, Peoria had been disillusioned by 8 years of redtape and the delay in Federal bureaucracy, but Mayor Carver suddenly lifted the spirits and hopes of everyone when in February the University of Illinois board of trustees agreed to locate a medical school on a downtown Peoria urban renewal site. The city has now applied for $1.7 million in Federal funds to start buying the land. Veteran political observers said it was a 500-to-1 shot, but that Mayor Carver was successful.

Mayor Carver has shown how to get things accomplished in his city. He uses reason, logic, determination, and does not resort to table pounding or threatening the opposition. He listens a lot and after all the input is in he fits the parts together to satisfy the majority. He specializes in compromise—no arm twisting, no wheeling and dealing and by the injection of such remarks as, "maybe we are not as far apart as we think we are." We can all benefit from a closer study of this remarkable "new breed" type of public official that is fulfilling great promise in the present and offers even greater promise in the future.

Mr. President, I ask unanimous consent that the article referred to above about this remarkable mayor be printed in the RECORD.

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

[From the Peoria (Ill.) Journal Star, Mar. 10, 1974]

PEORIA MAYOR RICHARD CARVER—A NICE GUY WHO FINISHES FIRST

(By Barbara Mantz)

"My opponent can just stand up there and look pretty and say nothing, if he shows up at all."—Dan Thurman, 26 days before Richard Carver was elected mayor of Peoria.

A year later, and Dick Carver looks even prettier, to hear the talk at City Hall. It's disturbing to a reporter looking for a balanced story; you talk to people all over town, and you can't find anybody who hates him or is mad at him or will even criticize him about anything substantial.

On the contrary, Carver has been in office just 10 months, and already people are saying that he's going to be the best mayor in Peoria history.

"The first year so far is as good as any I've seen," says City Clerk William Kumpf, an elected official under 10 mayors. "I predict great things for him. He holds great promise for Peoria."

Some of the plaudits come from more surprising sources.

"If Dick Carver doesn't turn out to be the best mayor Peoria has ever had, it'll be a big surprise to me," says Joe Mudd, a Democrat, who more often than not voted opposite Carver when the two sat on the last council together. "I've worked with a lot of politicians, a lot of them good, dedicated people, and Dick's by far the best I've ever seen."

CHARMS THEM ALL

It seems that Carver, guilelessly, grinningly, has charmed them all down at City Hall. Not that they didn't expect him to. He is hard-working, personable, ambitious, persuasive. He knows city government. He has support from nearly every quarter of the city—businessmen, labor leaders, liberals, conservatives, the Republican establishment, blacks.

Still, few were quite prepared for the aggressiveness with which he has taken hold of the reins of mayor, or the speed with which he began running things. And no one was prepared for the medical-school coup.

(In February, the University of Illinois board of trustees agreed to locate a medical school on a downtown Peoria urban-renewal site. The city has applied for $1.7 million in federal funds to begin buying land.)

(At the time, Carver called the agreement "in essence, a rebirth of the city." The 43-acre site is in addition to 40 acres in the urban-renewal Target One area on the South Side.)

"If anybody else had said back then that he was going to get urban-renewal money by moving the medical school downtown, he'd have been laughed off the platform," said James Bateman, 2nd District councilman. "The odds against it were 500-to-1."

HE BEAT THE ODDS

Charge it to luck, talent or politics, it doesn't matter. Carver beat the odds. That fact alone has stunned a city grown cynical after eight years of red tape and talk had failed to result in the renewal of even one acre in the Target One area.

So now Carver is riding the crest of a political high. People who used to wonder if the rich kid who inherited a lumber company had the guts or the brains to be mayor now are saying that they don't expect him to stop here. And people who see him as a power-grabber are saying the same thing.

Why not? Carver's got all the makings for bigger office. He's young (36), goodlooking in a boy-next-door sort of way. He's wealthy—president and owner of 80 per cent of a lumber company that does $5 million worth of business annually. He has an attractive, personable wife; four blond, blue-eyed children; a dog; a house in Idyllbrook with a flagpole and a basketball hoop in the driveway.

He's in good physical shape, a fair tennis player and an avid, aggressive skiier. He's an Air Force veteran and a major in the reserves.

He's been active in such civic organizations as Rotary Club, Boy Scouts and the YMCA; he was the Jaycees Outstanding Young Man of 1968.

He's likable, well-informed, disciplined, persistent, candid, smart—and so terribly all-American that he'd rather drink a milkshake with home-made ice cream than a martini.

He's knowledgeable about so many subjects—zoning, planning, budgeting, all levels of government, the building industry, wine, sports cars—that people at City Hall say that they're still looking for something that he's not an expert at.

Carver calls himself a "moderate conservative," and in a moderately conservative town, that too is a political asset.

"I feel government has a responsibility to attempt to serve people as efficiently and effectively as possible and not to attempt to do things that people can do as well themselves," he says.

"But, at the same time, not to overlook the fact that there's a substantial number of people that maybe, by my standards, should be able to take care of themselves, but by their own standards are not capable of taking care of themselves.

"I don't try to apply my standards of intelligence or values to other people—so that's maybe where the standard conservative and I tend to differ."

Dan Thurman says that Carver's voting record shows him not to be the conservative that he claims to be, and Carver himself admits that he's probably more of a pragmatist than anything.

"It's all well and good to be philosophical

about things, and I think you need to know who you are and what you believe, but I think you need to deal in what you can do and what you can't do," he says.

"I like to deal in what is possible. I like to deal in what I can get accomplished. To align yourself with an impossible objective simply because philosophically it's the most perfect objective is, in my book, a waste of your time."

Carver's gained a reputation as a negotiator, a great compromiser—not the arm-twisting, wheeler-dealer kind, but the maybe-we're-not-so-far-apart-after-all type.

He uses reason more effectively than oratory. He doesn't dominate a conference; he listens as much as he talks. And the result is that he often brings people to his side without their quite realizing what has happened.

NOT A FIST-POUNDER

He used all those techniques when he found half the city council elected in 1969 diametrically opposed to most of the things that he favored.

"If I'd been the fist-pounding, shout-at-the-opposition type, I'd have lost every vote that I ever put on the floor. As it was, I got more spite votes than I could count," he says.

"If I had stood up and said the things I wanted to say—one of which probably would have been 'I quit'—I would have done absolutely nobody any good.

"I would have ended up spending two-and-a-half years incapable of getting anything accomplished at all. So maybe I spent the last two-and-a-half years having maybe 20-per cent effectiveness, but that's better than nothing."

What Carver doesn't say is that his avoidance of head-on confrontation was also shrewd. Most of those who did fight are dead politically today.

"This is the beauty of Carver. He let those guys make all the racket. He just sat back watching quietly and let them hang themselves," said one observer.

"He's one of the shrewdest guys you'll ever run into. The reason he's so savvy is you don't expect him to be savvy . . . He deliberately conveys this naive, blond, blue-eyed boyish image, and then people are hardly prepared for a coup like the medical school. He's really a very shrewd man who sets his goals and goes and gets what he wants."

Joe DeMichael, who managed Carver's campaign finances, says that he'd known Carver for several years but didn't realize until the campaign "just how sharp he really was.

"At one of our first meetings, I think in December, he sat down and laid out what he thought would happen, including what he thought Thurman would do. Ninety-five per cent of what he predicted would happen came to pass."

DeMichael, skiing buddy Jay Vonachen, high school chum Don Ullman and other friends formed Carver's inner political circle in the mayoral campaign. They're young businessmen but not really part of the city's commercial or political establishment; not many people even know their names.

Perhaps because so much has been said about his connections with the city's power structure, Carver is vociferous about his independence.

"Dave Conner or George Luthy or Bill Bourland or the president of Caterpillar or Ray Neumann or anyone else is not going to have to answer for what I do. I'm going to have to answer for what I do," he says.

"I made the downtown guys mad to begin with in my campaign, because I wouldn't just let them write me a check to pay for my campaign. I made them mad again when I insisted on disclosing who was contributing. I made them mad again when I wasn't going to form a civic center commission right away.

"By the same token, I'm very much in support of the redevelopment of downtown, and, as matter of fact, Dave Conner is a long-time friend of mine. He taught me Sunday school—that's how far back we go, and I can't think of many people whose opinion I respect more than Dave Conner's, which I don't mind saying publicly or privately.

"But that doesn't mean that I'm going to do what he tells me to do, or what George Luthy tells me to do, or what anybody tells me to do."

Those who have known Carver well and long say that he's always been independent—stubborn, some say. He insisted on going into the Air Force after graduating from college—he thought it was the "right thing" to do—although his partner wanted him back in Peoria to help run the business. Carver insisted on getting married before he entered the service, though his bride-to-be had to give up college with one semester left. He insisted on running for City Council, though his partner told him that the lumber company was enough of a job.

"Nobody ever—me or anybody—is going to tell him what to do, because, if in his own mind he thinks that's the thing to do, he's gonna do it," says his wife, Judy. "Dick considers himself his own thinker . . . There's probably lots of people he talks to, but he makes up his own mind."

No time was this clearer than when the issue of disclosing his financial contributions came up during the mayoral race.

"In the beginning, some people weren't in favor of disclosing the sources of all funds," said Vonachen. "I really didn't feel it was necessary at first myself, and most of the others didn't either. But he (Carver) decided that it was something he was going to do, and it turned out to be a good decision."

"I've pretty much run my own life since I was 14 or 15," Carver explains, and he's not about to let anyone run it for him now. "I worked at the lumber yard. I bought my own clothes, I paid for my first car. I'm not afraid to make decisions. I've had to make them all my life."

That doesn't sound like the popular image of the rich kid who fell heir to a lumber company and always had life by the tail. That's not quite how it happened.

Carver's mother was the daughter of native Norwegian homesteaders who came to South Dakota in a covered wagon. His father, M. S. Carver, could attend the University of Iowa only because he won a football scholarship; his parents were on relief.

M. S. Carver happened into the lumber business when he took a job driving a coal truck for a coal-and-lumber yard in Des Moines, Iowa, where Dick was born.

In 1946, M. S. Carver sold his home and used the proceeds to open a roofing-and-siding business in Peoria in a small frame house on the corner of War Memorial Drive and New York Avenue. He, his wife and two sons moved in with his partner in Bloomington.

Within a year, M. S. Carver bought out his partner, brought his family to Peoria and turned from roofing and siding to lumber. In 1949, he began selling garages—and that's what made Carver Lumber Co. big business.

WANTED TO BE LAWYER

Dick worked with his father after school, but even into his senior year at Peoria High, he had no intention of going into the lumber business. Dick Carver wanted to be a lawyer, and he wanted to be independent.

His father hoped that he could persuade Dick to attend Southern Methodist University in Dallas, because he believed that the Southwest offered the greatest opportunity for a young attorney.

In 1954, he gave Dick a plane ticket so that he could look at the campus. Mrs. Carver went along to shop. On the return trip to Peoria—three days before Christmas—they learned that Dick's father and 10-year-old brother had died in the crash of a private plane.

Dick Carver decided to study business instead of law and to attend the University of Iowa, where he'd be closer to his mother. It was the first in a series of decisions that would change the direction of his life.

The next decision came three years later, when Carver was a junior in college. His mother remarried, he inherited 40 per cent of the lumber company and Mrs. Carver wanted to sell the rest.

Carver decided that he'd buy.

A CONFIRMED BACHELOR?

"So, at the age of 20, I made the decision that I guess I'll spend my life in the lumber business," he says. "I'd seen my dad start this firm on absolutely nothing out of an old house, and I wasn't about to see what my father had spent a great deal of his life trying to develop sold to somebody else and another name go up on the door."

That decision behind him, Carver prepared to begin his senior year at the University of Iowa. But first he went to visit his mother and stepfather in Champaign. His stepsister arranged a date with Judy Corley, a University of Illinois junior who was pinned to another fellow—which was all right with Carver. On their first date, he told her that he was a confirmed bachelor.

Six weeks later, he asked her to marry him.

"I also made kind of an abrupt decision not to go back to Iowa," Carver says. "I owed the money that was owed against the estate of my father that I'd inherited, and I owed my mother for her stock and her land, and so it seemed that it was a whole lot more practical to spend my last year at Bradley working here at the lumber yard. It would be a lot closer to Champaign, too."

The Carvers were married a month after he graduated from Bradley, just before he entered the Air Force. He'd wanted to be a pilot, but he decided that he couldn't be away from the lumber business for five years and so gave up that plan. However, he says that he didn't want to back down further on the Air Force commitment.

"I don't like to think I make decisions in kind of a half-baked manner, but I don't also like to think I sit there and kind of argue with myself all day long," says Carver. "I think once you've evaluated all the various alternatives, you should make up your mind what you're going to do."

He operates the same way in everything he does—even on the Colorado ski trips that he has organized for a number of years for several couples. People who've gone with him describe his tactics as somewhere between those of a Boy Scout leader and a Mother Superior.

"First of all, he comes up with all sorts of alternatives, then he talks to everybody to find out what they would like to do, then he says, 'Okay, this is what we ought to do.' " comments Vonachen.

"This year, he decided that we'd drive to Moline, then fly to Denver, where we'd rent cars and drive to Aspen. He even included instructions on where to stop for gas and a sandwich and had planned where we'd eat part of the time when we were there."

Carver's personal appearance is just as precise and orderly. His wife says that he doesn't have "a thing" about being neat. Yet you can't help but get the impression that his T-shirts must stand at attention when he opens his dresser drawer.

People have said that they'd feel better about Carver if just once they'd see him with a hair out of place, because then they'd know he's human. But they won't, says Judy, because his hair never is out of place.

His 12-year-old Mercedes (his one extravagance always has been sports cars) looks

shinier than most year-old cars. For a long time after he bought it, he refused to park it at the lumber yard without covering it.

"He's extremely self-disciplined," says one friend. "He called me at 8:30 one Saturday morning, and I was in the shower. I called him back not five minutes later, and he'd just finished 100 push-ups."

HE HAS A SCHEDULE

Carver schedules his life in blocks of time—time to give total attention to the city or to the lumber company or to his family. That doesn't mean that he won't tolerate interruptions—he has no secretary at the lumber company and refuses to get an unlisted home phone—but he still manages to stick to a schedule.

"If I didn't every minute I've got would get eaten up," he says.

He puts in a six-day, 75-hour work week between his two jobs, he says.

"He tells me a third of his time or less goes to the city and two-thirds is devoted to the lumber company," says Bud Howe, Carver's partner and long-time family friend. "I tell him I think it's more like the other way around."

It was Howe who ran the lumber company from the time that Carver's father died until Carver returned from the Air Force in late 1961. Now, Howe, who owns 20 per cent of the business, runs the wholesale facility in Pioneer Park, and Carver manages the retail operations.

No matter how much work there is, Carver always reserves Saturday nights for his wife and Sundays for his children.

"Honest to god, I think if President Nixon flew in on a Sunday, I'd stay home," he says. "Saturday night, it almost takes an act of god to get me to do something other than to be with my wife and go out socially."

If there's snow on the ground, the Carvers might be out on the slopes; if it's sunny, they might go to the park. Carver says that there isn't a state park within 100 miles of town that they haven't visited.

RELAXING ISN'T RELAXING

At home, he enjoys playing such strategy games as Monopoly or Risk with his children, shooting baskets with his son, watching Johnny Carson or reading mysteries, war stories or historical works. Sometimes, for relaxation, he plays the piano in his living room; he took private lessons as a boy and says that he enjoys classical piano.

Rarely—maybe never—does he collapse on the couch exhausted and relax; he wouldn't find it relaxing, says his wife.

"We went to Acapulco for our 10th anniversary, and we were only gone five days, but he just about went crazy," says Judy. "He couldn't sit on the beach and enjoy himself. He had to be doing something all the time, so we spent a lot of time just driving around and looking at houses.

"I heard him tell someone later that by the third day he was ready to come home."

Judy says that her husband promised that he'd drop some of his other activities if elected mayor, but he seems to be taking on more. He's still a major in the Air Force Reserve and is active in the program to counsel Air Force Academy enrollees.

"I didn't have the time to be in the Air Force Reserve, but I decided I didn't have the time not to—that I was going to get so old, so fast, I wasn't going to have the time to get to do some of these things," Carver says.

He looks at family projects the same way.

"I don't put myself down as father of the year, but it's like my philosophy on time, that it's not going to return, and my children aren't going to remain the same age the rest of their lives, either, and if I don't enjoy my children now and spend time with them, 10 years from now, it'll be too late."

So he hasn't missed a game in his son's basketball league—even came late to his campaign strategy meetings rather than leave the games early. When his children were in YMCA Indian Guides and Princess program, he could have done what many persons do—put all four in the same tribe. Instead, he had each in a different tribe and went to the meetings with each.

He takes the same active, impatient, do-it-now-or-it-won't-get-done view of the mayor's office. Sure, he says, he came into office with a road map. Moreover, he's already laid out probably 80 per cent of it.

"A good city council should spend its first two years getting things started and its last two years getting things finished," is his philosophy.

"That doesn't mean I thought I was going to be successful with everything. In May, I would have given us one chance in 10 hundred thousand on the medical-school project or on getting urban-renewal funds to do anything."

HE LIKES BEING MAYOR

Carver enjoys the role of mayor—not just the functional part—but the way that the mayor can be sort of an ambassador for a city, can make it look sharp and progressive or small-townish. Not long ago he wrote television comic Bob Newhart to protest a show about a prostitute from Peoria.

And beyond mayor?

"I enjoy politics," he says. "I like what I'm doing. I like being mayor. But I also like being in the lumber business. This is, as I see it, the highest position I can have and still run this business.

"Before I ran for any other office, I'd have to decide to get out of that lumber business actively. Most people would say wait until 1977 and then I'll decide, but I have to admit that I intend to have some idea of where I'm going before 1977 rolls around."

SPEND, SPEND, SPEND—GOVERNMENT PROJECTS WE COULD DO WITHOUT

Mr. PROXMIRE. Mr. President, anyone who has ever gone over the budget of Federal agencies knows that funds are spent for projects which baffle the imagination and that money is spent for studies and programs which most taxpayers, especially about April 15, know we could do without.

Mr. James Dale Davidson, the executive director of the National Taxpayer's Union, has just authored an article in the Potomac magazine of the Washington Post on the subject of "Where Your Tax Money Falls." It appeared on March 31.

Mr. Davidson details spending for such projects as chasing wild boars in Pakistan, $35,000; some $117,250 to support a board of tea tasters; $80,000 to develop a zero gravity toilet for the space program, and $71,000 for a study of the history of comic books.

For those who say and still believe that the Federal sector is starved for funds, let them read Mr. Davidson's article or spend just a few hours mulling over the detail sheets of the studies which half a dozen or more agencies have approved and contracted for.

I commend this article to the attention of the Senate and to the country and I ask unanimous consent that it be printed in the RECORD.

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

[From the Potomac magazine, Mar. 31, 1974]

WHERE YOUR TAX MONEY FALLS

(A Commentary by James Dale Davidson)

Sitting down with their scratch pads at tax time, people comfort themselves with the notion their money is going to pay for activities which are at least hypothetically good: purchasing weapons to fend off the heathen, helping to clean the slums, curing cancer, "establishing a lasting structure of peace" and so on.

The more cynical among us may have more gruesome theories, but our doubts are seldom equal to what really goes on. Some examples of government spending are so implausible that they make the Congressional Record second only to National Lampoon as a source of comic material. One man in Texas who spent several years gleaning fiscal funnies from the Record thought the material was so hilarious he was demanding $25,000 from a book publisher for his findings.

Chances are that he'll never get the money, not because his examples aren't good reading, but because they are so easily duplicated. They're like mosquitoes in a swamp. Anyone who cares to wade in can come away with as many specimens as he can stand.

For instance, how many of your typical taxpaying shoppers who complain about the cost of bacon know they are footing a $35,000 bill for one year of chasing wild boars in Pakistan?

Just as ridiculous is the $70,000 which went to study the smell of perspiration given off by the Australian aborigines.

No doubt some money could have been saved on the aborigine project if only the State Department had prevailed upon Turkey to lend the Australians the odor measuring machine we purchased for them for $28,361.

But we haven't stinted our benevolence toward some of the world's other peoples. $50,000 went to study the lifeviews of the Gaujiro Indians in Colombia.

The Bedouins got $17,000 for a dry cleaning plant to spruce up their djellabas.

Morocco's economy got an unexpected boost from U.S. taxpayers in the form of a $37,314 potato chip machine. All that left the Moroccans in need of was potatoes.

Here at home, Richard Nixon gave the public a graphic account of the idiocy of expending funds to support the federal government's Board of Tea Tasters. Said Mr. Nixon, "At one time in the dim past, there may have been a good reason for such special taste tests, but that reason no longer exists. Nevertheless, a separate tea-tasting board has gone right along, at taxpayers' expense, because nobody up to now took the trouble to take a hard look at why it was in existence." Having taken that hard look soon after beginning his first term Mr. Nixon has since looked in the other direction while the Board of Tea Tasters sipped away at $117,250 a year. And this doesn't count the extra sipping done by the Board of Tea Appeals.

Another interesting and little known domestic program is the so-called "Condum Stamp Program" which achieved the distinction of distributing the world's first and only $23 rubbers.

As part of this same space age effect to control social disease, HEW asked the Office of Management and Budget for fiscal year 1974 funds to launch an anti-v.d. satellite.

Closer to earth, the Queen of England received $68,000 for not planting cotton on her plantation in Mississippi. This put her far beyond the Ford Motor Company which got only $14,000 for not planting wheat and Libby McNeil which garnered $19,000 for growing no cotton.

But Queen Elizabeth came off like a proletarian compared to Yugoslavia's Marshal Tito who received $2 million to purchase a luxury yacht.

Tito travels in even better style than Nixon's drinking buddy Brezhnev, whose stake in solving the oil crisis was increased when American taxpayers picked up the tab on his twelfth limousine.

Not all of our largess was lavished on royalty and foreign potentates: $31,650 went for the new carpet of Carl Albert's, $21,000 for draperies and $44,000 for chandeliers. Another $65,000 went to finish the furnishings.

Another piece of furniture, not in Albert's office, also claimed a lot of tax money. The zero gravity toilet—developed by the space program to function under such conditions—cost $80,000. But that was nothing compared to the tab for "environmental testing" of the same toilet which came to $230,000.

The Interdepartmental Screw Thread Committee, established as a temporary agency to speed the end of World War I, is still laboring to make nuts and bolts fit together. The cost: $250,000 a year.

Meanwhile, the bureaucrats who devise all these important projects need a break once in a while. The Alaskan Chateau in Anchorage is maintained for their exclusive use, (providing they make $22,000 or more, or they're members of the military above the rank of major.) For a tab of $3 a day, these "public servants" can unwind in steam rooms, sauna, sunrooms, massage rooms, a gym and cocktail lounge. The bill for salaries alone of the government employees who act as servants at Alaskan Chateau totals more than $100,000 a year.

The cause of higher learning has been bolstered in ways that would have dazzled Gulliver more than his visit to the Grand Academy of Lagado. For reasons unknown, governmental research has located the frontiers of man's knowledge in three remote countries: Poland, Burma and Yugoslavia: $6,000 went to study Polish bisexual frogs. $85,000 was consumed learning about the "Cultural, Economic and Social Impact of Rural Road Construction in Poland." And $20,000 was devoted to study the blood groups of Polish Zlotnika pigs. In Burma, $5,000 went to collect a rare moss. And another $8,000 went to track down specimens of a certain Burmese ant. The Yugoslavians were good for another study of "Cultural, Economic, and Social Impact of Rural Road Construction." Five thousand dollars went to learn all about Yugoslavian Intertidal Hermit Crabs. And the bounty for finding Yugoslavian lizards was $15,000.

But geography is no barrier to the search for knowledge. We spent money like mad in other areas too: $5,000 went to tabulate the differences between native American and Indian whistling ducks. And $20,000 was the cost for investigating the German cockroach.

A history of comic books cost $71,000, making it far more costly than the dictionary of witchcraft which was compiled for a measly few grand.

Five thousand dollars went for an analysis of violin varnish, while ten times that amount went for analysis of the fur trade between the U.S. and Canada between 1770 and 1820.

In another area of great concern to average taxpayers, $20,324 was expended to learn all there is to know about the mating calls of Central American toads.

The toads' problems were only one-tenth as pressing as those of the city of Los Angeles, which received $203,979 to extend travelers' aid to migrants lost on the freeway.

Culture also benefited from an infusion of government funds. Five thousand dollars was paid to some genius who thought to write the poem "lighght." That's not the title by the way, that's the poem. The whole thing comes to seven letters worth $714.28 each.

HEW spent $19,300 to find out why children fall off tricycles. The answer: "Unstable performance, particularly rollover while turning."

Not to be outdone, the Pentagon spent $375,000 to study the Frisbee. This, of course, is less discouraging than having them spend $375,000 to buy a Frisbee. That could have happened if Frisbees were large enough to be pitched as tents. When Air Force engineers decided to "invent" a device to cover the tips of missile silos they spent $1 million to come up with a prototype which looked for all the world like a tent. Within hours after the newly-invented tent had been fastened down it disappeared. Later, investigators found it blowing head-over-heels across the prairie.

Experts investigating the construction of the C–5A cargo plane found proof of the Defense Department paying $111 for a pin. Overall construction was so inefficient that if your family car were built on the same methods with similarly inflated labor costs, it would have to be priced at $100,000.

Congressional spending watchdog Senator William Proxmire heard testimony about another bit of fiscal mischief with true human interest. I am not referring to Proxmire's discovery that Pentagon bigwigs routinely spend $600,000 outfitting executive jets for themselves, but to the testimony of Herbert J. Frank, president of Aerosonic Corporation. Frank told the Joint Economic Committee that the government once canceled one of his contracts because he was one day late in delivery. The Pentagon then let a new contract for the same items to a giant aerospace contractor who failed to deliver for more than a full year.

When McDonnell-Douglas made square holes in an airplane instrument panel designed to house one of Frank's round altimeters he saw a chance for revenge. "We figured we were really going to take the government this time," he testified. "They needed the plates (to cover the square opening and leave a hole the shape of the instrument) desperately. So we came up with a price of $15 for each plate. We were actually ashamed to ask so much for it was a little $3 stamping plate, but we figured we were really going to take them."

Mr. Frank and his small company were disappointed in their effort to rip off your tax money. The Pentagon turned down his bid of $15 a piece. The accepted bid, from McDonnell-Douglas, was $230 per plate.

Other highlights of tax spending:

$121,000 to find out why people say "ain't."

$33,101 to the Israeli Institute of Applied Science to conduct "a test of the husband-wife relationship."

The Department of Transportation gave extensive and expensive, psychological tests to Polish truck drivers, which seems a bit more useful than the metric and morphological study paid for by Uncle Sam, of the evolution of the chin of Polish skeletal populations between 2000 B.C. and the year 1800.

$15,000 to find out how fishing boat crewmen cause conflicts in Yugoslavian peasant towns.

$3,000 to search for Indian lizards.

$25,000 to study biological rhythms of the catfish in India.

$8,500 to study medieval Spanish satire and invective.

$14,000 to learn about speciation in cave beetles.

$2,458 to train 18 Good Humor peddlers.

$70,000 to classify and determine the population biology of Indo-Australian ants.

$12,600 to study the chromosomes of chipmunks.

$159,000 to teach mothers how to play with their babies.

AN OVERTURE TO FRIENDSHIP

Mr. HUGH SCOTT. Mr. President, last fall, the Philadelphia Orchestra, under the direction of Maestro Eugene Ormandy, became the first musical organization from America to tour the People's Republic of China in 25 years. It was a most successful tour that proved great music, superbly performed, transcends cultures and delights.

I was proud to have had a part in this musical odyssey to China, because it was my suggestion to Premier Chou En-lai—during the visit Senator MANSFIELD and I made to the People's Republic in 1972—that the Philadelphia Orchestra be invited. I hope as well that the Pittsburgh Symphony will also soon visit China because music is a marvelous export.

Now, the Philadelphia Orchestra's China tour has yielded an additional accolade. Philadelphia television station WCAU has been awarded the distinguished George Foster Peabody Broadcasting Award for 1973 for its presentation of a special program on the visit entitled "Overture to Friendship: The Philadelphia Orchestra in China."

Mr. President, I wish to congratulate WCAU for receiving this great honor and to extend my thanks to all the members of the Philadelphia Orchestra who proved indeed that music can be an "overture to friendship."

BUDGET REFORM

Mr. BIDEN. Mr. President, just recently the Senate took action on one of the most important pieces of legislation that it will be called to act on this session, the Budget Reform Act. In its Monday, April 1, 1974 edition, the Wall Street Journal took note of this action in its "Review and Outlook" Column, saying:

Congress is showing great bipartisan resolve to mend its budget busting ways. We hope the cure it is brewing works because the health of the nation is at stake.

In the same column, the Wall Street Journal noted the concern of the senior Senator from Delaware (Mr. ROTH) that this bill adopted by the Senate be considered a beginning of fiscal reform in the Congress and not the ultimate solution.

Mr. President, because this column is of general interest to the Senate, I ask unanimous consent that it be printed in the RECORD.

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

CONGRESS HUNTS FOR A CURE

Congress is showing great bipartisan resolve to mend its budget busting ways. We hope the cure it is brewing works because the health of the nation is very much at stake.

The problem has been perceived for some time, in Congress, the Brookings Institution and other public policy forums: The President may prepare a reasonably well-balanced budget—or at least one that is not outrageously unbalanced; but by the time individual appropriations are worked over by congressional committees, and some new appropriations added, the spending side of the budget has ballooned. The result: huge, inflationary deficits and, more recently, quarrels with the President over impoundments and other attempts to resist congressional spending mandates.

To try to reassert the congressional role as a responsible keeper of the purse strings, the

House and Senate recently voted overwhelmingly for separate bills to set up a new congressional "Office of the Budget" which would try to do for Congress what the Office of Management and Budget does for the President. Specifically, it would try to reconcile all those separate appropriations bills before they become law with a view towards keeping total spending from exceeding some manageable goal.

Under the proposed plans, both Houses of Congress would set spending goals, not only in total but for 14 broad categories (health, education, defense, etc.). If later it appeared that appropriations were exceeding estimated federal revenues, a reconciliation bill would be required to trim appropriations, increase taxes, or both.

Each step in the proposed timetables is intended to force Congress to face up to the financial consequences of its actions. Rather than simply proposing a multi-billion-dollar national health insurance plan and leaving it to others to work out the financial details, proponents would have an obligation to explain how they proposed to pay for it. There are no legal requirements for them to do so, but the likelihood is strong that they would feel compelled to offer some justification when the financial impact of their proposals is specifically on public view.

Moreover, if reform goes according to the script, it will be harder to load the budget with fiscal time bombs requiring only a small initial appropriation but requring even bigger outlays each year. The whooping $304.4 billion budget for fiscal 1975 is so loaded with built-in costs that there is almost no room for the President to make any cuts, even if he is inclined to do so.

Still, it would be unwise to expect too much from whatever bill finally emerges from a conference committee. Some supporters have proclaimed both versions as among the most significant pieces of legislation within memory, but Senator William Roth is probably closer to the mark in describing the Senate version as providing a few bricks in the foundation necessary for complete fiscal responsibility. The Delaware Senator is particularly critical of a "rubbery ceiling" that will merey reflect increased spending, rather than do anything concrete to hold it down. Moreover, lasting reform will probably depend upon the willingness of committee chairmen to relinquish some of their power, and so far there appears to be no danger of anyone being crushed in the rush of volunteers.

These are serious concerns. It is true, after all, that much of the trouble of keeping the budget under control results from pressures from constituents and the federal bureaucracy on committee chairmen and other individual members of Congress. Moreover, there are genuine disagreements over what kind of spending should have priority and those disagreements often end in the kind of standoff where everyone gets a good helping of what he wants. It would be naive to assume that a new format is somehow going to revolutionize the political processes of Capitol Hill.

But a revolution may not be necessary—only restraint. And if nothing else, it is encouraging that Congress recognizes that it has not performed well on its primary duty of preserving fiscal responsibility. That awareness may be the principal ingredient needed to make the reform work.

BOLD REFORMS FOR BETTER BUDGETING

Mr. PERCY. Mr. President, last week's Time magazine contains an article on the budget reform bill we passed Friday, March 18 by the overwhelming vote of 80 to 0. This article is as lucid and helpful as any article that I have seen published on this extremely complex bill.

The article mentions the work of our distinguished chairman, Senator ERVIN, and myself, in framing this legislation. I would like to indicate, however, that many Senators have participated in crucial ways in the passage of this bill. I would like particularly to commend Senator MUSKIE, Senator MCCLELLAN, Senator JACKSON, Senator ALLEN, Senator ROBERT C. BYRD, Senator CHILES, Senator CANNON, Senator COOK, Senator RIBICOFF, Senator NUNN, Senator HUDDLESTON, Senator LEE METCALF. In addition, Senator JAVITS, Senator ROTH, Senator BROCK, and Senator GURNEY, all Republican members of the Government Operations Committee played very significant roles, each bringing to the bill a special contribution as did Attorney General Saxbe while still in the Senate. Additional members of the Rules Committee contributing to the bill included Senators PELL, WILLIAMS, HUGH SCOTT and HATFIELD.

I commend this article to my colleagues and ask unanimous consent that it be printed in the RECORD.

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

BOLD REFORMS FOR BETTER BUDGETING

Senator Sam Ervin, co-author of the bill, proudly calls it "one of the most important pieces of legislation considered during my service in the Senate." Republican Senator Charles Percy, another co-author, claims that it is "one of the historic turning points in the evolution of our institutions." The bill has been hailed by many liberal Senators, notably Maine's Edmund Muskie and California's Alan Cranston, as well as by such conservatives as Virginia's Harry Byrd Jr. and Tennessee's William Brock.

With this kind of broad agreement, the Senate last week passed by the remarkable vote of 80 to 0 a bill that may well turn out to be as revolutionary as Ervin and Percy claim. It would for the first time in modern history make Congress an active partner with the White House in drawing up the federal budget, instead of merely approving or denying presidential proposals or developing isolated and improvised programs on its own. A similar version of the measure swept through the House last December by a vote of 386 to 23. When the differences are ironed out and the bill reaches the White House in the next few weeks, it is likely to be quickly signed into law by President Nixon, one of its longtime supporters.

The rate of inflation, the level of income taxes, the size of the national debt, the price of cheese—all are affected by the size and shape of the budget. With so much power at stake, politicians of such differing plumage would never have agreed to change the system if it was not inexcusably bad—and it is.

At present, the President draws up his own budget, using the 428-man Office of Management and Budget to do his staff work, and dumps the huge volume into the lap of Congress in January. The document presented by Nixon this year is intimidating: it has 1,071 pages, weighs 2½ lbs. and calls for spending $304.4 billion. Congress now has the power to revise the President's budget completely, but it lacks a centralized staff to analyze such a massive tome. More important, Congress is simply not organized to consider the proposal as a whole—or to perform the essential job of setting goals, weighing priorities, and figuring out where the money is going to be raised to meet specific needs.

Instead, the various House and Senate committees extract those parts of the budget that bear on their special responsibilities and then rearrange items, raise or lower the dollar totals, or tuck in new projects. Rather than producing a final and coordinated budget, Congress normally passes 13 separate appropriations bills that fit no overall plan. Until they are added up, no one knows how big the budget will be or how much of a deficit it will cause.

MASTER PLAN

What is more, in the past ten years, only six of these money bills have been passed before the date that they were needed: July 1, the beginning of each fiscal year. Congress has regularly had to whiz through temporary funding measures that kept programs going. Nixon is not the first President to accuse Congress of "fiscal irresponsibility."

Under the Senate's bill, many of these flaws would be remedied. The President would submit his proposed budget on Feb. 15. In both houses, the buget would be referred to newly created budget committees, which would analyze its proposals with the help of economists and other experts in a new congressional Office of the Budget. The two budget committees would meet by May 1 to issue a concurrent resolution setting spending levels for all 14 major categories of programs, including health, defense and space. The committees would also specify the revenues that would be needed and the expected deficit, if any, and its effect upon the national debt. The master plan proposed by the budget committees would have to be passed by both houses by June 1.

As the summer went on, the various appropriations bills would move through Congress much as before, with politicians pushing their favorite projects; then the bills would go to the President for his signature or veto. By mid-August, after adding up the appropriations that had been passed, the two budget committees would report out a second concurrent resolution that reaffirmed or revised the earlier goals. If Congress agreed that too much money had been spent, it would have to pass a "reconciliation bill," which would reduce expenditures that had already been approved, or raise taxes—or perhaps do a bit of both. If the President went so far as to veto the reconciliation bill, Congress could either revise the measure or try to pass it over his veto. The whole complicated process would have to be finished by Sept. 25, just in time for the beginning of the new fiscal year, which would start on Oct. 1, thus giving Congress more time for deliberation.

LIMIT THE PRESIDENT

Each faction in Congress has its own reason for supporting the budget reform, which would go into effect in October 1976. Conservatives see the new system as a means of battling the White House and the big spenders in Congress to achieve a balanced budget. Liberal Democrats believe that the reform would enable them to reshape Republican budgets along more progressive lines. The bill would drastically limit the President's authority to impound funds—refusing to spend money appropriated in bills that had become law. Although the political infighting over budget making is bound to go on, the skirmishing will at least take place within a more systematic framework. That is a prospect that every politician—and taxpayer—can applaud.

MISSOURI—KIT'S CLEANUP

When Christopher ("Kit") Bond, a lawyer from Mexico, Mo., took office last year as his state's first Republican Governor since 1940, leaders of both parties anticipated stormy

sessions between him and the heavily Democratic legislature. Bond, now 35, is not only the youngest U.S. Governor but also among the most inexperienced, having won elective office only once before, as state auditor. The salvos came early and fast at the reform-minded Governor, primarily over an issue that is one of the hottest facing state governments. The issue: reorganization of the morass of committees, agencies, boards and departments that set state policy. Bond is streamlining Missouri's government—but not without a fight. As he puts it: "We are coming out of the Dark Ages."

Missouri's sprawling state bureaucracy consists of 87 departments and commissions that have grown up, layer upon layer, under the long Democratic rule. Instead of ousting faithful bureaucrats held over from previous administrations, many Governors simply created new agencies for their supporters. There is a board of barber examiners, a board of embalmers and funeral directors, a board of cosmetology, as well as both a savings and loan commission and a division of savings and loans supervision and seven often overlapping agencies that deal with clean water. When members of the redundant committees would go to Washington to plead for appropriations or testify on bills, they sometimes presented opposing testimony. "We had no clout in Washington because the Federal Government didn't know what the hell Missouri wanted," says Bond.

Incompetence persisted. As state auditor, Bond found that the books for the county encompassing the capital of Jefferson City had not been audited for 23 years. The department of revenue had failed to collect at least $6 million in unpaid taxes because it had not bothered to pursue tax dodgers. Of the 125 members of the state auditing staff, only ten had college degrees and only one was a certified public accountant. The legislative liaison officer at the department of community affairs was, curiously, a bartender.

By 1969, the abuses were so flagrant that Governor Warren Hearnes appointed a commission to draw up reorganizational proposals. Eventually, the legislature drafted a constitutional amendment, which was supported by Missouri voters in a referendum. In January of 1973, after Hearnes had concluded the two terms permitted by Missouri law, Bond urged the legislature to take the last step and enact a specific reorganization law. Almost a year later, after a series of struggles between Bond and the legislature, both houses passed a bill acceptable to the Governor. Beginning in July, the state's agencies will be consolidated into 13 departments.

Bond is combing the nation to recruit top aides. As budget director, he signed up an expert from the Office of Management and Budget in Washington. For the first time that anyone can remember, the head of the accounting division in the office of administration is a CPA. The new chief of the office of administration, Robert James, a former management consultant, is computerizing employee records and the previous year's expenditures—detailed accounts of which have never been kept. Bond has asked Missouri companies to "lend" executives for up to six months to study state administration and make recommendations; so far 41 executives have volunteered.

Many Missouri politicians are responding cautiously to the Governor. Republicans, hungry from the lean years, criticize his appointments of Democrats to some key agencies. Democrats complain that he has isolated himself from the legislature. The Governor, however, remains unperturbed, banking on his ability to satisfy both parties in the tradition of Missouri Compromise.

CANADIAN ELECTIONS

Mr. BIDEN. Mr. President, at this point in the consideration by the Senate of the Federal Election Campaign Financing Act Amendments of 1974, I would like to call my colleagues attention to Canada's recently enacted election reform law. This legislation adopted in January of this year passed the House of Commons by an overwhelming vote of 174 to 10 having received broad backing from all three of the major parties within Parliament.

Significant features of this sweeping reform measure include the imposition of a strict spending ceiling, tax deductions for contributions of up to $500 public disclosure of contributors, free television time for major candidates, and a series of governmental subsidies ranging from reimbursement of travel costs to free mailings to all voters.

The Toronto Globe and Mail commenting on the measure wrote that:

The Commons has attempted to provide a framework that will limit from both ends the degree to which money can influence the outcome of an election. Those with an overbundance of cash will face controls on how much they can spend to win a seat and those without enough to adequately spread their message to the voters will receive help from public funds.

Mr. President, I ask unanimous consent that an article from Canada Today of March 1974 discussing Canada's new Election Expenses Act be printed in the RECORD.

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

A LID FOR ELECTION EXPENSES

Canada does not elect a President or a Vice President and its voters are not registered by party (they are enumerated by persons who come in pairs to the voter's door). Canada does, however, have national elections, and in recent years they have become very expensive.

On January 14, 1974, the Canadian Parliament passed the Election Expenses Act. It puts a lid on the amount which can be spent in any election (or by any one candidate for subsidies and a limited amount of free TV time for all serious candidates. It requires that all campaign contributors who give more than $100 be publicly named. It encourages small contributors by making donations of $500 and less (but not those above) tax deductible. It is designed to make political parties less dependent on vested interests.

The new law reflects the structure of Canada's Parliamentary government; national elections involve only the seats in the House of Commons. Party leaders run for the House from their own ridings and in a literal (but not realistic) sense, the voters in all the other ridings simply elect their own members. In fact, of course, the voters are very much involved in deciding which party gains a majority in the House, since that party's leader becomes the Prime Minister and forms the Government. By its nature, the new law is aimed at both national and individual campaigns.

A salient feature of the new law is a precise limitation on the amount of money to be spent, calculated in terms of the number of voters. (Voters are enumerated anew each time an election is called.) A party may spend no more than thirty cents for each voter listed in ridings in which it has a candidate running. This money is spent nationally, and it must not be used to favour a particular candidate in a particular riding. The individual candidate may spend one dollar for each of the first 15,000 voters registered in his riding, fifty cents for each of the next 10,000 and twenty-five cents for each of those over the 25,000 mark.

The limitations mean that national parties will spend less in the future than in the past—in terms of present registration a party may spend no more than $3.8 million. In the 1972 election the Liberals spent $5.3 million and the Conservatives $3.95 million.

In terms of particular campaigns, the curtailment will be even more notable in some heavily populated ridings. In 1972 the most expensive single campaign was in North York, a Toronto constituency, where the victor, a Liberal, spent some $60,000, and his opponent, a Conservative, spent some $90,000. In 1972 North York had some 48,000 voters; had the Election Expenses Act been in effect, candidates there would have been limited to expenditures of about $28,500 each.

The least expensive campaigns in 1972 were in Québec, where some successful Social Credit candidates spent only a few thousand dollars.

The candidates and the parties will not have to raise all the money spent—serious candidates (those drawing at least 15 per cent of the vote) will be reimbursed for certain mail costs, travel and the cost of having their financial statements audited. They will be given the cost of sending one first class mailing to each registered voter, plus eight cents for each of the first 5,000 and six cents for all voters beyond that number; they will be able to claim up to $3,000 for travel, depending on the size of their riding, and up to $250 for having their figures certified.

Since only donors giving more than $100 to a particular candidate will be identified by name, a donor determined to remain anonymous could contribute $99 to a candidate in each of the 264 ridings, thus spending $26,136 without being identified. The framers of the Act would be pleased if a large donor spread contributions around in this fashion. The biggest contributions in the past have come from corporations—in Canada such contributions are legal—and the names of the contributors were often unknown to both the public and the corporations' own rank-and-file stockholders. The new requirement for disclosure as well as the $500 top tax deduction limit may affect the size and frequency of such contributions, but no one yet seems certain to what degree. Sen. John Godfrey, who has been the Liberal Party's leading fund raiser, said during the debate on the Act that he always approached corporations with the suggestion that they should contribute equally and substantially to both parties to help maintain a strong party system.

He said that while corporations have been the main source of contributions for both the Liberal and Conservative Parties (organized labour has been the principal backer of the New Democrats), they have not gotten—and have not expected—favours in return. He said the party leaders do not know the size or source of contributions and that party fund raisers such as himself have no part in setting party policies.

"Contributions" and "expenses" depend to a great degree on how those words are defined, and the writers of the bill have made great efforts to be precise. Expenses include: ". . . amounts paid . . . liabilities incurred . . . the commercial value of goods and services donated or provided other than volunteer labour and . . . amounts that represent the differences between amounts paid

and liabilities incurred . . . and the commercial value thereof where they are provided at less than their commercial value . . ." To discourage informal contributions from being made by suppliers who do not press for payment, the bill requires that "all bills, charges or claims incurred by or on behalf of a registered party shall be paid within six months. . . ." Before the new law, which requires publication of donors of over $100, donations from many sources could be reported collectively through campaign committees.

The most significant expenditures in most campaigns are those for televison time, and the Act is notably specific about the use of TV. It provides that all broadcasters must be ready to sell a total of six and a half hours of broadcasting time to political candidates in each riding. This time is to be divided among the candidates in an equitable way, and each candidate must be charged the same advertising rate. The broadcasters previously provided time as a matter of policy but were not required to do so by law.

In addition, all network stations are now required to provide a limited amount of free time to all parties on an equitable basis. The amount of this free time is to be determined by the Canadian Radio-Television Commission after consultation with party representatives. All broadcasts (free or purchased) must be made within a specified period of twenty-seven days. Since Canadian elections are usually held on Monday, the period usually extends from the Sunday twenty-nine days before to the Saturday two days before. The purpose of the time limit is to prevent the campaigns from beginning too soon and from including last-day broadcasts which might, in some instances, misinform the public.

The bill passed the House of Commons by a vote of 174 to 10, with broad backing from Liberals, Conservatives and New Democrats. The Senate, an appointed body, promptly followed suit. The Act received Royal assent on January 14 and will go into effect in July or earlier, if needed.

CONGRESS AND THE ENERGY PROBLEM

Mr. HANSEN. Mr. President, no day passes without the introduction of more bills to cure the energy problem nor countless hearings on the energy crisis.

We are deluged by the media with background programs on the whys and wherefores, the causes, effects, and cures of the Nation's fuel shortages, and who to blame.

We have progressed through the stage of incredibility in getting ourselves into such a mess to realization that the crisis is, indeed, real and now to the scapegoat stage.

We have seen a circus of congressional hearings in which the heads of the major U.S. oil companies were tossed to the TV cameras as sacrifices for the lethargy and ineptitude of the Congress itself and those conducting the inquisition.

Mr. President, there are a few of us who have attempted to warn our colleagues of the folly of the course we were pursuing. This is not another "I told you so," but only a reiteration of what I have said before; we still have the resources and the means in the United States to reestablish the energy self-sufficiency we should never have lost in the first place.

I addressed this body on December 15, 1971, as follows:

Mr. President, some of my colleagues may grow weary of my continued efforts to impress them with the gravity of the Nation's energy situation but I want to be sure that I have done everything possible to present the most reliable information available to them.

One of these sources is the American Association of Petroleum Geologists which has a membership of some 15,000. Officials of this professional organization came to Washington last June to present their views on the energy crisis to Federal officials in the executive branch and in the Congress.

Bill Curry of Casper, Wyoming, who was then AAPG President said at the time that without exception, from White House energy advisers to legislative leaders and staff members, they were greeted with great interest in having the professional explorationists' story heard.

Concerned with what they termed the looming spectre of dropping from an energy "have" to a "have less" nation, the group conferred with key Government officials in the White House and the Department of the Interior as well as Senate and House Members and committee staff people who are conducting or planning energy studies.

We found extreme interest at being better informed on the skills and economic risks involved in the search for new reserves required by the U.S. to head off a dangerous shortage."

Bill Curry told me.

It seemed to be almost beyond the comprehension of the people we conferred with in Washington that the U.S. could soon experience a real energy crisis.

The statement AAPG submitted for the record of the recent symposium on energy policy and national goals reemphasizes their concern that an adequate domestic supply of fuels must provide the energy this Nation has to have for its very survival. Without this domestic source of energy this great Nation could be brought to its knees because of an evergrowing dependence on foreign energy sources.

But we are still pursuing a course diametrically opposed to the quickest and certainly the cheapest solution to U.S. fuel shortages.

To achieve Project Independence by 1980 and get from over the barrel of dependence on Middle Eastern oil or the price and supply blackmail of any foreign source, we need to do only one thing.

The Wall Street Journal said it in a few words:

To achieve the objectives of Project Independence, the government has to do only one thing, get out of the way.

The Wall Street Journal editorial observes that the energy industries do not need economic activism by Government, the subsidies, tariffs, or Federal corporations being brainstormed in Washington.

In natural resources the U.S. is an energy-rich nation. Energy suppliers, who are no more anxious to be dependent on the Arabs than consumers are, are eager to expand here. Oil companies are out-bidding $200-plus million for shale-oil tracts. Electric utilities are trying to build nuclear generating plants whenever they are allowed to. They do not need artificial stimulus, only an end to price interference and some reasonable and stable rules on reclamation, safety and pollution.

So, Mr. President, why not give industry a chance. Given the incentive of a free marketplace, industry is ready, willing, and able to do the job.

But a free marketplace is one without the heavy hand of oil and gas price controls including new proposals in Senator JACKSON'S new energy emergency bill which he introduced last week.

The President asked simply for authority for rationing if necessary, and the authority for certain conservation measures. But, it seems it is impossible to get a simple bill to accomplish its intended purpose out of the Senate Interior Committee.

The Senate rejected the windfall profits tax section in the energy emergency bill. The price rollback which was then substituted by Senator JACKSON was vetoed by the President and his veto was sustained by the Senate.

The new bill, S. 3267, introduced last Thursday is the old bill warmed over with the price rollback eliminated but with an equally obnoxious section added that would eliminate the stripper well amendment that exempts marginal oil production from price control.

We have been using oil and gas at about twice the rate we have been adding new supplies and it will take time to reverse this trend. But the exemption of new oil and stripper well oil has brought on a resurgence by the industry, particularly the independents, in secondary and tertiary projects as well as renewed drilling activity.

Oil and gas well completions in 1973 were substantially higher than for the previous year and the present U.S. drilling rig count is 1,380 compared with 1,014 at this time last year.

Actually stripper well oil is probably the greatest source of readily available energy we have in the Nation. Of some 400 billion barrels of proved oil reserves in the Nation, only about 100 billion barrels have been produced.

Under present technology and economic conditions—price—another 34 or 40 billion barrels of those reserves will be recovered.

An additional 55 billion barrels can possibly be recovered through tertiary methods. And that was the purpose of the stripper well amendment which was adopted in both the Alaska Pipeline Act and the Emergency Petroleum Allocation Act.

But hardly has the exemption begun to be effective than this new version of a price rollback would eliminate it.

Holding prices down as advocated by Senator JACKSON will guarantee that the petroleum industry cannot raise the capital necessary for new development. It will guarantee shortages and higher prices, too, as we become completely dependent on higher priced foreign oil.

Mr. President, I ask unanimous consent that the Wall Street Journal editorial, "Project Independence," be printed in the RECORD.

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

PROJECT INDEPENDENCE

President Nixon wants the nation to have "the capacity for self sufficiency" in energy by 1980. It's not only a good idea, it's well within the nation's capability. It wouldn't mean the United States would stop all imports of energy after 1980. At the "right prices" it would continue to do so, according to Treasury Secretary Shultz. But there would be sufficient reserve capacity here that could be called up if an Arab oil embargo were repeated.

How do we attain that degree of security? As last week's front-page articles by our Mr. Gannon indicate there is considerable brainstorming already underway in Washington. There are proposals to enact multi-billion-dollar subsidy programs to entice oil and coal companies into developing energy alternatives. Some people want to firmly peg the price of oil high enough to attract investment to shales and coal gasification, then erect tariff walls or variable import levies to protect such investment from predatory Arab oil pricing. Others want to construct huge storage facilities to squirrel away a two- or three-year energy supply. And there are proposals for a monumental conservation program, including orders to Detroit to build only autos that average 20 miles per gallon.

In our view, none of these schemes are necessary. The goal of Project Independence would be easily achieved if only the federal government would get out of the way and let the energy industry respond to market forces. Lifting price controls on the petroleum industry would be the first and most important step.

If U.S. prices were freed they would go up, expanding the incentive to look for oil here, and making other forms of energy more competitive. U.S. prices would be unlikely to reach recent world levels, which are not likely to be sustainable as non-Arab supplies increase. Indeed the proposals for special import levies and such are intended to keep the U.S. price up if the Arabs start selling $2 crude. But having pushed the price up, the sheiks are unlikely to want to flood the world with artificially cheap oil. Even if they tried, they could not meet total world demand long enough at prices low enough to threaten the survival of the U.S. shale-oil operations, for example.

Nor does a mammoth U.S. surface reserve make any sense. Why should oil and coal be taken out of the ground, where it is now stored, and sealed off in containers above the ground? All that's necessary is that it be available as shut-in capacity whithin several months of a world-wide energy embargo against the U.S., which is a "worst case" contingency that in itself takes a wild imagination to conceive.

When it is free to respond to market forces, industry typically provides precisely such a capacity, by building facilities to meet not only this year's demand but next year's and so on. When oil was discovered on the North Slope of Alaska, crude prices were a quarter of what they are today. Still, the oil companies all but promised to goldplate a pipeline if the government would permit them to add two million barrels a day to the nation's oil supply. This would have covered the present shortfalls.

Finally, with congressional acquiescense, this oil may be available in 1980. But now Congress is doing its best to shut off the domestic coal equivalent of at least 5.6 million barrels of crude per day, an amount about equal to total current petroleum imports. It is doing this by writing strip-mining legislation that would effectively end the surface mining of the nation's most abundant energy resource. Its aim is not to insure reclamation of strip-mined land, a desirable and feasible objective, but simply to prevent strip mining altogether.

At the same time Congress acts to keep coal from competing with oil, and surface mining from competing with underground mining, it refuses to deregulate the wellhead price of natural gas. This has the same perverse effects on supply and demand as do the petroleum controls. Instead of exploring for domestic sources of natural gas, U.S. companies arrange long-term contracts to import liquefied natural gas at high prices that are not subject to controls.

The energy industries do not need economic activism by government—the subsidies, tariffs or federal corporations being brainstormed in Washington. In natural resources the U.S. is an energy-rich nation. Energy suppliers, who are no more anxious to be dependent on the Arabs than consumers are, are eager to expand here. Oil companies are out-bidding $200-plus million for shale-oil tracts. Electric utilities are trying to build nuclear generating plants whenever they are allowed to. They do not need artificial stimulus, only an end to price interference and some reasonable and stable rules on reclamation, safety and pollution.

To achieve the objectives of Project Independence, the government has to do only one thing: get out of the way.

DON RUMSFELD—U.S. AMBASSADOR TO NATO

Mr. PERCY. Mr. President, Don Rumsfeld has recently completed his first year as U.S. Ambassador to NATO. It is a most difficult and demanding job that he is performing with great distinction. As the Secretary General of NATO, Joseph Luns, says:

> Rumsfeld enjoys a high reputation among his colleagues here. He is highly intelligent and has quickly grasped what NATO is all about. He's hard-working and has good judgment.

I have known Don since he first indicated his interest in running for Congress in the 13th Congressional District in Illinois. I was greatly impressed with him and decided to strongly endorse him in a primary. I have been an enthusiastic supporter of Don Rumsfeld ever since, as many of my colleagues.

Don Rumsfeld distinguished himself in Congress. He had had some prior knowledge of the House by serving on the staffs of Congressman David Dennison and Congressman ROBERT GRIFFIN, and rapidly grew as an articulate and responsible Member of the House. In the House Don Rumsfeld served on the Science and Astronautics Committee, the Government Operations Committee and the Joint Economic Committee.

While in the House he was in the forefront of trying to provide adequate minority staff for committees. He also was among the first Members of Congress to completely make financial disclosure of his personal income and assets.

In 1969 Don left the House to become Assistant to the President and the Director of OEO, and later became Executive Director of the Cost of Living Council, where he also served with distinction. After other key administration posts, Don was appointed to be U.S. Ambassador to NATO.

Because of the high regard in which I know he is held by many of his former colleagues in Congress, I ask unanimous consent that an article published in the Chicago Sun-Times commending his distinguished service at NATO, be printed in the RECORD.

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

RUMSFELD'S BLUNTNESS PROVES NO HANDICAP IN NATO POST

(By Richard Neff)

BRUSSELS.—Chicagoan Donald Rumsfeld, former representative from the 13th Congressional District, recently completed his first year as U.S. ambassador to the North Atlantic Treaty Organization.

It is one of the most delicate jobs in American overseas diplomacy. Yet he took it with no experience—either in diplomacy or in Europe. How is he doing?

The most favorable assessment comes from NATO Sec. Gen. Joseph Luns, the former long-time Dutch foreign minister and one of Europe's most prestigious diplomats, Luns says flatly: "Rumsfeld enjoys a high reputation among his colleagues here. . . . He is highly intelligent and has quickly grasped what NATO is all about. He's hard-working and has good judgment. He's articulate with an engaging personality and a charming wife. We're glad to have him here."

When Rumsfeld took up his duties on Feb. 26 last year, many people weren't so sure. He was young (41). He would be dealing with Europe's elite career ambassadors usually men 10 or 20 years his senior. Unlike most U.S. ambassadors who manage relations with just one nation to which they are assigned, Rumsfeld would be handling 14 nations all at once. (The 14 Atlantic allies plus the United States are all housed under one roof at NATO headquarters here.)

True, he had served four terms in Congress and four years in the jobs in the Nixon administration. But, asked one NATO diplomat, "can he really transfer his all-American personality and the rough-and-tumble tactics of Washington across an ocean to deal with so many different, complex nationalities?"

The consensus here is that Rumsfeld has largely succeeded. The main criticism concerns his tendency to be blunt. Europeans in general, diplomats in particular, tend to make their points so gracefully that you don't know when they're being rude. Thus people here have often winced when Rumsfeld brought the sharp, direct thrusts of congressional-type debating to the NATO council table. His staff aides defend him, saying "it was time for tough talk in NATO"—on defense burden sharing, on dealing with the Russians in the Middle East, on the future of the Alliance.

There are three reasons for the ambassador's general success here, NATO observers feel:

(1) His personal warmth and an increasingly sure grasp of NATO problems have tended to overcome dislike of his bluntness.

(2) He has won the support of his staff—almost 100 top-quality career Foreign Service officers and military men.

(3) He has good, regular communication with President Nixon and Sec. of State Henry A. Kissinger.

Said one NATO official: "We know that Rumsfeld is heard in Washington by the only people who make any difference."

In turn, the Ambassador's influence back in the American capital has boosted the morale of the U.S.-NATO delegation that he directs here. One delegation member said, "When Rumsfeld is in town, the presence of the White House, and of Kissinger, is very close."

This has not always been the case. Morale had languished in the U.S. team here when President Nixon left the NATO ambassadorial post unfilled for nine months in 1971—an unprecedented vacuum for the leading nation in the Alliance.

When former U.S. Treasury Sec. David Kennedy, another Chicagoan, was finally sent here, he never was able to establish influential lines to the peak of power in Washington. "We all felt 'farmed out' over here—as if Washington didn't care what we said or did," said one American.

But things have changed under Rumsfeld. During an informal talk with the ambassador in front of an open fire in his home recently, I asked him about his relationship to Kissinger.

"I know the secretary pretty well," he

answered. "After all, we met almost every morning for four years at White House morning staff meetings. We have a good working relationship, and I'm comfortable in it. . . . Kissinger has devoted much of his career to the study of security problems, and that's what I'm dealing with here at NATO. . . ."

When I arrived at the Rumsfeld home in the Avenue des Verts Chasseurs here, his wife, Joyce, greeted me graciously and then left us alone with Otto (the dog), Sam (the cat) and international politics. During the next hour or so, we had visits from Valerie, 17, who was homecoming queen at the Brussels-American School last fall; Marcy, 13, who is enrolled in a Belgian school and is studying—in French—Latin, math and Flemish, and 6-year-old Nicholas, who showed me his increasing mastery at standing on his head. Nicholas is also in a Belgian school and is doing all his studies in French.

Rumsfeld is clearly glad to be away from Watergate Washington.

There have been rumor-flurries several times here that he was headed back to D.C. For example, a crowd of Brussels journalists quickly assembled on his front lawn one night a few months ago when reports circulated that he would be named Mr. Nixon's vice president.

Nothing came of the rumors of course, and the ambassador told me, "I like it here, and I plan to stay for a period. . . . This is an important time for the U.S. in NATO." Observers here believe he felt that the present period is a bad growing season for aspiring Republicans back in the United States.

Rumsfeld and his wife shun much of the social side of Brussels diplomacy. Unlike most Europeans he likes short meals, and he also prefers direct office-type contact with other delegations. He often works at home in the evening, bringing papers with him from NATO. The U.S. delegation smilingly endures "the yellow peril"—a stream of questions, reminders and directives that emerges on special yellow paper from the envoy's office.

NATO is an extraordinary institution—little understood publicly but representing "the cornerstone of U.S. foreign policy," as Mr. Nixon and Kissinger have often said. Because NATO's first task is collective defense, the U.S. ambassador's job involves more military and security issues than any other overseas diplomatic post.

However, NATO is also a Peacemaker. It is the diplomatic instrument with which the 15 allied nations co-ordinate their policies of detente with the Soviet bloc.

CURRENT U.S. POPULATION

Mr. PACKWOOD. Mr. President, I would like to report that, according to U.S. Census Bureau approximations, the total population of the United States as of April 1, 1974, is 211,906,243. In spite of widely publicized reductions in our fertility levels, this represents an increase of 1,397,476 since April 1 of last year. It also represents an increase of 97,078 since March 1, 1974—that is, in just the last month.

Over the year, therefore, we have added enough people to fill a new Cleveland, Ohio, and San Diego, Calif. And in just one short month, we have added enough additional people for another Ann Arbor, Mich.

THE OIL CRISIS

Mr. THURMOND. Mr. President, presently we are in a period of negotiations with the Arab nations in reference to the oil situation and how it will be applied in future years.

A succinct editorial warning our Government leaders in reference to these negotiations appeared in the March 25, 1974, issue of the Aiken Standard newspaper in Aiken, S.C. The editor, Samuel A. Cothran, pointed out that this Nation must not yield to blackmail and should push forward in developing our own resources so that in future generations we might be self-sufficient in regards this vital resource.

Mr. President, I ask unanimous consent that this editorial be printed in the RECORD at the conclusion of my remarks.

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

PLAYING 'CAT-AND-MOUSE'?

One of the most remarkable statistics extant today is a poll which indicates that the anger over the energy crisis of one-fourth of the Americans is directed toward the U.S. government while only 3 per cent of the citizens blame the Arabs who precipitated the problem by imposing an oil embargo some five months ago.

Our eagerness to blame Washington for our problems tells us a lot about our current national state of mind, although we would not dispute with any conviction the argument that several generations of Washington policy helped to incubate our present predicament.

Without confusing the issue with too many statistics, it is accurate to say that Saudi Arabia with its 164 billion barrels of proven reserves is the only Arab nation that can do much to return us to the highway life style that we had come to enjoy until last October. Until the United States of America develops self-sufficiency we will need a very large amount of Arab oil to meet our daily needs.

The incentives for Saudi Arabia to supply the United States with that much additional oil are not all that persuasive. King Faisal has more money than he needs and the oil will gain in value if it remains in the ground. Neither he nor the other Arab nations and Iran appear to be troubled by the international economic dislocations that the oil embargo is creating. Nor does the economic disaster created in the underdeveloped world by high oil prices jar the moral sensibility in Saudi Arabia.

On the other side of the coin, Arab nations need U.S. tools and technology, King Faisal has been a traditional friend of the United States and an inplacable enemy of communism. We also have the friendship of President Sadat of Egypt and the yeoman efforts of Secretary of State Henry Kissinger have gone a long way toward bringing warring factions in the Mideast toward accommodation.

The latter is raising the most hope that the embargo will be lifted. However, it is likely that if Mr. Kissinger's efforts to move the Arabs succeed, the producers may respond in degrees—a partial new supply of oil in return for a specific concession.

It is a cat and mouse game that would be entirely unacceptable. Needs larger than oil should establish our policies.

Whether the news from Cairo is encouraging or discouraging, Americans have no alternatives to settling down to meet the energy crisis on their own terms by reaching the state in which we need depend upon nobody else for our fuel.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. HATHAWAY). Is there further morning business? If not, morning business is concluded.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1974

The PRESIDING OFFICER. Under the previous order, the Senate will resume the consideration of the unfinished business, S. 3044, which the clerk will state.

The assistant legislative clerk read as follows:

S. 3044, to amend the Federal Electric Campaign Act of 1971 to provide for public financing of primary and general election campaigns for Federal elective office, and to amend certain other provisions of law relating to the financing and conduct of such campaigns.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. The pending question is on agreeing to the amendment of the Senator from Oklahoma (Mr. BARTLETT) No. 1120, which the clerk will state.

The assistant legislative clerk read as follows:

On page 71, strike out lines 1 through 12, and insert in lieu thereof the following:

CONTRIBUTIONS BY GOVERNMENT CONTRACTORS

SEC. 303. Section 611 of title 18, United States Code, is amended by—

(1) by striking out "Whoever" and inserting in lieu thereof "(a) Whoever";

(2) striking out "(a) entering" and inserting in lieu thereof "(1) entering";

(3) striking out "(1)" and "(2)" and inserting in lieu thereof "(A)" and "(B)", respectively;

(4) striking out "(b) knowingly" and inserting in lieu thereof "(2) knowingly"; and

(5) adding at the end thereof the following:

"(b) No person who has made a contribution may accept any contract referred to in subsection (a) (other than a contract the award of which will be made on the basis of competitive bids) at any time within twenty-four months after making that contribution. No person who enters into any contract described in subsection (a) (other than a contract the award of which was made on the basis of competitive bids) may make a contribution at any time during the twenty-four-month period beginning on the date on which performance under that contract is completed, or, if earlier, on which that person ceases to be liable under that contract. Violation of the provisions of this subsection is punishable by a fine of not to exceed $5,000, imprisonment for not more than five years, or both.

"(c) It is not a violation of the provisions of this section for a corporation or a labor organization to establish, administer, or solicit contributions to a separate segregated fund to be utilized for political purposes by that corporation or labor organization if the establishment and administration of, and solicitation of contributions to, such fund do not constitute a violation of section 610.".

Mr. BARTLETT. Mr. President, I ask unanimous consent that David Russell, a member of my staff, may be present during the consideration of this bill and the votes thereon.

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

Mr. BARTLETT. Mr. President, title 18, section 611 of the United States Code prohibits anyone who enters into a contract with the Federal Government from making a financial contribution to a Federal political campaign during the term of the contract.

Section 611 was passed in 1972 with the idea of avoiding the abuse inherent in the awarding of Federal contracts.

However, although 611 serves a useful purpose, it leaves gaping holes. Under 611, while a person may not make a contribution during the term of a Federal contract, there is no prohibition on contribution either before or after the contract. The potential for abuse is particularly critical in Federal contracts awarded on a noncompetitive basis.

My amendment has the affect of prohibiting any person who receives contracts from the Federal Government on a noncompetitive basis from making contributions to a Federal campaign for a period of 4 years plus the length of time of the contract.

The amendment will work this way: If a person makes a contribution to a Federal campaign he will for 2 years thereafter be ineligible to receive any Federal contract let on a noncompetitive basis. Likewise, if a person receives a noncompetitive Federal contract he will be prohibited for 2 years thereafter from making political contributions.

The need for this amendment is apparent. The present system of letting noncompetitive contracts is rife with potential for abuse. Architects and engineers are the primary recipients of Federal Government contracts on a noncompetitive basis. There is sound basis for architects and engineer contracts being on a noncompetitive basis and I am convinced this policy should continue. The set fee is one which has been determined to be a fair return to architects and engineers. If these professionals were forced to bid for contracts it could only result in a lessening of the quality of the work performed.

Certainly, a lawyer could not be expected to bid for a client—and a client would not want a lawyer who would do so.

It is not out of an abiding dedication to good government that a high percentage of architects and engineers contribute to many political campaigns, but it is a result of pressure from the political system—at least in many cases to the point of insurance not to be blackballed for not contributing. The system creates unnecessarily a gray area for the architect and engineer and the appearance to the public of evil.

But if we do continue the present system, we must reckon with the potential for abuse or the appearance of abuse in the awarding of noncompetitive contracts.

Certainly, my amendment will not take architects and engineers out of politics. They have a constitutional right to support candidates of their choice. But my amendment will eliminate one means of support, the one which possesses the potential for abuse—namely, the giving of political donations.

Architects and engineers who want or do business with the Federal Government can continue to give of their time and their advice but not of their money.

I have discussed my amendment with architects and engineers and they fully support the goal represented by this amendment. They, too, would prefer that every contract be awarded on merit rather than on the political consideration of who gives or gave how much to a candidate.

Mr. President, if our political system and politicians are to regain some measure of respect with the electorate, we as a Congress must be willing to pass this type of legislation.

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

Mr. COOK. I yield myself, such time as I may require.

Mr. President, we discussed this aspect of campaign giving in the Rules Committee. What really bothers me is that, in typical fashion, we are saying to the individual who gives that he can be fined. Yet, apparently nothing occurs to the individual to whom he gives. At least, we have seen this happen.

I am on this side of the aisle, and I would only say to the Senator from Oklahoma, as a Republican, that we say people who gave large sums. They were fined as individuals; they were fined as corporations. They were sued by public interest groups to pay the interest on their money. Yet, we still sit here and say, "Where is the end result?" The end result is, who has to pay for the solicitation of having sought a contribution from an individual who the Senator wishes to exclude?

The only thing that bothers me is this: As I read the law now, section 611—perhaps the Senator from Alabama may wish to enter into this—we have a provision on our income tax return, and we have had a discussion about whether we are going to make it mandatory, that $1 or $2 may be allocated to a political fund. I contend that if it is made mandatory that any amount of money from an individual taxpayer has to go into this fund, then the architect or the engineer is already violating the law by filing his income tax return. If it is optional and he happens to make a mistake and checks it, so that he pays $1 or $2 to a political fund, then he is also in violation of the law, because he has made a political contribution.

I say to the Senator from Oklahoma that I get a distinct feeling that this is a much more serious problem on State and local levels than it is on a national level. I get the distinct feeling that, somehow or other, we keep putting the onus on the individual who might make a contribution, and we have very little enforcement on the part of an individual candidate who is the recipient of a contribution.

We read every day that there are literally hundreds of people who fail to file their reports. We read that on State levels, there are numerous candidates who have failed to file a report. Never yet have we seen, to my knowledge, any prosecution of the candidates—the successful candidates or the losing candidates—for their failure to file under the law. Yet, we have just gone through an unfortunate episode. We have seen situations in which somebody put the bite on people, to find a way to give corporate funds, and now, all of a sudden, they are the people who are indicted and they are the people who have paid fines, and the corporations have paid fines. We have to wait and see how long it takes for those who attempted to solicit funds to be dealt with under the law.

Every time we say that this is going to make politics cleaner, we are putting the onus on somebody else, rather than on ourselves. We are saying that somebody else has to be responsible.

I might say that that is why I voted against the amendment of the other Senator from Oklahoma yesterday, which provided that radio and television stations have to make monthly reports. That is our responsibility. We will have a law to live under, if we pass this bill, which will provide what we do with our time and how we handle it. But as we try to handle our own position in the political arena, we keep wanting to force on other people the responsibility to report, to see to it that we are good guys. The responsibility is up to us to do that.

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

Mr. COOK. I yield.

Mr. PASTORE. I have not read the amendment, but I have read the explanation given by the distinguished sponsor of the amendment.

After all, contracts on the Federal level are of such magnitude that they are never given to a person. They are given to a corporation or a combine. Does not this necessarily mean that if a contract is given, let us say, to X corporation, every person who is employed in that corporation is forbidden to make a contribution? If any person in that corporation makes a contribution—be it the secretary, be it the manager, be it the worker, be it the draftsman—does that automatically mean that that corporation cannot engage in a noncontractual situation with the Federal Government?

Mr. COOK. I think the Senator presents a question that the Senator from Oklahoma should answer. As Senators know, some of them are partnerships and they have literally scores and scores of members in the partnerships. I think it is a proper question to address to the Senator from Oklahoma because I think he is shutting the door.

Mr. PASTORE. Let me ask this question. I think I know the good motive of the sponsor of this amendment. We have had a scandal in our neighboring State of Maryland and that is what he is trying to avoid on the Federal level, and I am all for eliminating that situation if we can. But sometimes in drawing amendments we are counterproductive because they are not explicit enough to accomplish what we want to achieve without creating more of a problem than we are solving.

I am asking the Senator if his amendment means that anyone connected with the corporation that does architectural work or engineering work, that that corporation itself would be forbidden from engaging in a noncompetitive contract.

Mr. BARTLETT. I would advise the distinguished Senator from Rhode Island, first, that this proposal amends the present law. It is illegal, naturally, for corporations to make such contributions. Normally architectural firms and engineering firms are partnerships. It would be my understanding this would pertain to the principles in the firms:

The partners, the architects, and the engineers.

Mr. PASTORE. What about corporations?

Mr. COOK. They are prohibited by law anyway.

Mr. PASTORE. That is the point. Suppose the president of that corporation makes a contribution. My question is: If the president of a corporation checks off a dollar contribution for the Presidential campaign, does that mean that that corporation cannot engage in noncompetitive contracts? This is a simple question. What is the answer? Is it yes or no?

Mr. BARTLETT. The answer is no. It is my opinion it would not. It does not apply to the architects——

Mr. PASTORE. That is not what the amendment states. The amendment states that any person who makes a contribution, that person is forbidden from engaging in noncompetitive contract situations with the Federal Government.

Whom do we mean? Do we mean the president, the vice president, the secretary? Whom do we mean by "person?"

Mr. COOK. May I say to the Senator from Rhode Island that first of all we have to make a distinction and when we make a distinction we also present a problem. The distinction is that the individual is an officer of the corporation, but the corporation is an entity. Therefore, he is not a partner, an association, or acting in his individual capacity.

Mr. PASTORE. Therefore, in the case where there is a corporation and the president makes a contribution, that corporation can engage in noncompetitive contracts, but in a partnership they cannot do it. There is the hiatus and the vacuum in this amendment that should be explained, and we have not had the explanation yet.

Mr. COOK. I say to the Senator from Rhode Island, with all due deference to the Senator from Oklahoma, and I do not support his amendment, that under sections 610 and 611 of the code that problem exists, and that problem is really in the law, where an individual who is an officer of a corporation, in his individual capacity may make a contribution regardless of whether he does or does not do business with the Federal Government. But under the present situation if an individual is an officer of a corporation, he could not. This would extend it for 2 years beyond the life of the contract. Is that correct? Am I correct in my assumption?

Mr. BARTLETT. Yes, the Senator is correct. On the first point the corporation cannot make a gift. On the second point, a corporation's employees today, who cannot make a gift legally to campaigns, the employees can and do contribute. That is the point I was making.

Mr. President, I ask for the yeas and nays.

Mr. PASTORE. Yeas and nays.

The PRESIDING OFFICER. The yeas and nays already have been ordered.

Mr. BARTLETT. Mr. President, I think that this amendment gives Congress a chance to set a good example for the States. In 1973 there were only 72 contracts entered into between architects and engineers and the Federal Government, totaling $8.5 million in fees. So there are not a lot of contractual relationships, but I do think that it is very clear from conversations I had recently with a number of architects and engineers that there is a gray area here that the professional people do not appreciate or like.

Both point out that when the line is drawn between the pressure they feel to contribute so they will not be blackballed, and not contributing, and then contributing a large amount and have it interpreted as influencing contracts, it is a gray area that they should not be forced into. It places the responsibility in the wrong area.

I think the amendment removes architects and engineers from this kind of invasion of their professional ability because they certainly are interested in doing a good job and they are interested and they should be in doing a good job for the Federal Government. I believe this amendment removes a very muddy area, a gray area that has caused lots of trouble for engineers and architects.

I think it is obvious it would set a great example for the States.

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

Mr. COOK. Mr. President, I wish to say that one of the parts here I cannot comprehend is how anybody in his right mind could be forced or compelled and I point out to Senators this language:

> No person who has made a contribution may accept any contract referred to in subsection (a) (other than a contract the award of which will be made on the basis of competitive bids) at any time within 24 months after making that contribution.

That means if an individual in a partnership has made a contribution to the Senator's campaign or my campaign, that partnerhhip is prohibited for 24 months, or 2 years from even bidding on an architectural or engineering contract with the Federal Government.

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

Mr. COOK. I would be glad to yield in just a moment.

Second, I suspect that what one would have to do is get an affidavit. Suppose a person is in the business of bidding on Government contracts. He would have to get an affidavit from every new member brought into the partnership to the effect that he had not made a contribution to a political campaign or to a candidate within the past 24 months; otherwise he would be faced with a problem ex post facto in connection with his ability to bid on a contract for 24 months.

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

Mr. COOK. I yield.

Mr. PASTORE. And it does not make any difference whether that contribution is $1 or $1,000?

Mr. COOK. That is right. As a matter of fact, he could check it off on the income tax return.

Mr. PASTORE. As a matter of fact, when he checks it off on the income tax return, he is estopped.

Mr. COOK. That is correct.

Mr. CANNON. Mr. President, in our Committee on Rules and Administration, we have a number of contracts that are presented to us by various members of the committee or otherwise for approval, contracts for personal services to carry out investigations or studies on particular subjects. Under this amendment, were it to be adopted, if a person had checked off on his income tax return $1 for political purposes, he would be ineligible to enter into such a contract.

Mr. COOK. Not only if he had checked it off, but for 24 months of time the contract could not be presented to the committee.

Mr. CANNON. And he would be ineligible for 2 years.

Mr. COOK. That is correct.

Mr. BEALL. Mr. President, if the Senator will yield, does that mean it would apply to someone who had contributed to a losing candidate?

Mr. COOK. Either one, Senator, either a successful or failed candidate.

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

Mr. COOK. I yield.

Mr. CURTIS. My question does not go to the merits or demerits of the amendment, but I would like to ask if it is the distinguished Senator's contention that a checkoff on the tax return is a contribution on the part of the person who makes the checkoff.

Mr. COOK. Yes.

Mr. CURTIS. Is it his money?

Mr. COOK. Well, we could get into a debate about that, but it is his tax liability.

Mr. CURTIS. No; he would have the same tax liability whether he checked it off or not.

Mr. COOK. That is right, but he has an option as to what he wants to do with that $1 or those $2.

Mr. CURTIS. But he does not put up any money.

Mr. COOK. I am not disagreeing with the Senator. All I am saying is that until we decide—which, by the way, we will discuss shortly—whether this contribution is to be mandatory or at the option of the taxpayer, I would suggest to the Senator that if the taxpayer takes the option that that part of his tax liability be diverted for the purpose of a political campaign, he may well come under this provision or section 611 of the code as it exists.

The PRESIDING OFFICER. All time of the Senator has expired. The proponent of the amendment has 7 minutes remaining.

Mr. BARTLETT. Mr. President, I appreciate the point that was expressed by the distinguished Senator from Nebraska. I think it is a very good point. I would like to mention to the Senator from Nevada that when he expressed concern about the checkoff, this amendment would not have the effect of an ex post facto law. It would not apply to checkoffs that may have been made in the past, but would only be prospective in nature. It would not apply to firms that had contracts in existence, but would apply only to the future.

I would mention to the distinguished Senator from Kentucky, who expressed

concern, that there would be a problem with a new architect entering a firm, as to whether he had or had not made a contribution. I think the whole purpose of this proposal is to remove engineering or architectural firms from the arena of political contributions, and I think that is what they want. They do not want to be involved and they do not want to be in that gray area which is sort of between the contribution of an interested citizen and that of trying to influence people in Government.

Mr. GOLDWATER. Mr. President, will the Senator yield for a question?

Mr. BARTLETT. I yield.

Mr. GOLDWATER. In view of the way this debate has turned, I would like to ask the Senator from Oklahoma what the situation would be if we passed a law providing for federally financed campaigns. Would we not all be contributors?

Mr. CURTIS. Not if we had deficits. We would be turning it over to our grandchildren.

Mr. GOLDWATER. I am not talking about deficits. If we passed a law for publicly financed campaigns, would we not, in effect, all be making donations, whether we were doctors, lawyers, or whatnot? What is the Senator's opinion on that?

Mr. BARTLETT. Well, the Senator raises a point. I, of course, am not in favor of the public financing provisions of the proposed law——

Mr. GOLDWATER. Neither am I.

Mr. BARTLETT. And I hope it does not become a reality, but I think public financing does raise a lot of questions. I believe this amendment does the job of removing from the political arena, and the pressure of making a contribution if for no other reason than just to be considerate or not to be blackballed, architects and engineers, and puts them in a strictly professional area, which they would like to be in.

When a number of architects and engineers from my State were here recently, talking about the problems that exist around the country, they brought out the fact that some people feel that the answer would be bidding, but I think bidding would be just as unsuitable for an architect or engineer as it would be for a lawyer in trying to obtain a client, and I think it is very important that they be removed from that area.

Mr. PASTORE. Mr. President, will the Senator yield for a suggestion?

Mr. BARTLETT. I yield.

Mr. PASTORE. Why doesn't the Senator modify his amendment to read in the positive rather than in the negative, by saying that any person who has a noncompetitive contract cannot make a contribution to any political party within 2 or 3 months from the time of the election? Then the Senator would be estopping the person.

Mr. BARTLETT. Mr. President, I have an amendment that I would like to have read.

The PRESIDING OFFICER. The Senator's amendment would not be in order until all time has been yielded back.

Mr. BARTLETT. Mr. President, I ask unanimous consent to modify my own amendment.

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

The clerk will read the modification.

The assistant legislative clerk read the modification as follows:

The provisions of this subsection shall not apply to any contribution check-off provided on a Federal income tax return.

Mr. BARTLETT. Mr. President, has all time been yielded back?

The PRESIDING OFFICER. Does the Senator yield back the remainder of his time.

Mr. BARTLETT. Yes.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Oklahoma (Mr. BARTLETT), as modified. 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 of West Virginia: I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Colorado (Mr. HASKELL), and the Senator from Iowa (Mr. HUGHES) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. HUDDLESTON) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. MATHIAS), and the Senator from Pennsylvania (Mr. SCOTT) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

I further announce that the Senator from Vermont (Mr. AIKEN) is absent due to illness in the family.

I further announce that, if present and voting, the Senator from Pennsylvania (Mr. SCOTT) would vote "nay."

The result was announced—yeas 28, nays 62, as follows:

[No. 104 Leg.]

YEAS—28

Allen	Church	Javits
Bartlett	Domenici	Mansfield
Beall	Dominick	McClellan
Bellmon	Ervin	Nunn
Bentsen	Griffin	Roth
Biden	Gurney	Schweiker
Buckley	Hansen	Taft
Byrd, Harry F., Jr.	Hart	Thurmond
Byrd, Robert C.	Helms	Weicker
	Hollings	

NAYS—62

Abourezk	Goldwater	Nelson
Baker	Hatfield	Packwood
Bayh	Hathaway	Pastore
Bennett	Hruska	Pearson
Bible	Humphrey	Pell
Brock	Inouye	Percy
Brooke	Jackson	Proxmire
Burdick	Johnston	Randolph
Cannon	Kennedy	Ribicoff
Case	Long	Sparkman
Chiles	Magnuson	Stafford
Clark	McClure	Stennis
Cook	McGee	Stevens
Cotton	McGovern	Stevenson
Cranston	McIntyre	Symington
Curtis	Metcalf	Talmadge
Dole	Metzenbaum	Tower
Eagleton	Mondale	Tunney
Eastland	Montoya	Williams
Fannin	Moss	Young
Fong	Muskie	

NOT VOTING—10

Aiken	Haskell	Scott, Hugh
Fulbright	Huddleston	Scott, William L.
Gravel	Hughes	
Hartke	Mathias	

So Mr. BARTLETT's amendment (No. 1120) was rejected.

The PRESIDING OFFICER. The bill is open to further amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

PUBLIC FINANCING: A CALAMITY TO AVOID

Mr. BUCKLEY. Mr. President, we are soon going to have to closely examine and debate the most comprehensive campaign reform proposals ever seriously considered by this body.

I am deeply concerned that low uniform spending limits may work to the advantage of those candidates who can muster nonmonetary contributions or who enter a race with other advantages over their opponents that are unrelated to competence.

These advantages include better initial name recognition, better access to the media and access to other methods of reaching the average voter that are not subject to statutory limits. In general, one class of candidates enjoys these advantages over all others and must therefore benefit from such limits.

I am speaking of course of that class to which all of us here belong. We are incumbents. We have access to the frank. We have a greater claim to media attention than do nonincumbents. In short, we may soon be voting on legislation that could increase our advantage over anyone who wants to challenge us.

This is something that we should avoid. If we are going to limit spending on the part of congressional and Senate candidates we should at least give those who must run without the advantages associated with incumbency some chance to offset our builtin advantages.

I urge in this regard that an editorial, published in the Cincinnati Inquirer and just reprinted in Challenge, the publication of the National Federation of Republican Women, be read extremely closely. It represents a reasoned analysis of the problem and one that we should address when we consider S. 3044. I ask unanimous consent that it be printed in full at this point in the RECORD.

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

PUBLIC FINANCING: A CALAMITY TO AVOID

The 93rd Congress is closer than any of its predecessors to taking a step from which there is apt to be no easy retreat—the public [federal] financing of political campaigns.

The allure to public financing is, perhaps, understandable. For like all other easy answers, public financing would seem to elim-

inate most, if not all, of what is wrong with American politics.

To consider the long-range consequences of using public funds to finance political campaigns, however, is to see that the perils far outweigh the advantages, that the inequities far outweigh the assets, that the potential abuses far outweigh the probable benefits.

It is ironic to find among the supporters of the public funding a number of organizations and individuals who, in general, have advocated "opening up" the political process and making both government and the party structure more responsible to popular tastes and aspirations.

Public funding, it seems to us, would have precisely the opposite effect. The citizen, after all, has only two unfailing devices to influence the political process—his vote and his financial contribution. To deny him the right to contribute, to insulate the parties from the pressures of opinion, would not, in any accepted sense of the word, make American political parties more responsible. Indeed, it would invite them to become even less dependent on the people whose convictions and aspirations they were created to reflect.

There are, in addition, some grave questions about the constitutionality of outlawing individual financial contributions to the political parties. For is not the financial contribution, at bottom, simply an extension of the individual's right to freedom of speech—a right asserted in the First Amendment?

Quite apart from the philosophical and constitutional aspects, there are some significant practical questions that none of the sponsors of public funding has answered satisfactorily to date.

Certainly the most apparent is how to offset the inherent advantage of the incumbent in any political contest. Sen. Robert Taft, Jr. has suggested that an incumbent congressman seeking re-election has, by the very fact of his incumbency, a $150,000 advantage over any possible challenger. He is saying, in short, that the incumbent's opponent would need to spend $150,000 simply to meet the incumbent on an equal footing. Some observers regard Senator Taft's estimate as conservative. The fact remains that an incumbent congressman, senator or President has an immense built-in advantage—the ability to shape events, the ability to command newspaper headlines and television and radio exposure, the ability to blanket his constituency with franked (free) mail. Any method of using tax revenue to finance political campaigns that fails to offset the incumbents' natural advantage, is, by its very nature, legislation to help insure the re-election of incumbents.

Even more troublesome problems are posed by the allocation of funds between the two major parties. What should the yardstick be? If the answer is treating the two parties exactly alike, aren't voter preferences being ignored? If the answer is using the last election to establish a distribution formula, isn't there a danger of overlooking the possibility of significant shifts in people's preference?

The fact of the matter is that the political pendulum in the United States has a habit of swinging far and frequently. The same Republican Party that mustered only 38.5% of the popular vote in 1964 went on to win the presidency narrowly with 43.4% of the vote in 1968 and to swamp its opposition with 61% of the vote in 1972. And the same Democratic Party that could muster only 40.8% of the vote in 1928 went on to win the White House with a 57.4% landslide four years later.

Clearly, any distribution formula that had been based on, say, the 1928 election would have been patently unfair—so unfair, in fact, as to run the risk of distorting or frustrating what popular preferences actually turned out to be.

Quite another problem is posed by the third party that makes an occasional intrusion into U.S. political life. What yardstick is there for determining its share of public funding? In 1968, Gov. George C. Wallace's American Independent Party, which hadn't even existed in the previous presidential election, garnered 13.63% of the popular vote. Four years later, what purported to be the same party saw its support dwindle to less than 1%. What distribution formula in 1968 could possibly have assured the American Independent Party the financial support to which it was entitled? And what distribution formula could have avoided overfinancing in 1972 a political movement that had manifestly run out of steam?

Supporters of public financing appear to assume that the two major parties that exist today will always exist. In fact, of course, there is the distinct possibility that one or the other may cease to exist—as the Whig Party ceased to exist in the 1850s. Public financing emerges, accordingly, as a means of freezing the present party structure for all times.

The challenge to the nation, and in particular to Congress, is to find a series of remedies that will not prove more hurtful than the perpetuation of the existing system.

Certainly one crucial goal should be encouraging truly mass participation in the process by which political campaigns are financed.

Congress took one timid step in that direction through the checkoff plan introduced into last year's federal income tax returns—a plan that allowed each taxpayer to earmark $1 of his tax payment for the party of his choice. In the tax returns for the year just ended, Congress took a regrettable step backward: The checkoff system is still possible, but the taxpayer is no longer able to designate the party to receive his $1; it goes instead into a common fund to be divided between the two parties.

There is a similar need for the full disclosure of political giving—a disclosure system that will permit the voters to judge a candidate as much by the kind of financial contributions he receives as by the other qualifications on which he bases his campaign.

The ability to attract financial contributions is closely akin to the ability to attract votes. To move, as many suggest we do, toward saying that a candidate or a party need not concern itself with attracting dollars, accordingly, is akin to saying that it need not concern itself with attracting votes. It is difficult to see how the cause of responsible, government is hereby served.

Americans do not want to see public office become the exclusive preserve of those personally wealthful enough to finance their own campaigns. Neither do they want to see candidates so beholden to narrow, special interests as to be unrepresentative of those they are sworn to serve.

But neither, we think, do they want to see the political contributor shrouded in suspicion. And neither do they want a political process that is immune from the public attitudes and pressures that have been the historic shapers of public policy in the United States.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries, and he announced that on March 29, 1974, the President had approved and signed the following acts:

S. 1615, An Act for the relief of August F. Walz;

S. 1673, An Act for the relief of Mrs. Zosima Telebanco Van Zanten;

S. 1852, An Act for the relief of Georgina Henrietta Harris;

S. 1922, An Act for the relief of Robert J. Martin; and

S. 3228, An Act to provide funeral transportation and living expense benefits to the families of deceased prisoners of war, and for other purposes.

ECONOMIC STABILIZATION PROGRAM REPORT—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. HATHAWAY) laid before the Senate a message from the President of the United States, which, with the accompanying report, was referred to the Committee on Banking, Housing and Urban Affairs. The message is as follows:

To the Congress of the United States:

I herewith transmit to the Congress, in accordance with section 216 of the Economic Stabilization Act of 1970, as amended, the most recent quarterly report of the Economic Stabilization Program, covering the period October 1, 1973 through December 31, 1973.

The fourth quarter of 1973 was a period of continued although slower growth for the American economy. Our gross national product grew to $1,338 billion, an increase of $33 billion over the previous quarter. Employment increased by approximately one million workers to 85.7 million. The American dollar continued to regain strength abroad.

During the fourth quarter, inflation remained our most serious economic problem. Prices here and abroad continued to rise at an unacceptably rapid pace, due in large part to the worldwide shortages of many raw materials. The pattern of price increases also began to reflect the impact of the Arab oil embargo against the United States and higher world prices for oil.

By the beginning of the fourth quarter, the fourth phase of the Economic Stabilization Program had been fully underway. The increases anticipated after the summer freeze on prices were spread out over time with the help of the Phase IV regulatory mechanism.

Phase IV was also designed to provide an effective system of tight standards and compliance procedures that would lead to a gradual return of industry and labor to the free market. Throughout the fourth quarter, decontrol proceedings demonstrated that the public and private sectors of our economy can work cooperatively and effectively to meet common goals of price restraint. As part of the commitments under which they were removed from mandatory controls, many firms have pledged voluntary price control. More importantly for the future, many have stepped up their capital expenditure plans to enlarge supplies—the only really effective way to halt inflation.

We are firm in our commitment to meet the challenge of inflation. The energy shortage and the problems resulting from it have significantly added to this challenge. We can, however, look with satisfaction to the efforts and sacrifices our Nation has made in response to these problems.

The Congress is presently debating the Administration's recommendation for continued stabilization authority and this Administration stands ready to work with the Congress to develop effective machinery for economic stabilization.

RICHARD NIXON.

THE WHITE HOUSE, *April 2, 1974.*

EXECUTIVE MESSAGES REFERRED

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

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

AMENDED RECESS SCHEDULE FOR 1974

Mr. MANSFIELD. Mr. President, on behalf of the distinguished Republican leader and myself, I ask unanimous consent that, the amended recess schedule for 1974 be printed in its entirety.

There being no objection, the amended recess schedule for 1974 was ordered to be printed in the RECORD, as follows:

AMENDED RECESS SCHEDULE—1974

Easter (Sunday, April 14)—From conclusion of business Friday, April 12, until Noon, Monday, April 22.

Memorial Day (Monday, May 27)—From conclusion of business Thursday, May 23, until Noon, Tuesday, May 28.

July 4 (Thursday)—From conclusion of business Friday, June 28, until Noon, Monday, July 8.

Labor Day (Monday, September 2)—From conclusion of business Friday, August 23, until Noon, Wednesday, September 4.

NOTE: All recess periods are subject to cancellation or change to adapt to extraordinary situations.

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 following bills of the Senate:

S. 71. An act for the relief of Uhel D. Polly;

S. 205. An act for the relief of Jorge Mario Bell;

S. 507. An act for the relief of Wilhelm J. R. Maly;

S. 16. An act for the relief of Mrs. Jozefa Sokolowska Domanski;

S. 912. An act for the relief of Mahmood Shareef Suleiman; and

S. 2112. An act for the relief of Vo Thi Suong (Nini Anne Hoyt).

The message also announced that the House had agreed to the amendment of the Senate to the bill (H.R. 1321) for the relief of Mrs. Doninga Pettit.

The message further announced that the House had agreed to the amendments of the Senate to the bill (H.R. 5106) for the relief of Flora Datiles Tabayo.

The message also announced that the House had agreed to the amendments of the Senate to the bill (H.R. 7363) for the relief of Rito E. Judilla.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6186) to amend the District of Columbia Revenue Act of 1947 regarding taxability of dividends received by a corporation from insurance companies, banks, and other savings institutions.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 7824) to establish a Legal Services Corporation, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. PERKINS, Mr. HAWKINS, Mrs. MINK, Mr. MEEDS, Mr. QUIE, Mr. ASHBROOK, and Mr. STEIGER of Wisconsin were appointed managers on the part of the House at the conference.

The message further announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 2) to provide for pension reform; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. PERKINS, Mr. THOMPSON of New Jersey, Mr. DENT, Mr. BURTON, Mr. QUIE, Mr. ERLENBORN, and Mr. SARASIN were appointed managers on the part of the House at the conference on title I of the bill; and that Mr. ULLMAN, Mr. BURKE of Massachusetts, Mrs. GRIFFITHS, Mr. ROSTENKOWSKI, Mr. SCHNEEBELI, Mr. COLLIER, and Mr. BROYHILL of Virginia were appointed managers on the part of the House at the conference on title II of the bill.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Under the previous order, the Senator is recognized to call up his amendment.

Mr. ALLEN. Mr. President, I call up amendment No. 1059 and ask that it be stated.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk proceeded to read the amendment.

Amendment No. 1059 is as follows:

On page 75, line 23, strike out "exceeds $3,000." and insert in lieu thereof "exceeds—".

On page 75, between lines 23 and 24, insert the following:

"(1) in the case of a candidate for the office of President or Vice President, $250; and

"(2) in the case of any other candidate, $100.".

On page 76, line 2, strike out "exceeds $3,000." and insert in lieu thereof "exceeds—".

On page 76, between lines 2 and 3, insert the following:

"(A) in the case of a candidate for the office of President or Vice President, $250; and

"(B) in the case of any other candidate, $100.".

On page 76, beginning with line 23, strike out through line 5 on page 77.

On page 77, line 6, strike out "(e)" and insert in lieu thereof "(d)".

Mr. ALLEN. Mr. President, under the present law, contributions can be made to various committees of a candidate of up to $3,000 without the incurring of a gift-tax liability. This has enabled many wealthy contributors to contribute $3,000 to each of multiple committees, thereby allowing them to contribute much more than the $3,000 to a candidate without incurring gift-tax liability.

On July 30 last year the Senate passed S. 372, which at the time was hailed by many so-called reformers as a great forward step in the regulation of campaign expenditures. That bill provided—and the bill before the Senate at this time, S. 3044 provides—for a $3,000 limitation per contributor per candidate per election.

It is true that this will permit a man and his wife to contribute $3,000 each, thereby allowing a $6,000 contribution by the family.

The present bill provides a $3,000 limitation per contribution, and, Mr. President, I think that is going a long way. I think that is certainly a fine regulation up to a point. It is contained in S. 372 which was passed last year in this Congress, now pending in the House. I believe it would be the better part of wisdom if we waited and saw what the House was going to do with respect to campaign financing.

There is no doubt that the Senate wants strict regulation. The Senator from Alabama wants stricter regulation. So I believe, Mr. President, it would be well for the Senate first to wait on the House to act, because there is some question as to the degree to which the House has embraced or will embrace public financing. Once we find what the House will do, the Senate can write its version, and then we will be very near to an agreement on a bill, which could very nearly be resolved in the conference, and a bill would ensue.

We have already sent one bill over to the House, S. 372, passed on July 30 last year by a vote of 82 to 8. During the course of the consideration and action and passage of that bill, a public financing amendment was defeated by the Senate. That was just July of last year. So we sent to the House a bill providing for strict regulation of campaign expenditures, with a strict regulation on campaign contributions, but confining all of the contributions to the private sector. That was the action of the Senate in July of last year.

Now, before the House has acted on that bill—I will not say before the House has had an opportunity to act on it, not the full House; the committee has not seen fit to report a bill, but there is an indication that the chairman of the committee is going to see that some legislation is reported to the floor—the Senate is being called on to pass a bill with an entirely different approach.

What was the effect of our action before? I am not sure how many days or weeks we debated it. I think it may have been as long as 10 days on the floor. The distinguished chairman of the committee (Mr. CANNON) is here. He could give the exact number of days. But the Senate debated that bill for a week or 10 days and decided to keep campaign contributions in the private sector, by a yea-and-nay vote here on the floor, and by a substantial margin.

The present bill changes that approach entirely and seeks to finance the primaries of the Members of the House and Senate on a 50–50 matching, or potentially a 50–50 matching, as between private contributions and the Public Treasury, and to finance general election expenditures 100 percent out of the Public Treasury, which would allow, taking the largest State in the Union, a candidate for the Senate—and both of the California Senators have voted for public financing—to have a contribution by the Federal Government, or a part of the Federal Government, of up to $700,000 in matching funds. That would be the Government's contribution to the candidacy of any number of candidates for the nomination of the two major parties.

That would be up to $700,000 based on the amount of private contributions for each candidate for the nomination of the two parties. With that kind of financing, I rather imagine quite a number of candidates will be seeking the nominations of the different parties. And if the Federal Government is going to pay up to $700,000 in matching funds for the contributions of the various candidates, I think there will be a large number of candidates running for the Democratic nomination and a large number of candidates running for the Republican nomination. Then, if the two parties choose their candidates, who have been financed to a large extent by the Federal Government, up to $700,000 apiece, the Federal Government will take it over altogether.

Paying half the amount is not enough. We are asked to pay half of a candidate's expense—a large expense, I might say. I think that a little later on I shall offer an amendment to cut down the amounts allowed to be spent under the bill. I think that this bill escalates the cost of a campaign at a time when we ought to be trying to cut down on the cost of the campaign.

What does the bill provide for the fortunate fellows who have been chosen by the two major parties as their candidates in the general election for the Senate? Why, the taxpayers write each one of them a check for $2,020,000. Is that reform? I am for reform; I am not for a public subsidy. I am for cutting down on the overall expenditures, and I am for cutting down on the individual contributions. We cannot write a bill that is too strict for the Senator from Alabama with contributions and expenditures being in the private sector.

I would not care if they eliminated all private expenditures and all contributions just so long as they leave it in the private sector and do not hand the bill over to the taxpayers.

Mr. President, they say that the lessons of Watergate make it imperative that campaign election laws be changed and tightened up. They say that the only way we can do that is by handing the bill to the taxpayer. Well, that has been the solution of all of our problems for the last decade. When any problems come up, they pump a little more Federal money into the area of the problem and say that that will solve it. The same thing applies where they pump a little more money into the pockets of the politicians. They say that we will have a clean election in that way.

I do not see that policy. That is a non sequitur. There is no magic potion attached to a dollar received from the Public Treasury as distinguished from a dollar received from the private sector.

So turning the bill over to the taxpayer is not going to solve anything. But strict regulations, private contributions and expenditures, and strict rules as to the disclosure of the contributions and expenditures will go a long way.

The law that we have on the books now, the 1971 Campaign Expenditures Act, did mighty little in the way of reform. One thing that it did not do was to cut down on the amount of contributions; and that is what needs to be done.

It was argued at that time that disclosure was all that was needed; that if we disclosed what each candidate was doing, we would not need to put any limit on contributions. It does not work that way.

Another shortcoming, another shortfall in the present law, is that there is no effective limitation on campaign expenditures. What is covered in the campaign expenditure field? Why, all they seek to put a limit on is the expenditures for the so-called media advertising. I believe it is 10 cents for each person of voting age in the political subdivision from which the candidate is running. I believe it is up to 6 cents for radio and television and possibly 4 cents for other types of media advertising, but there is no limit whatsoever on the tremendous number and amount of other types of candidate types of expenditures.

What about mass mailing? I have not sent out any mass mailing as a candidate. However, I understand that is frequently resorted to.

Oh, sure, it is hard, with office space, car rental, campaign staffs, and the tremendous number of expenses that can come up. There is no limitation whatsoever on those areas of expenditures. Of course, that means tightening up.

S. 372, which the Senate has already passed, placed a 15-cent limitation per person on those of voting age for campaign expenditures. If we cut that 15 cents down to 10 cents, we would have a better law. That law has not passed. I say that we should wait for the House to send a bill over here that we can work on. Then, at least, we will have the House committed to that much of a concession in the area of campaign reform.

I would suggest caution in moving ahead at this time with an entirely different theory as to the approach on campaign financing, an approach of 180° in about 180 days to switch from private financing to public financing, which is what we are being called upon to do here by the authors of S. 3044.

I say that since the acute need for this legislation is pointed up by what is referred to as Watergate, I think it would be highly appropriate that we wait and examine the report which I understand is going to be filed either this month or next month by the Watergate Committee, the report which the Senate charged that committee with bringing back to the Senate on the recommendation that the committee makes to the Senate, Congress, and the Nation as to the best way of reforming the electoral process and the best way of properly controlling campaign contributions and expenditures.

That mission was assigned to that committee, and it has labored diligently for 15 months or more, and received the plaudits of the entire Nation for the dedication of its members and the results which it achieved. Why not wait and see what recommendations that committee will make?

Mr. President, I would say it is rather obvious why we are not going to wait on that report. All you have to do is read some of the votes here in the Senate on some of the issues both last year and this year. It is quite obvious that five members of the seven-man Watergate Committee are opposed to public financing of Federal elections. That is one reason why we are not waiting on that report, because it is known what the report is going to say, in principle. It is not going to recommend public financing; that is obvious from the votes taken here in the Senate. So that is the reason why this bill must be pushed at this time.

Mr. President, we have not yet tried strict regulation, such as would be provided by S. 372. We have not yet tried strict regulation of campaign receipts and campaign expenditures. If the House of Representatives would pass S. 372, and it were signed into law and given a fair trial, I believe it would go a long way toward cleaning up Federal elections in this country.

And not only has private regulation, or regulation of the election process and control of contributions in the private sector, not been tried, but we already have Federal financing, taxpayger financing of Federal elections, up to a point. We already have the checkoff; this bill as it came from the committee contained a plan not only to double the checkoff from $1 for a single person and $2 for a couple to $2 for a single person and $4 for a couple. But they were not satisfied with doubling that process, which is going to bring in enough money already to finance the 1976 election; they wanted to weigh the thing in favor of the tax spenders, of the politicians running for Federal office.

How did they plan to do that? Well, they provided, instead of this checkoff being on a voluntary basis, as it is now, that if the taxpayer did not say that he did not want his money checked off, they would check it off anyway, and he would be assumed to desire a checkoff

as to his return if he did not specify to the contrary. That was just a little twist around to where it made the contribution involuntary, requiring him to take affirmative action to prevent the checkoff rather than the present law, which requires affirmative action to implement or put in motion the checkoff.

I am aware of the fact that this section has been deleted, to come up at a later time on another bill, but we might not have an opportunity to discuss it as fully at that time as we have at the present time. So let us see what this checkoff provides in the way of money out of the taxpayers' pockets.

Under the present checkoff regulation or law, which the Rules Committee which brought out this bill passed, I believed, by a vote of 8 to 1—the Senator from Alabama is on that committee, and his vote represented the one opposed to the bill—the committee said, on page 28 of the committee report:

If all returns, individual and joint, should take full advantage of the one dollar check off the total cost would be $117,370,000.

With this amendment that they have:

If, all returns should take full advantage of a two dollar check off the cost would be $234,740,000.

That is what the cost would be under this little checkoff provision that they have got. That sounds like some pretty important money coming under the checkoff. They are going to have enough money under the checkoff to finance the Presidential election of 1976.

Would it not be the better part of wisdom—I will ask the distinguished senior Senator from Illinois (Mr. PERCY)—would it not be the better part of wisdom to see how this plan works on the 1976 Presidential election before adding other offices or adding the Presidential nomination and the House and Senate primary and general elections? Would it not be better to see how it works at the Presidential level before adding other area offices?

Mr. PERCY. If the distinguished Senator from Alabama is asking me, I would be very happy to say that I have no objection to using our best judgment and going ahead with other offices as we in our judgment think may be good for one level as for another.

Mr. ALLEN. He would not want to wait and see how it works before trying to extend it to other areas then?

Mr. PERCY. All I know is that any system, almost, would be better than the present system we seem to be using.

Mr. ALLEN. I thank the distinguished Senator from Illinois. We are going to try to give him a better system but keep it in the private sector.

I have been addressing my remarks, I will say for the benefit of Senators who have just come into the Chamber since I started talking, to the fact that we already have public financing of Federal elections up to a point, and the Presidential election in full under certain circumstances, which I will outline in a moment.

Other elections are financed by the Federal Government in the operation of the income tax laws because the present law—and this bill seeks to double what I am going to outline—the present law, I believe gives a single person an absolute credit. In other words, just handing this amount to the taxpayer of $12.50 for any political contribution that he might make, including, of course, to the Presidential or the senatorial or the House of Representatives candidates.

A couple could claim a credit of $25.

Now if they wanted to go a different route and go the deduction route, there was a $50 deduction for an individual or $100 for a couple.

This bill as it came out of the committee doubled those amounts. I think that is going to be the pattern throughout, if we get this Federal financing, as every Congress will double what it will cost the taxpayer.

But here we have got the checkoff already financed by the taxpayers of the country, financed by the Public Treasury it would be better to say, because it does not cost the taxpayer any more as an individual taxpayer to assign a dollar of his tax liability toward this checkoff fund. We have that financed by the taxpayers, by the Public Treasury—the checkoff plan—and we have the credits that are allowed to the taxpayers if they want to go that route, or deductions if they want to go the other route.

Obviously, the deduction route would be chosen by a person whose income was high because he would then get more than this credit. The credit would be better used by a person of low income.

So, Mr. President, the committee bill sought to double these amounts and make it, I believe—speaking from memory, and if I am wrong, I am sure I will be corrected—the committee bill provided for credits of $25 for an individual, $50 for a couple, or deductions of $100 for an individual or $200 for a couple.

So S. 3044——

Mr. CANNON. Mr. President, if the Senator will yield at that point, the Senator is correct. That is the proposal that was in the bill as we reported it, in addition to raising the dollar checkoff to $2. That is the amount, as the Senator correctly stated earlier, which is now in title V and was stricken from the bill and has been referred to the Finance Committee. So it presently is not in the bill as it now stands.

Mr. ALLEN. The Senator from Alabama did not state to the contrary. He stated that the provision had been knocked out, but this might be a better opportunity to discuss it than we might have at a different time.

Mr. CANNON. I was just verifying the fact that the Senator's figures are correct.

Mr. ALLEN. Yes, and I thank the distinguished Senator from Nevada. I appreciate his diligence, his dedication, and his great knowledge in this area. Also his sincere desire to set up a workable plan that will inure to the benefit of the people of the United States as he sees it.

I just happen to see it differently. But I would be remiss in my duty if I did not say that I feel the distinguished Senator from Nevada (Mr. CANNON), the chairman of the Committee on Rules and Administration, has done an outstanding job in this area and in coming up with the bill as he was committed to do last year at the time the rider to the debt limit bill was withdrawn.

But the Senator from Alabama disagrees with the conclusion that the distinguished Senator from Nevada has reached, that to a certain extent public financing is in the best interest of the election process and of the people of this country.

I was commenting on the bill as it came from the Committee on Rules and Administration.

So, now, Mr. President, this bill, S. 3044, sets up a system of matching contributions in primaries and financing 100 percent the general elections.

Now let us see who is paying the bill. In the primaries the Government is paying half of the contributions up to a certain amount in size, and in total amount for that matter.

Now the taxpayer that is the Government, under the present law and to a greater extent under the Senate bill as it came out of the committee, would provide for matching the individual contributions. But the taxpayer can put up a large portion of his and charge it off on his income tax with little net loss or cost to the taxpayer on the small contributions. So the Government is getting it in the neck going and coming. It matches the contributions and it funnels the money over to the taxpayer to put up a portion of his end of it. So, in a sense, it is the Government paying it all the way.

The rider that was not agreed to in the Senate did not go so far as to cover primaries of House and Senate Members. They said, "This is a little farther than we should go." But I notice that the Rules Committee has come out with a bill providing for matching funds in primaries.

Mr. President, let us see what it takes in the various primaries to become a candidate. Let us take the top office and see how that operates under the Senate bill, and let us see if this is in the public interest.

In the first place, it provides that a candidate for the nomination of one of the two major parties can spend up to $15 million in seeking the Presidential nomination. I say that in round figures. It is based on a formula of 10 cents per person of voting age throughout the country, and that is estimated to be approximately $15 million. It is provided that anybody desiring to seek the nomination of one of the parties can do so, but he does not receive any subsidy, any grant, any handout from the Federal Government until he has raised $250,000 in contributions of $250 or less. As soon as he reaches that threshold level, as it is called, of having raised $250,000, he goes in and makes a showing of that to the Commission, I assume, and the Treasury pays him that $250,000. Now he has another $250,000 with which to run.

Every time he receives a contribution of $250 or less, he is entitled to have that

matched by the Federal Government, by the taxpayers of the Nation, up to the point of $7.5 million. That is what every candidate for the nomination will receive; and if this bill is passed, there will be several dozen, including 8 or 10 who serve in this Chamber.

I might mention in passing that one of the amendments that has been defeated in the Senate since this bill has been under debate was an amendment offered by the Senator from Alabama that would have provided that no Member of the 93d Congress would be eligible to receive any matching funds for a race for the Presidential nomination for the term starting January 20, 1977, which is the next race. That amendment received 36 votes. Numbered among those 36, however, was not a single person who is reputed to be, or alleged to be, or understood to be a candidate for the nomination of one of the major parties.

I took the position that if this Congress sets up a subsidy program of $7.5 million for everybody who wants to run for President, the Members of the Congress that creates that subsidy program should not be able to participate in any such subsidy. The majority of the Senate did not agree. I was pleasantly surprised, however, to receive 36 votes on that amendment. So 36 Members of the Senate felt that a program should not be set up by the 93d Congress in which Members of that Congress would stand to benefit to the tune of several million dollars apiece. It might be a good idea to reword that amendment before this bill is passed and submit it again, to see what the Members of the Senate think about it, after having reflected on it for awhile.

Mr. President, a person who is very popular in a State and who has no nationwide following whatsoever would not have too much difficulty, in my judgment, in raising $250,000 in his home State; nor would the leader of some pressure group, some far out group, have difficulty in raising that money. He would present the bill to the Federal Treasury and, in effect, would get on the Federal payroll from then on out, by the Federal Government matching his $250 or less contributions on up to $7.5 million.

Another consideration is this: It is not necessary that the recipient of this Federal subsidy spend any of it prior to the convention—or ever spend it, for that matter. But certainly he does not have to spend it prior to the convention. If he has collected $7.5 million in contribution of up to $250 and the Federal Government has matched that amount and he goes to the convention sitting on a warchest of $15 million, and another candidate or two follow the same policy, and we have several candidates in Miami or in Chicago—those seem to be the cities that bid for these conventions—they could be at the convention with $15 million apiece.

Look at the possibilities for improper practices with these Presidential candidates who are greatly desirous of high office and are willing to work hard in an effort to obtain that nomination.

So, Mr. President, I believe that the financing of these Presidential election campaigns or Presidential nomination campaigns certainly is not in the public interest. Look at some of the beneficiaries of such a program. I notice in the newspaper that the former Governor of New York, Mr. Rockefeller, may possibly aspire to the Presidency. This Federal subsidy program would make it possible that the Federal Government would subsidize Mr. Rockefeller up to the extent of $7.5 million. Governor Rockefeller is said to be a candidate for nomination, I believe, of the Republican Party. If he were able to get enough private contributions up to $250 he would be eligible for a Federal subsidy of $7.5 million.

Governor Reagan of California would be eligible for a subsidy of up to $7.5 million. The distinguished senior Senator from Illinois (Mr. PERCY) has a commission set up to study whether he shall run for the Presidency or not, and if he decides to run and is able to get sufficient private contributions he would be eligible for Federal subsidies up to $7.5 million.

On this side of the aisle the distinguished senior Senator from Massachusetts (Mr. KENNEDY) would be eligible, if he were able to get sufficient private contributions, for a subsidy of $7.5 million.

Some of the other candidates who have run in the past would be eligible. The distinguished Senator from South Dakota (Mr. MCGOVERN) has shown he can get small contributions in abundance so he would be almost certain to receive a subsidy of $7.5 million if he ran for the Presidency.

This is a strange type reform. If that were the law the candidates for the Presidential nomination of the two major parties could receive up to $7.5 million out of the Public Treasury, and that is provided under this bill. Mr. President, you can rest assured that there will be a cry throughout this land for true reform, and that would be to do away with this $7.5 million-per-candidate subsidy plan. That is what the reform would be. It is not reform to set up a subsidy program for Presidential nomination candidates. That is not reform. That is subsidizing politicians, and that is not in the public interest, in the judgment of the Senator from Alabama.

Now, Mr. President, when the bill first came to the floor of the Senate I questioned the distinguished junior Senator from Rhode Island (Mr. PELL), who was one of the original sponsors of the bill. I pointed out to him that my examination of the bill did not disclose that there was a starting point for the making of contributions which would be matchable under the provisions of this bill.

He stated that that was true. So I asked him if that would indicate, then, that contributions made possibly several years ago, prior to the passage of the bill, would have to be matched out of the Public Treasury if they otherwise complied with the law. The distinguished Senator from Rhode Island considered there was no starting point, so these contributions made sometime back would be matchable.

I also pointed out to the distinguished Senator that I saw no statement that the Presidential elections referred to would be the last Presidential election, and it appeared that a man could take the position, "I cannot run in 1976; I am not quite ready and others are better known; I will wait until 1980." So contributions that a person gets now would work toward the 1980 race or the 1984 race. I asked the Senator if that would be matchable out of the Public Treasury. Oh, yes, that would be matchable, too.

Would it be possible, then, to have one class of recipients of the Federal subsidy running for President in 1976, another class running in 1980, and another in 1984? Well, he does not see anything to prevent it; that is what the law would seem to provide. A casual reading of the bill would indicate that and that was confirmed by the distinguished junior Senator from Rhode Island (Mr. PELL).

Now, Mr. President, they talk about whether this is an incumbent's bill or whether it is a challenger's bill; does it make better provisions for the incumbent, or does it make better provision for the challenger? Well, I stated here on the floor before, and possibly some Senators were not here then, as I see it this bill providing for the matching of candidates' contributions in the primary—I started to say for the House and Senate races but it also applies in Presidential races, as well—the candidate in the primary who is well known, who is the incumbent, who is in high office already, is in a better position to obtain more funds and contributions than the nonincumbent who is the less well-known candidate.

I use as an example the State of California. There, Mr. President, it is permitted to receive in contributions $1.4 million in the primary.

By the way, I neglected to mention that the purpose of the amendment is to cut down on the amount of permissible contributions, and I will get to that a little later.

If all of his contributions were $250 or less, or $100 or less in the case of a House or Senate candidate, he could receive in private contributions up to $700,000, and the Government would match that with $700,000.

I use for an example a lesser known candidate who might receive $100,000. My attention was called to the fact that it took $125,000 to even start the matching, but for the purpose of the illustration, the lesser known candidate receives $100,000 in matchable contributions. The better known candidate, the incumbent, if you please, receives, in this hypothetical instance, $700,000 in eligible contributions. Therefore, there is a $600,000 spread, so to speak—a $600,000 advantage—as between the incumbent and the challenger.

That is a pretty big advantage.

Let us see what happens when the formula of Federal matching is applied. There is a $600,000 spread before the matching takes place. The lesser-known candidate's $100,000 is doubled, and he ends up with $200,000 to draw on. The incumbent, being better known, having done favors for hundreds of people, and being the favorite, I assume, would be able to receive larger amounts in contributions. In the hypothetical instance, having received $700,000, that is matched

by the Federal Government, so he ends up with campaign funds of $1.4 million. The challenger, having been at a $600,000 disadvantage before the public financing helps out, being $600,000 behind, when public financing gets through with him, he is $1.2 million behind his better known challenger, his better known incumbent.

So what is there here for the challenger? It looks to the Senator from Alabama as though the advantage lies with the incumbent, but we hear a whole lot of pious statements that a bill of this sort, public financing, is needed to do away with large contributions. We do not need public financing to do away with large contributions; all we have to do is pass S. 372. That cuts it down to $3,000 per contribution.

But the pending amendment which, after these few preliminary remarks I have gotten to, makes this provision. The $3,000 is too high. The $3,000 permissible contribution is too high, in the opinion of the Senator from Alabama.

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

Mr. ALLEN. Yes, I am glad to yield.

Mr. KENNEDY. Mr. President, I have been listening to the comments of the Senator from Alabama, and I am interested in the basis for his feeling that the $3,000 contribution limit is too high. As I understand it, the genius of the proposal that has come out of the Rules Committee is that it provides the alternatives of either public or private financing. It leaves the decision to the individual candidate as to whether he wants to choose one method or the other to finance his campaign, or a combination of the two.

S. 372, which also came out of the Rules Committee, was debated here on the floor of the Senate last July, and by an overwhelming vote of some 80 to 8, it was the considered and overwhelming judgment of the Senate that $3,000 was a realistic limit for private contributions—low enough to prevent the most serious abuses of large contributions, but high enough to enable candidates to finance their campaigns without undue difficulty.

I wonder why the Senator from Alabama, who has obviously taken such a strong position in opposition to public financing, is offering an amendment whose effect may well be to eliminate the possibility of private financing of campaigns for public office, by setting the contribution limits at a level so low that no candidate may be able to finance his campaign privately. Most experts would say, I think, that this amendment would make public financing the only realistic way to go.

It seems that on the one hand, the Senator is saying, "I am opposed to any public financing of campaigns," but on the other hand, he is saying, "I am going to make it extremely difficult to finance campaigns privately, by fixing the contribution limits at very low amounts."

I would appreciate hearing what evidence the Senator from Alabama has which indicates that those who are attempting to run for election to the Senate or the House, particularly those who are virtually unknown, will be able to finance their campaigns under his amendment. How is a candidate going to build up a recognition factor or develop the kind of support to finance a campaign in a major industrial State, where hundreds of thousands, or even millions, of dollars are now routinely spent. How will they be able to reach that amount of money by contributions of $100 or less?

And his effort to raise funds will be more difficult, because other candidates for other offices will be trying to tap the same pool of small contributors. What happens when both candidates for President, both candidates for the Senate, and both candidates for a House seat are trying to raise small contributions in the same congressional district? Is the pool of contributors inexhaustible? What if candidates for State and local office are also making the effort to tap the pool? Would not the well run dry?

I wonder why the Senator is opposed to what I think has been the very constructive and positive compromise in S. 3044. Public and private financing can exist side by side as reasonable alternatives. A candidate could say, "I am going to run on public financing, so that I will not be obligated to any special interest groups, and so that I will be accountable to all the people." Another candidate could say, "I am going to rely on private financing, because I would rather not use public funds for my campaign, and the danger of special influence groups is not very great if their contributions are limited to $3,000." To me, the amendment of the Senator from Alabama runs the risk that it abolishes completely the opportunity to run with these kinds of alternatives.

I would like to know whether the Senator from Alabama can indicate to us the amount of money that has been raised already to fund Senate races. I would like to know whether that money has actually been contributed in amounts of $100 or less. I wonder whether the Senator from Alabama has any figures on that point.

Mr. ALLEN. I thank the Senator from Massachusetts for his comment. I am delighted that he finally got around to asking a question rather than making self-serving comments.

I would say to the Senator from Massachusetts that there is no magic in the $3,000 figure. Certainly, it is a step in the right direction, because under the present law there is no effective limit whatsoever. I support the $3,000 limit, if that is the best we can do.

When S. 372 was before the Senate, if the Senator will recall, there was an amendment that sought to cut the $3,000 down to $1,000. If I am not mistaken, a public service organization known as Common Cause recommended the $1,000 limitation. The Senator from Alabama voted for that limitation. At that time he would have voted for a stricter limitation. The Senator from Alabama is not one who believes that Members of the House and Senate, and those who make races to the point where they might challenge the Members of the House and Senate, are people of such nature that their conduct, their votes, and their actions would be influenced by contributions that they might accept.

I think that Members of the House and Senate should show restraint in this field. I think they should be willing to adopt a lower level of contributions, a lower level of spending. I will submit that public financing, far from cutting down on the amount of average expenditures in political races, is going to escalate, in the judgment of the Senator from Alabama.

So I believe that the best way to reform the election process, the best way to get true reform—I will certainly say we are not going to get true reform just by turning the bill over to the taxpayers—the best way to get true reform is to limit everybody—the incumbent and the challenger—to the overall expenditures and to limit the amount of permissible contributions.

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

Mr. ALLEN. I had not finished answering, but I shall be glad to yield.

Mr. KENNEDY. If we follow the reasoning of the Senator from Alabama, it will lead us to public financing. He is talking about reducing the amount of contributions to an exceedingly low limit. That is the essence of public financing and the dollar checkoff—the dollar checkoff can pay for the entire 1976 Presidential election by what are, in effect, $1 contributions from millions of taxpayers.

If we follow the reasoning of the Senator from Alabama, I think it leads us right into the public financing legislation which we are currently considering. Instead of large contributions, the Senator from Alabama thinks that $1,000 is too large. So the Senator from Alabama goes to $250 in a Presidential race and $100 in a congressional race.

Let us carry that argument to the point of the dollar checkoff periods for the individual taxpayer to contribute $1. That is the system of public financing that has been incorporated into this bill. It makes the Members of the Congress responsible to all the people because all the people are financing the campaigns.

Mr. ALLEN. Mr. President, I thank the distinguished Senator from Massachusetts. The point that the Senator from Alabama is making is that if we limit contributions to $250 in Presidential races and $100 in House and Senate races, there is no possibility of these evil, corrupting influences that the Senator from Massachusetts fears. There will certainly be no way for a vested interest to gain any support or influence from a Member of Congress if his contribution is limited to $100, or to $250 in a Presidential race. It would be just as fair for one as for the other. It would deprive the incumbent of his ability—supposed ability—to get large sums of money, and would put him on the same basis as the challenger, whose contributions in all likelihood would be small.

So the effect of the amendment of the Senator from Alabama would be to have a leveling influence, and not have the biggest and fullest amounts, as would be permissible under the bill as presently drawn. I feel that a $3,000 limit is better than no limit whatsoever. When we were

unable to reduce the amount in S. 372 to the $1,000 limit, the Senator from Alabama was glad to support the $3,000 limit. At that time the Senate took a stand for regulating campaign contributions and expenditures in the private sector. It saw no need back in July, at the time S. 372 was passed, of presenting a bill of a half a billion dollars every 4 years to the American taxpayers to enable the politicians in the land to run for Federal office.

So, as the Senator from Alabama sees it, under the present bill there is no matching for amounts over $250 in Presidential nomination races and no matching for contributions over $100 in the House and Senate races. So, there must be something evil or sinister about contributions above that amount, therefore, to cut them all down to the amount that the Federal Government will match. Thereby, we would help the challenger, the challenger being unable, according to the theory of the Senator from Massachusetts, to attract large contributions.

So this would put the challenger on the same basis as the incumbent, because every dollar that each of them would get would be matched, and the incumbent would not have the supposed advantage of getting out and getting large contributions that would not be available to the challenger.

So, as the Senator from Alabama sees it, this amendment cuts contributions down to $250 during the Presidential races and to $100 for the House and Senate races, and certainly a challenger's amendment.

It is a little man's amendment. It is an average man's amendment, and would better enable any person who aspired to Federal office to become a candidate, and to be on a level with the incumbent.

Mr. KENNEDY. Mr. President, if the Senator will yield further——

Mr. ALLEN. Yes.

Mr. KENNEDY. As I understand the thrust of the Senator's argument, he is concerned about challengers.

Mr. ALLEN. This is one of my concerns.

Mr. KENNEDY. One of his concerns on this particular amendment.

Mr. ALLEN. Honest elections is my main concern.

Mr. KENNEDY. Honest elections.

Mr. ALLEN. Yes.

Mr. KENNEDY. His concern is to make sure that a challenger will be able to finance his campaign and present his campaign program and campaign platform. Second, he is concerned about the sinister influence of large campaign contributions.

Mr. ALLEN. I was quoting the distinguished Senator from Massachusetts in that regard. The supposed sinister influence of large campaign contributions.

Mr. KENNEDY. The fact remains, Mr. President, that the best way to provide for challengers is to adopt the present provisions of S. 3044, because that will make it possible for the challenger to receive the same amount of money as the incumbent. Surely, if an incumbent and challenger are both forced to compete for small contributions, as the Senator's amendment would require, the challenger would be under a serious handicap, because the incumbent would generally be far better known.

So I believe the challenger would be served best by providing him with the opportunity to accept public financing for his campaign. If we carry through the logic and the reasoning of the Senator's argument, if his goal is to provide equity to the challenger, that is what S. 3044 would do. It provides an equal amount to the challenger and the incumbent, so that the challenger can go to the American people and say, "I am accountable to you, because you funded and financed the campaign."

Or, the individual may say, "I do not want to use public funds, I would like to run my campaign on private contributions." In this case, we have to provide some limit, some cutoff point, which will provide sufficient funds to finance a political campaign, but would be sufficiently low that the candidate will feel obligated to his contributors. We have to avoid the situation in which a candidate no longer has the appearance of owing his primary obligation to the American people.

What the Rules Committee has done is close the loophole in the election law that permitted W. Clement Stone, whose business happens to be the health insurance business, to contribute $2 million in 1972. The bill would reduce the total amount that he would be able to contribute to just $3,000. I think that is real progress, down to $3,000 from $2 million.

What the Rules Committee has attempted to do is give the incumbent and the challenger an alternative. If the challenger wants public funds, he can go to the Treasury for public financing. If he wants to use private funds, he can do so, but only at the rate of $3,000 per contributor. I do not maintain that $3,000 is necessarily the proper figure. You can get a difference of opinion as to whether it should be $2,000 or $4,000. These are ballpark figures, but they carry through what I think is the sound intent and purpose of the limitation, and that is to guarantee to the American people that no single contributor is going to have undue influence, in the committee rooms or in the Halls of the Congress of the United States.

Mr. ALLEN. Mr. President, I thank the Senator for his valuable contribution to the discussion. I was interested when he said S. 3044 would provide the challenger and the incumbent with an equal amount of money. Obviously that is incorrect, in this respect: that one of the supposed purposes of the bill is to give the challenger somewhere near an even break with the incumbent, because of the incumbent's admitted ability to raise larger sums in contributions for campaign financing.

I submit to the Senate that S. 3044 compounds the advantage that the incumbent already has, because if the incumbent can obtain more money in contributions than the challenger, then the contribution of the subsidy or the handout by the Federal Government to the incumbent is measured by the amount of his private contributions, as is the contribution to the challenger; it is measured by the amount of the contributions that he has received. So if the incumbent has already received more in contributions than the challenger, how in the world is it helping the challenger if the Federal Government doubles the amount that the incumbent has?

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

Mr. ALLEN. When I finish my thought I will be glad to. I assume that the Senator from Massachusetts was right here when I gave this illustration: Take the State of California, where, in the primary, it is possible for the Government to contribute as a subsidy to a candidate in a primary election up to $700,000, based on the amounts contributed by the individuals to the incumbent or the challenger. The incumbent, supposedly having the ability to get more in private contributions, might well obtain in the private sector $700,000 in matchable contributions, whereas the less known challenger might have to be satisfied with receiving $100,000 in contributions from individual contributors.

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

Mr. ALLEN. Let me finish my point. I understand that it takes $125,000 to trigger this procedure, but it is harder to work out the problem of mathematics with $125,000, I will say to the Senator, than with $100,000.

The challenger, receiving $100,000 as against the $700,000 received by the incumbent, that is the position he finds himself in before campaign reform, before public financing sheds its beneficent influence on the race. But at that time the Federal Government comes in, and presents to the incumbent $700,000 and to the challenger it presents a check for $100,000; so that, whereas the challenger was only $600,000 behind the incumbent before public financing enters into the picture, when public financing gets through with him, he is $1.2 million behind the incumbent.

So it is hard for the Senator from Alabama to see how the public financing aids the challenger, it looks to me like it is taking care of the incumbent just as this provision for $7.5 million for the various candidates for the nomination for the Presidency takes care of Members of the 93d Congress.

So I believe that this amendment should be adopted. It would prevent the case of the incumbent, supposedly able to get larger sums in contributions than the challenger, receiving the large contributions and would put the incumbent and the challenger on exactly the same basis. They would be limited to a $100 contribution if they are running for House or Senate.

I might say to the distinguished Senator from Maryland (Mr. MATHIAS), after his campaign has proceeded up to a certain point, and certain contributions have been received in his race, that he put a $100 limit on contributions that he is to receive in his race for the Senate right now.

I notice that Representative VANIK of Ohio is not going either to accept a contribution or to make an expenditure. My hat is off to him, to a man who will receive no contributions and make no ex-

penditures. I would be glad to vote for an amendment of that sort on this bill and would gladly abide by it. If all expenditures and all contributions were eliminated, that would suit the Senator from Alabama.

Certainly the limit of $250 in a Presidential race and $100 in a House or Senate race, properly enforced, would see a transformation in American politics and in the American Government, if this amendment were to be adopted and it became the law of the land.

So, limit contributions to $250 for the Presidential nomination or the Presidential general election. Limit contributions to $100 in House and Senate primary races.

So, Mr. President, this would be a reform amendment. Public financing is not reform. That is just an added burden upon the taxpayer. That is all public financing is.

Does it help to clean up American politics and provide a system whereby $15 million could be spent by a candidate for the Democratic or Republican nomination for President, as much as half of it coming from the Federal Government?

Put them on the same basis. If they want to run, let them run. If they have the support, they will get the votes. If they have not the support, they will not. It is as simple as that.

It is not necessary for the American taxpayer to provide $7½ million worth of hoopla and carnival type politics. That is what this money will be used for. It will put on a big show. It is not necessary to spend that kind of money to present the issues to the American people.

Whoever gave the public finance people the idea that by making more money available in the contest for the Presidential nomination, that would clean things up?

The way to clean things up is to leave financing of Federal elections in the private sector and to reduce the amount of contributions.

Now, Mr. President, this amendment does not eliminate public financing. I wish it did. I wish it could be adopted. All it provides for is that it shall be the limit of a contribution in the private sector by an individual as an individual.

It still provides for public financing. It still provides for matching. But it puts everyone on an even basis. Any challenger, if he has got any following, could get out and raise campaign contributions in this area up to a $100 contribution. It would certainly remove any sinister influence. I do not quite understand the thinking of the Senator from Massachusetts (Mr. KENNEDY) that every Member of the House and Senate is susceptible to improper influence. I just have a higher opinion of Members of the House and Senate than do some who espouse the cause of public financing. I just do not believe that any Member—I do not know of any Member of the House or Senate who would act improperly as a result of having received a campaign contribution. I feel certain that if contributions were limited to $100, I do not feel that that would put any Member of the House or Senate under a tremendous obligation to any person, to limit contributions to $100.

So, Mr. President, it is a question of whether we want to bring campaigns down to reality.

I remember reading back in the 1920's where one Senator from a State was denied a seat here in the Senate for having spent, Ithink it was around $100,000, in a race for the Senate.

What we need to do is to pass a law limiting contributions in the private sector and then proceed to enforce it and not just turn around and hand the money over to the candidate at the expense of the taxpayer.

I might say, too, Mr. President, that the Federal subsidies that go to the various candidates that are paid in the primaries on the basis of the matching contributions, they are not paid on the basis of matching expenditures. So that after the race is over, it will be up to the Government to get back its money if it could, if all the money was not expended properly.

Mr. President, there is nothing in this bill that provides for prudent management of this Federal subsidy. It is handed over to the candidate on a silver platter, both in the primary and the general election. There is nothing in here that I can read that would prevent a candidate hiring his brother-in-law to serve as his campaign manager at a salary of $100,000. There is nothing in here that would prevent a candidate from giving some person or agency an override on all campaign expenses.

The money would be thrown away, frittered away. But I do not suppose that is reason enough to ask that the Federal Government not institute a subsidy program—the fact that the money might be wasted. But wasted it will be—we can count on that—because some candidates would never have had it so good as under this public subsidy. The Federal Government would be pumping more money into their campaigns than they ever dreamed of. More than $2 million to each candidate for the Senate in each general election in California, $1.9 million to each candidate for the Senate in the State of New York. It would be handed to them, Mr. President.

Let us examine that for a moment. What do Senators make? In a 6-year period, they make a quarter of a million dollars, roughly that. Yet, in California the Government is going to pay each senatorial candidate, for his expenses, $2,121,000, and lesser amounts on down. Talk about campaign reform. That is some reform. It is change, yes. But every change is not reform. Reform, I would think, would mean to improve, to perfect. Well, is that improving the election process, to provide a campaign fund, out of the Public Treasury, nine times as great as a Senator's earnings in 6 years of his term? There is something wrong with a system of that sort.

The Federal Government, after having financed up to $700,000 for each candidate in the primary, now sets up a campaign fund for each candidate in the general election that is nine times as large as a Senator will earn as a Member of the U.S. Senate in a 6-year period. If that is campaign reform, Members of the Senate have a different idea of reform from that of the junior Senator from Alabama.

Mr. President, the distinguished former Senator from Delaware, Mr. John J. Williams, had a most distinguished career in the U.S. Senate for some 24 years, I believe. He was such a high-minded and able Senator, he was such a man of integrity and nobility of purpose, that he was known for many years as the conscience of the U.S. Senate, and he retired from the Senate voluntarily at the peak of his career. I heard him on one occasion, not on the Senate floor, explain that he had proposed a constitutional amendment that no Member of Congress should take the oath of office as a Member of Congress after he reached the age of 65.

In other words, if he were 64 at the time and took the oath of office, he might finish out his term; but after he reached his 65th birthday—I could be wrong on the date; it could have been 66 or 67, but I believe it was 65—he would no longer be eligible to commence a term in Congress.

He stated that while that amendment never did get anywhere in the Senate, even though it was not agreed to, he felt bound by its provisions inasmuch as he had proposed it. It takes a mighty big man to adopt that attitude. It takes a man of great integrity, integrity one has to admire. So, having served four terms in the Senate, and having passed the age of 65, he did not feel that he should ask the people of Delaware to return him to the Senate, as I feel certain they would have done overwhelmingly, and he retired from the Senate. So certainly he would take an objective view; he would not have a biased view of an issue pending before the Senate.

But this great man, this conscience of the U.S. Senate, has written an article which appeared in the Reader's Digest in March 1974.

Mr. President, I ask unanimous consent to have this article printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. ALLEN. Mr. President, former Senator Williams has made five suggestions as to reform of the election process. I believe that Members of the Senate might profit by reading this article and they might profit at this time if I were to read excerpts from the article. The article is entitled "After Watergate, a Plan To Control Campaign Bankrolling." A man known for years as the conscience of the Senate proposes five essential steps to remove the "for sale" sign from the U.S. Government.

I have heard language like that on the floor of the Senate, that that was the status of affairs in this country. I would hate to think that were true. Let us see what he suggests. Possibly he has a public financing plan to suggest. I did not think he would when I first picked up the magazine and read the article. On reading the article, I find he does not make that suggestion. His first suggestion is to shorten the campaign:

> Political campaigns cost so much, in part, because they last so long.

Well, the Senator from Connecticut (Mr. WEICKER) had a plan to shorten the campaign. His amendment did many

other things, but I do believe Members of the Senate might be willing to vote to shorten campaigns. As a matter of fact, I believe last year we did pass a bill to shorten the campaign by providing the primary must be held closer to the time of election. That was a good measure, but also in the House and Senate races, campaigns should be shortened. They last too long. There is too much apathy and there is too much boredom. I suggest that is why the sponsors of the bill try to create a $15 million fund for these various candidates for the Presidential nomination, so that they can shake some of the boredom and apathy out of the people and send up a lot of balloons, have a lot of girls dancing, with bands playing, parades, and the like paid for by the taxpayers, of course.

We need to remove some of the apathy from Federal campaigns. I believe the suggestion by Senator Williams to shorten the campaign would do that. I would hope the manager of the bill might offer an amendment to the bill that would accomplish that purpose. I do not believe he feels that the provisions of the bill are so sacrosanct they cannot be amended, although I admit he has not favored the amendments the Senator from Alabama has offered.

I do believe there are amendments he would agree to.

The article states further:

The custom of prolonged campaigning originated at a time when much of the country was sparsely populated and a candidate had to travel by train or even on horseback for many months to communicate with the electorate. This tradition has been made obsolete by the jet airplane, television and other mass media. Yet our campaigns still drag on needlessly, consuming vast amounts of money and providing endless repetition.

I recall that after President Eisenhower once spoke in my state of Delaware, I complimented him on his speech. "Well, Senator," he replied, "the first time I made that speech, I thought it was pretty good. The next ten times I made it, I thought it was okay. Now I've made it so many times I think it's terrible."

I doubt that there is a politician alive who has not felt that way or who could not tell the people all he knows and thinks in two or three months. Thus, I believe that Congress should fix a uniform, nationwide date for the primaries and nominating conventions affecting all federal offices. By commencing the primary campaigns in early August, and the general-election campaigns in early October, we would at once sharply lower the cost of politics. At the same time, we would improve the quality of political discourse and heighten public interest in it.

That is a most constructive suggestion made by the distinguished former Senator from Delaware, Mr. John J. Williams.

I continue to read from the article, and this, in some respects, has been discussed on the floor:

2. Grant free television time and mailing rights.

The distinguished Senator from Delaware (Mr. ROTH), I believe, has in mind offering amendments that would carry out these suggestions of his former colleague, Senator Williams.

Candidates in the seven Congressional districts in and around Detroit usually pay about $2000 for one minute of prime network television time. With costs in other metropolitan areas—New York, Los Angeles, Chicago, Philadelphia—even higher, it is not surprising that candidates for federal posts had to spend $32 million for TV and $28 million for radio in 1972.

In urging free time for legitimate candidates, it is important to recognize that television and radio stations exist and make handsome profits because they have been given public property—namely, transmission channels, of which there are a limited number. So it seems to me only fair that the stations partially repay the public at election time by providing bona-fide candidates with the means of free communication of their political views.

Then, skipping ahead, and the entire article will be printed in the RECORD, he goes on to say:

3. *Get Big Business and Big Labor out of political bankrolling.* The law has long recognized, in theory at least, that it is wrong to allow corporations and unions to try to buy votes through political donations. As far back as 1907, Congress prohibited business contributions and unsecured loans by banks for political purposes, a ban that was reaffirmed by laws enacted in 1925 and 1971. Congress applied the same prohibition to unions in 1943 and 1947. But corporations and unions—as well as both major political parties—have flouted the intent of these prohibitions with virtual impunity.

Mr. President, I submit that that is what the amendment I have offered, No. 1059, would do. It would make small contributors the backbone of political financing.

While reducing the costs of campaigns—

He is talking about suggestions he has made that would reduce the cost of campaigns. I do not see that this bill would reduce any costs—

Make small contributors the backbone of political financing. While reducing the costs of campaigns, we should endeavor to spread the legitimate costs that do remain among as many citizens as possible.

So, Mr. President, I have proposed a limitation for House and Senate races of $100. Say a candidate got 2,000 individuals in his State to comply with the limit of $100. That would provide $200,000 in a primary. Bear in mind that this amendment does not remove the Federal subsidy. The Federal Government would then match that with another $200,000. That would provide $400,000 for a candidate in a primary.

That is over 10 times what the Senator from Alabama would spend in the primary this year in his home State. But all he would have to do would be to get 2,000 people to make a contribution of $100, and he would have a fund of $400,000. Does he want more than that? This is the primary; it is not the general election.

It certainly is not beyond the realm of the possible or likelihood that this provision, if adopted, would change the political climate of this country by putting campaign financing in the hands of people who would contribute $100 or less to House or Senate races and $250 or less in Presidential races, still carrying forward the matching feature.

If this amendment were adopted, we could follow it with an amendment that would cut the 15 cents per person of voting age down to 10 cents per person of voting age in the general election, and in the primary cut it down to 7½ cents from the 10 cents per person of voting age.

Senator Williams said, and I believe this is the best of the five suggestions that he made:

Make small contributions the backbone of political financing.

That is not what this bill does. This bill permits contributions of up to $3,000 per person. For a man and his wife, it would be $6,000, and I daresay they would find other ways to make $3,000 contributions.

Technically, present law makes it illegal for anyone to give a candidate more than $5,000. However, a donor may contribute to unlimited numbers of local committees established solely to funnel money to a candidate.

As I pointed out at the start of my remarks——

Thus, big contributors continue to supply a disproportionate share of campaign funds.

I believe if the word ever got around in this country that elections were being financed by people who could not contribute more than $250 to a Presidential race, and $100 to a race for the Senate or the House, we would have a whole lot more interest being taken in our political campaigns and in our election process and in the operation of Government generally. The people would feel that they have an interest in a part of the election process.

Mr. President, I believe this amendment is an amendment that should receive widespread support throughout the country, and I would like to see a vote on it, but I feel that we ought to wait overnight for a vote on this amendment. One amendment the Senator from Alabama offered last week in order to accommodate the leadership. The Senator from Alabama agreed to bring it up. There was no opportunity to test the feeling of the people throughout the country. Senators made their decision on the spur of the moment, and the amendment was defeated after having received 36 votes. That was an amendment which provided that no Member of the 93d Congress would be eligible to receive any Federal matching funds for a Presidential nomination campaign for the Presidential term starting January 20, 1977, which is the next term, of course. That amendment, if adopted, would have prevented any Member of the House or any Member of the Senate from receiving any Federal subsidy to aid his campaign for the nomination of either of the two major parties for President in 1976. It is clearly an amendment that should have received widespread support, because it is not right for Members of this Congress to set up a brand new scheme to draw money from the Public Treasury when they will benefit from such subsidy.

And if that amendment had been discussed for some 2 or 3 days, I believe it would have received a larger vote.

So, Mr. President, I believe that this amendment, cutting down the $3,000 down to $250 for Presidential nomination campaigns and to $100 for House and Senate primary and general elections, is

a most important amendment and one that should receive the careful consideration of all Members of the Senate. I only wish that more Senators were present to head this matter being discussed.

Let us read on:

Recognizing that a candidate should not become beholden to a comparatively few large donors, Congress is currently considering a proposal to have the federal government finance campaigns for national office. Worthy as the *aims* of this proposal are, I think such a plan is both undesirable and impractical.

That reminds me, Mr. President, of something the Washington Post has to say about this plan. They did not think much of the primary plan. Let us see what they said. I do not usually quote the Washington Post. However, I think their comment here is rather interesting. This is from the lead editorial of March 26, speaking of S. 372, a bill which I voted for in the Senate, as did most Senators, since the bill passed by a vote of 82 to 8. The lead editorial in the Washington Post of that date, speaking of the bill, though not by name, had this to say:

. . . thus the Senate last summer sent the House a very solid bill to curb private giving and spending and to strengthen the enforcement of the elections laws. And today the Senate begins debate on a very ambitious bill to extend public financing to all federal primary and general-election campaigns.

. . . The problem with the latest Senate bill is that it tries to do too much, too soon, and goes beyond what is either feasible or workable. For one thing, the bill provides for full public financing of congressional general-election campaigns, and that is clearly indigestible in the House this year, since the House leadership even chokes on the more moderate matching-grant approach embodied in the Anderson-Udall bill.

That goes along with my suggestion that we ought to try to wait for the House to send us a bill and let us tack our provisions on and then let it go to conference. As the editorial suggests, this plan is indigestible in the House this year since the House leadership even chokes on the more moderate matching-grant approach embodied in the Anderson-Udall bill.

I continue to read from the editorial:

The more serious defects in the Senate bill involve the inclusion of primaries.

That is one of the things that the Senator from Alabama has been trying to bear down on.

I continue to read from the editorial:

The more serious defects in the Senate bill involve the inclusion of primaries. No aspect of the federal elections process is more motley and capricious than the present steeplechase of presidential primaries.

That is pretty rough langauge about our friends who go out seeking the Presidential nomination. And we have some of those in this body, although they are not here right now. However, they are Members of this body.

I continue to read from the editorial:

No aspect of the Federal elections process is more motley and capricious than the present steeplechase of presidential primaries.

That is what the Washington Post thinks about this question of the primaries.

I continue to read from the editorial:

Injecting even partial public funding into this process, without rationalizing it in any other way, makes little sense. As for congressional primaries, they are so varied in size, cost and significance among the states that no single system of public support seems justifiable without much more careful thought.

So I say, "Amen" to that phase of the editorial from the Washington Post.

Mr. President, I was reminded of that editorial by the article written by former Senator Williams.

I read again from the article by former Senator Williams:

Worthy as the aims of this proposal are, I think such a plan is both undesirable and impracticable. For one thing, Federal financing would make political parties unresponsive to the people. Guaranteed millions of dollars from the public treasury, a party would pursue extremist or outworn aims year after year simply because it would not have to go to the people for financial support.

And there is a much more important point. In the general elections. if we do deprive the people of their right to make contributions, we would just say that the taxpayer is going to pay it all and the people do not have to participate and that we do not need their money. How much interest is a member of the public going to take in the election then.

There is enough apathy already. There is enough disinterest already in the political process without a bill of this sort that would make for more apathy and more disinterest.

I read again from the article:

In areas that are predominantly Democratic or Republican, candidates of the less-favored party would receive tax funds vastly disproportionate to their popular support.

That is another good point—in areas that are predominantly Democratic or Republican, candidates of the less-favored party would receive tax funds vastly disproportionate to their popular support. In other words, if the Democrats have 80 percent of a district and the Republicans have 20 percent, then both candidates would get the same amount of the public subsidy even though the people in the area are predominantly the other way. I continue to read from the article:

The federal-financing proposal also seeks to impose a ceiling on overall campaign expenditures by limiting the amount a candidate may spend and by restricting individual donations to $100. In reality, this subsidy scheme could easily lead to even costlier campaigns, with the federal treasury simply adding on another layer of money.

Incidentally, that has been the system of Federal programs in the country. They start out small. There is one program—I will not say which one it was—that was just added as an afterthought to an appropriation bill and I heard Senators discussing it. I believe they put in some $40 million in this particular program.

In a matter of some 6 or 7 years, it had increased and mushroomed up to a billion dollars; and it was just put on as an afterthought on an appropriation bill.

So that could well—certainly not to that extent, but an increase in the program would certainly come about. They are already talking about doubling the amount of the checkoff, doubling the amount of the income tax credit, doubling the amount of the deduction. So, Mr. President, we could look for a further escalation of this Federal subsidy if it ever becomes law—this additional Federal subsidy, because, as I have already pointed out, we already had subsidization to a certain point.

While candidates themselves could not exceed specified limits, nothing would prevent so-called "public interest" organizations from using their own money to promote politicians of their choice. Nor could a wealthy officeseeker be kept from promoting himself before he officially became a candidate.

I notice that the chairman is making some notes from time to time. I would like, at some later date, to be informed as to just when a campaign gets started and when the limit of overall expenditures starts applying.

As an alternative to straight federal financing, I think we should adopt an idea first advocated by President Kennedy. Its objective is to stimulate myriad small contributions, which would leave candidates unobligated to a few big donors. Such stimulus could be provided by allowing taxpayers a 50-percent tax credit on donations up to, say, $300. Thus, if a man earning $10,000 and a man earning $100,000 a year each contributed $300, the two of them would be treated equally—each would receive a tax debate of $150.

Well, that is a little higher than I feel they should go, but that is moving in the right direction, anyway. That is the right plan. And I understand that the distinguished Senator from North Carolina (Mr. ERVIN), joined by the distinguished Senator from Tennessee (Mr. BAKER), on tomorrow will offer an amendment that would strike title I and substitute in lieu thereof a provision enlarging on the amount of the credit; it might be this very same figure—I rather believe it is—of $300.

Simultaneously, to discourage large contributions, Congress should bar a candidate from receiving money through more than one committee—

I think that is certainly a step in the right direction. Instead of having 200 or 300 committees, just have 1. Just have one, whose books have to be audited. Just have one committee, so that these contributions cannot be split up and lost sight of, and come within the gift tax exemption. I think that is fine, to have only one committee.

Congress should bar a candidate from receiving money through more than one committee and prohibit anyone from giving a candidate more than $300—with stiff tax penalties and jail terms for those caught cheating. Candidacies founded upon the spontaneous, truly voluntary support of many small contributors would be the most likely to produce the best political representation for all the people.

Item No. 5, suggested by Senator Williams:

Enforce the campaign-funding laws. If properly enforced, existing statutes are, by and large, adequate to deal with the individual instances of dishonesty that will always be with us. Thus, no new laws were necessary during the past two years to successfully prosecute former Vice President Spiro T.

Agnew; Sen. Daniel Brewster of Maryland; Representatives Cornelius Gallagher of New Jersey and John Dowdy of Texas; and former Illinois Governor Otto Kerner. However, too often existing laws *have not been enforced.*

To provide for enforcement of the reforms that inevitably will be enacted, Congress should establish a federal-election commission composed equally of Democrats and Republicans.

This bill does provide an independent election commission made up pretty well as Senator Williams suggests.

The assurance that future scandals will not be covered up, no matter who is involved, will of itself help revive public confidence.

Watergate has damaged the country, and it would be foolish to pretend otherwise. And beyond Watergate we see flaws, inadequacies and multiplying problems in many sectors of our society. But, for all its defects, our democracy is still worth preserving and improving. Thus, it is vital that the Congress begin now to cleanse our politics and thereby to revitalize our faith in the democratic process. If the men presently in Congress do not act convincingly and effectively in the coming months, then at the polls next November all of us can exercise the old-fashioned American recourse of replacing them with men who will.

These are five excellent suggestions made by former Senator John J. Williams, of Delaware, who served with distinuction in this body for 24 years, and who became known as the conscience of the Senate.

Of these five suggestions, not a single one of them calls for public financing of elections in the manner provided by this bill. He does suggest added credit to be allowed to individual taxpayers for their contributions, and he does advocate requiring free broadcasts over television and radio at times.

Mr. President, the Rules Committee has provided a most valuable paper indicating the proposed candidates' expenditure limitations based on the U.S. population figures as of July 1, 1973.

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

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

PROPOSED CANDIDATE EXPENDITURE LIMITATIONS, U.S. POPULATION FIGURES AS OF JULY 1, 1973

Geographical areas	Voting age population (VAP) (18 yrs and over)	S. 3044—10¢ per VAP in primary elections [1]	S. 3044—15¢ per VAP in general elections	Base or minimum expenditures		General elections—Expenditures by National and State political party committees—2¢ times VAP of geographic area	
				Primary	General	National committees	State committees
United States—Primary [2]	143,403,000	$14,340,300	NA	NA	NA	NA	NA
United States—General [3]	141,656,000	NA	$21,248,400			$2,833,120	NA
Alabama	2,338,000	233,800	350,700			46,760	$46,760
Alaska	200,000	20,000	30,000	$125,000	$175,000	4,000	4,000
Arizona	1,345,000	134,500	201,750			26,900	26,900
Arkansas	1,374,000	137,400	206,100			27,480	27,480
California	14,143,000	1,414,300	2,121,450			282,860	282,860
Colorado	1,631,000	163,100	244,650			32,620	32,620
Connecticut	2,101,000	210,100	315,150			42,020	42,020
Delaware	382,000	38,200	57,300	125,000	175,000	7,640	7,640
District of Columbia	529,000	52,900	79,350	125,000	175,000	10,580	10,580
Florida	5,427,000	542,700	814,050			108,540	108,540
Georgia	3,140,000	314,000	471,000			62,800	62,800
Hawaii	549,000	54,900	82,350	125,000	175,000	10,980	10,980
Idaho	501,000	50,100	75,150	125,000	175,000	10,020	10,020
Illinois	7,568,000	756,800	1,135,200			151,360	151,360
Indiana	3,530,000	353,000	529,500			70,600	70,600
Iowa	1,957,000	195,700	293,550			39,140	39,140
Kansas	1,570,000	157,000	235,500			31,400	31,400
Kentucky	2,235,000	223,500	335,250			44,700	44,700
Louisiana	2,399,000	239,900	359,850			47,980	47,980
Maine	689,000	68,900	103,350	125,000	175,000	13,780	13,780
Maryland	2,720,000	272,000	408,000			54,400	54,400
Massachusetts	4,006,000	400,600	600,900			80,120	80,120
Michigan	5,922,000	592,200	888,300			118,440	118,440
Minnesota	2,575,000	257,500	386,250			51,500	51,500
Mississippi	1,453,000	145,300	217,950			29,060	29,060
Missouri	3,251,000	325,100	487,650			65,020	65,020
Montana	474,000	47,400	71,100	125,000	175,000	9,480	9,480
Nebraska	1,042,000	104,200	156,300			20,840	20,840
Nevada	365,000	36,500	54,750	125,000	175,000	7,300	7,300
New Hampshire	531,000	53,100	79,650	125,000	175,000	10,620	10,620
New Jersey	5,030,000	503,000	754,500			100,600	100,600
New Mexico	691,000	69,100	103,650	125,000	175,000	13,820	13,820
New York	12,665,000	1,266,500	1,899,750			253,300	253,300
North Carolina	3,541,000	345,100	531,150			70,820	70,820
North Dakota	421,000	42,100	63,150	125,000	175,000	8,420	8,420
Ohio	7,175,000	717,500	1,076,250			143,500	143,500
Oklahoma	1,832,000	183,200	274,800			36,640	36,640
Oregon	1,532,000	153,200	229,800			30,640	30,640
Pennsylvania	8,240,000	824,000	1,236,000			164,800	164,800
Rhode Island	677,000	67,700	101,550	125,000	175,000	13,540	13,540
South Carolina	1,775,000	177,500	266,250			35,500	35,500
South Dakota	454,000	45,400	68,100	125,000	175,000	9,080	9,080
Tennessee	2,799,000	279,900	419,850			55,980	55,980
Texas	7,785,000	778,500	1,167,750			155,700	155,700
Utah	715,000	71,500	107,250	125,000	175,000	14,300	14,300
Vermont	309,000	30,900	46,350	125,000	175,000	6,180	6,180
Virginia	3,243,000	324,300	486,450			64,860	64,860
Washington	2,329,000	232,900	349,350			46,580	46,580
West Virginia	1,228,000	122,800	184,200	125,000		24,560	24,560
Wisconsin	3,033,000	303,300	454,950			60,660	60,660
Wyoming	234,000	23,400	35,100	125,000	175,000	4,680	4,680
Outlying areas:							
Puerto Rico	1,651,000	165,100	247,650			33,020	33,020
Guam	52,000	5,200	7,800	125,000	175,000	1,040	1,040
Virgin Islands	44,000	4,400	6,600	125,000	175,000	880	880

[1] Presidential primary candidates may spend in any State twice the amount a candidate for Senate nomination may spend, subject to a national limit of $.10 times total VAP in connection with a campaign for presidential nomination.

[2] VAP for the primary election includes all geographical area populations because the outlying areas could participate in the presidential nominating process to the extent that they are permitted to send delegates to the national nominating conventions.

[3] VAP for the general election includes all geographical area populations except Puerto Rico, Guam, and the Virgin Islands because their residents are not permitted to vote in the presidential general elections.

Mr. ALLEN. Mr. President, the Congressional Digest of February 1974 contains an interesting history of the public financing legislation, beginning on page 35. The foreword points out:

Viewed by some Members of the Congress as the most complex subject which the newly-convened Second Session is likely to face is that of how U.S. election campaigns are financed. One aspect of the subject which will receive particular attention is whether, as some Senators and Representatives have proposed, some system should be adopted of using Federal tax revenues to provide significant financing to campaigns for Congress and for the Presidency.

Mr. President, I ask unanimous consent to have this article, beginning on page 35 until its conclusion, printed in the RECORD.

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

CONTROVERSY IN CONGRESS OVER PROPOSED FEDERAL CAMPAIGN FINANCING

FOREWORD

Viewed by some Members of the Congress as the most complex subject which the newly-convened Second Session is likely to face is that of how U.S. election campaigns are

financed. One aspect of the subject which will receive particular attention is whether, as some Senators and Representatives have proposed, some system should be adopted of using Federal tax revenues to provide significant financing to campaigns for Congress and for the Presidency.

Over the years since 1910 (see page 36), Congress has enacted a number of laws seeking to regulate campaign financing. The 92nd Congress took several far-reaching actions in this regard, passing in 1971 the so-called "tax checkoff" plan of presidential campaign financing and—effective in 1972—a comprehensive "Federal Elections Campaign Act" (see page 37) requiring, among other things, detailed disclosure of both contributions to and expenditures by candidates for Federal office.

Notwithstanding these developments, efforts have been mounted in the present 93rd Congress to legislate further in the area of campaign financing. As will be seen in the article on page 40, pending before both House and Senate are a number of bills touching upon diverse areas of campaign reform, with a majority concerned in some degree at least with the question of campaign financing.

Although some Members express the view that the detailed statutes enacted within the past few years will, if properly enforced, adequately serve to prevent major campaign financing abuses, majorities in both House and Senate have indicated a willingness to consider further the subject of general campaign financing reform.

Sharp controversy has arisen, however, over the question of public financing of political campaigns. The present tax check-off system which makes funds available to the major parties' presidential candidates for their general election campaigns was, prior to its 1971 passage, debated and rejected on several occasions since first being proposed in the mid-1960's. In the First Session of the present 93rd Congress, although hearings touching upon public campaign financing were held in both houses (see page 41), the one concerted effort to secure adoption of a public campaign financing law died in the face of a Senate filibuster by opponents of such financing.

Proponents of public financing cite the heavy increase in campaign costs in recent years, a development attributed in part to inflation but, in much greater measure, to the mounting use of expensive mass media, particularly television, in campaigns conducted in even the smallest constituencies. Reliance on private financing, it is argued makes recipient candidates less than wholly independent on legislative questions affecting individuals and interests contributing substantial funds. It is further argued that lack of access to the financing required today to run for public office impairs the democratic process by foreclosing such opportunity to many worthy candidates who lack the financing required to mount a campaign.

Opponents, on the other hand, have characterized the effort to secure campaign financing from tax revenues a "Treasury raid," unnecessary in an open and affluent society. The fear is frequently voiced that public financing would place the allocation of campaign funds to all parties in the hands of the one incumbent national party—an arrangement potentially perilous to the free operation of the American party system.

In the coming months further consideration and debate on the subject have been promised by the leadership of both houses of Congress, with omnibus measures including both general reform provisions and public financing features expected to be included in any proposals finally presented to the respective houses for a vote. How they will fare in the political climate of a congressional election year, in the face of resumed "Watergate" hearings, and in the aftermath of the highly-charged political events of 1973, remains to be seen.

EXHIBIT 1

CAMPAIGN FINANCING REFORM

(By Senator John J. Williams)

It will probably be a long time before we can fully assess the impact of Watergate and related scandals on American life. Indeed, at this point we cannot foresee what more may yet emerge from continuing investigations. But from the squalid evidence already visible, it is clear that political corruption in this country is not just a moral problem. It is one that imperils the very survival of our democracy.

There is, of course, no magic solution to the problem of corruption, and we should be wary of any political nostrum that purports to offer one. But the recent scandals do illuminate one area where reforms are both essential and possible. For the reprehensible, clandestine political acts connected with Watergate were financed and made possible by an excess of campaign donations, many of them secretly and illicitly obtained. Equally important, the flow of massive contributions into both parties has created the impression among millions of Americans that the government of the United States can be bought.

To restore public confidence in the integrity of government, we need to end the dependency of our candidates on special-interest contributions. This we can do to a significant extent by reducing the costs and changing the methods of campaign financing. I believe there are a number of reasonable steps that can be taken toward this goal.

1. *Shorten the campaign.* Political campaigns cost so much, in part, because they last so long. The custom of prolonged campaigning originated at a time when much of the country was sparsely populated and a candidate had to travel by train or even on horseback for many months to communicate with the electorate. This tradition has been made obsolete by the jet airplane, television and other mass media. Yet our campaigns still drag on needlessly, consuming vast amounts of money and providing endless repetition.

I recall that after President Eisenhower once spoke in my state of Delaware, I complimented him on his speech. "Well, Senator," he replied, "the first time I made that speech, I thought it was pretty good. The next ten times I made it, I thought it was okay. Now I've made it so many times I think it's terrible."

I doubt that there is a politician alive who has not felt that way or who could not tell the people all he knows and thinks in two or three months. Thus, I believe that Congress should fix a uniform, nationwide date for the primaries and nominating conventions affecting all federal offices. By commencing the primary campaigns in early August, and the general-election campaigns in early October, we would at once sharply lower the cost of politics. At the same time, we would improve the quality of political discourse and heighten public interest in it.

2. *Grant free television time and mailing rights.* Candidates in the seven Congressional districts in and around Detroit usually pay about $2,000 for one minute of prime network television time. With costs in other metropolitan areas—New York, Los Angeles, Chicago, Philadelphia—even higher, it is not surprising that candidates for federal posts had to spend $32 million for TV and $28 million for radio in 1972.

In urging free time for legitimate candidates, it is important to recognize that television and radio stations exist and make handsome profits because they have been given public property—namely, transmission channels, of which there are a limited number. So it seems to me only fair that the stations partially repay the public at election time by providing bona fide candidates with the means of free communication of their political views. At the same time, the present law, which requires stations to give equal time to anyone claiming to be a candidate, whether he has any serious credentials or not, should be repealed.

Congress should then promulgate criteria by which state-election officials can certify bona fide condidates for national office. It should also stipulate how much time stations must allot to them. This free access to broadcast media would greatly diminish what is often the largest item in a campaign budget.

The dependency of candidates on outside contributions could be further lessened by allowing them to mail one or two political statements to all voters free of charge. Presently prevailing printing and mailing costs make such mailings prohibitive. A Senate candidate running in California would most likely need to spend at least $1.1 million to reach every registered voter in the state. In Ohio, the total would be more than $500,000; in New Jersey, $400,000; in Georgia $250,000.

Incumbent Congressmen and Senators are already permitted to make mass mailings of "non-political" material that promotes their re-election efforts. By giving challengers limited mailing privileges, we would level the political scales now tipped in favor of those in office. In Great Britain, the practice of awarding candidates mailing privileges—and free television time—has proved both workable and effective.

3. *Get Big Business and Big Labor out of political bankrolling.* The law has long recognized, in theory at least, that it is wrong to allow corporations and unions to try to buy votes through political donations. As far back as 1907, Congress prohibited business contributions and unsecured loans by banks for political purposes, a ban that was reaffirmed by laws enacted in 1925 and 1971. Congress applied the same prohibition to unions in 1943 and 1947. But corporations and unions—as well as both major political parties—have flouted the intent of these prohibitions with virtual impunity.

As of last December, for example, at least eight executives had publicly admitted that their corporations made illegal contributions to the 1972 Nixon campaign. But Democrats as well as Republicans have shared in such political largess. Dairy lobbyists who gave $100,000 to the Republicans in 1969 also passed out hefty contributions to prominent Democrats in a position to influence Congressional legislation affecting dairy interests.

As for the unions, many, by a variety of measures, extract "voluntary contributions" from their members. These fixed "contributions," regularly deducted from each member's paycheck along with his dues, go into political funds controlled by union bosses. In the 1968 and 1972 elections, millions of rank-and-filers disagreed with the political candidates subsidized by their dollars. But they had no voice in the matter. Unions further aid favored candidates by financing "political education" and "voter registration" drives. Although nonpartisan in name, such campaigns are actually ultra-partisan because they are conducted only in those areas and among those voters known to favor the union leaders' candidates. Author Theodore H. White notes that in 1968 unions registered 4.6 million voters, distributed 115 million political leaflets, supplied 72,225 house-to-house canvassers, and on Election Day deployed 94,500 volunteers for political purposes.

To be sure political activity—including genuinely voluntary contributions—should be encouraged among all citizens. But Congress should enact stringent new laws which effectively bar corporate and union contributions in any form.

4. *Make small contributors the backbone of political financing.* While reducing the costs of campaigns, we should endeavor to spread the legitimate costs that do remain among as many citizens as possible. Technically, present law makes it illegal for anyone to give a candidate more than $5000. However, a donor may contribute to unlimited numbers of local committees established solely to funnel money to a candidate. Thus, big contributors continue to supply a disproportionate share of campaign funds.

Recognizing that candidates should not become beholden to a comparatively few large donors, Congress is currently considering a proposal to have the federal government finance campaigns for national office. Worthy as the *aims* of this proposal are, I think such a plan is both undesirable and impractical. For one thing, federal financing would make political parties unresponsive to the people. Guaranteed millions of dollars from the public treasury, a party would pursue extremist or outworn aims year after year simply because it would not have to go to the people for financial support. In areas that are predominantly Democratic or Republican, candidates of the less-favored party would receive tax funds vastly disproportionate to their popular support.

The federal-financing proposal also seeks to impose a ceiling on overall campaign expenditures by limiting the amount a candidate may spend and by restricting individual donations to $100. In reality, this subsidy scheme could easily lead to even costlier campaigns, with the federal treasury simply adding on another layer of money. While candidates themselves could not exceed specified limits, nothing would prevent so-called "public interest" organizations from using their own money to promote politicians of their choice. Nor could a wealthy office-seeker be kept from promoting himself before he officially became a candidate.

As an alternative to straight federal financing, I think we should adopt an idea first advocated by President Kennedy. Its objective is to stimulate myriad small contributions, which would leave candidates unobligated to a few big donors. Such stimulus could be provided by allowing taxpayers a 50-percent tax credit on donations up to, say, $300. Thus, if a man earning $10,000 and a man earning $100,000 a year each contributed $300, the two of them would be treated equally—each would receive a tax rebate of $150.

Simultaneously, to discourage large contributions, Congress should bar a candidate from receiving money through more than one committee and prohibit anyone from giving a candidate more than $3000—with stiff tax penalties and jail terms for those caught cheating. Candidacies founded upon the spontaneous, truly voluntary support of many small contributors would be the most likely to produce the best political representation for all the people.

5. *Enforce the campaign-funding laws.* If properly enforced, existing statutes are, by and large, adequate to deal with the individual instances of dishonesty that will always be with us. Thus, no new laws were necessary during the past two years to successfully prosecute former Vice President Spiro T. Agnew; Sen. Daniel Brewster of Maryland; Representatives Cornelius Gallagher of New Jersey and John Dowdy of Texas; and former Illinois Governor Otto Kerner. However, too often existing laws *have not been enforced.*

To provide for enforcement of the reforms that inevitably will be enacted, Congress should establish a federal-election commission composed equally of Democrats and Republicans. The assurance that future scandals will not be covered up, no matter who is involved, will of itself help revive public confidence.

WATERGATE has damaged the country, and it would be foolish to pretend otherwise. And beyond Watergate we see flaws, inadequacies and multiplying problems in many sectors of our society. But, for all its defects, our democracy is still worth preserving and improving. Thus, it is vital that the Congress begin now to cleanse our politics and thereby to revitalize our faith in the democratic process. If the men presently in Congress do not act convincingly and effectively in the coming months, then at the polls next November all of us can exercise the old-fashioned American recourse of replacing them with men who will.

Mr. ALLEN. Mr. President, recapitulating the action that has been taken on some of the amendments which have been acted on here in the Senate, the first amendment that was offered was an amendment by the Senator from Alabama that would have stricken title I of the bill. The bill contained at that time, I believe, five titles, one of the titles being the public financing title. The first amendment that was offered sought to strike that whole title from the bill.

However, it was defeated. The theory of the amendment was that the proper approach to campaign financing and the limitation on campaign financing should be to deduct the overall amount of the permissible campaign expenditures and to limit the amount of campaign contributions.

Strict regulation of Federal elections in the private sector has not been tried as completely and as fully as should be the case, because present law is completely inadequate in this area.

In the first place, it does not place any limitation on contributions, the thought being, I assume, that full disclosure of all contributions would be regulation enough. But this has not been the case, nor were campaign expenditures properly regulated. I believe, under present law, as to media advertising only, that is, radio, television, newspaper, and I believe billboards, the expenditures in that area are limited, the overall limit being 10 cents per person of voting age in the political subdivision from which the candidate runs.

And not more than 60 percent to go to radio and television and the balance to other forms of media advertising. But no limitation whatsoever was placed on the large number of other forms of expenditures, and no limitation was placed on the amount that could be spent for a campaign manager, so to speak, and no limitation was placed on the amount of expenditures for mass mailing literature, or for the printing and distribution of brochures and cards.

Mr. SYMINGTON. Mr. President, will the Senator from Alabama yield?

Mr. ALLEN. I yield.

Mr. SYMINGTON. I am trying to make my own plans. May I ask the Senator if he plans to have a vote today?

Mr. ALLEN. I respond to the distinguished Senator from Missouri by saying that I would like to see the amendment carried over until tomorrow and, at such time as we could reach an agreement to that effect, I would be glad to see the Senate recess for the day. But I feel that this amendment should go over until tomorrow rather than to be voted on, especially since we do not appear to have a quorum of Senators present on the floor, and Senators are refraining from asking for quorum calls hoping that other Members of the Senate might come in, so that we could discuss the matter. But the Senator from Alabama is not insisting on a vote. If an agreement could be reached that we vote at a given time tomorrow, the Senator from Alabama would be glad to yield the floor.

Mr. SYMINGTON. Then the chances are that there will be no vote today?

Mr. ALLEN. I believe we need to vote on this tomorrow.

Mr. SYMINGTON. I thank the Senator from Alabama very much.

Mr. ALLEN. Mr. President, the Senator from Alabama was discussing the inadequacies of present law regarding campaign expenditures and he pointed out that there is no limitation, as he recalls, in areas other than media advertising, that limitation being 10 cents per person of voting age, I believe, with not more than 60 percent of it going to the media and 40 percent to other forms of expenditures. But he pointed out that this leaves so many other areas for expenditure that are not limited, as in all traveling expense, all lodging expense, all overhead, all payrolls, all printing, all stationery, all telephones, all automobile expense—no limitation at all on any of that. So there should be a limit on that. I am glad that the present bill does increase this overall amount to—I say increase it—I am not glad about the increase, but I am glad they made it apply to all forms of advertising. I would prefer to have the 10 cents per person of voting age, but the Rules Committee has raised it up to 15 cents per person of voting age in a general election and 10 cents in the primary. This Senate bill adds the primaries, the House and Senate primaries. They were not covered in the original rider that was offered here last year and that failed of passage.

So the present law is inadequate; and the Senate last year, realizing that fact, passed a bill on July 30, 1973, by a vote of 82 to 8 and sent it to the House, where it still reposes. That bill did limit campaign contributions to $3,000. It provided that no cash contributions in excess of $50 could be made. A separate election commission was set up. All these were constructive proposals; and in time, I daresay, the House will act on this measure and send it back to the Senate.

The significant feature of S. 372 was that it provided for financing Federal elections in the private sector. No mention was made of public financing whatsoever. No extension of what we already have was provided for. As a matter of fact, the Senate, while this was still under consideration in the Senate, defeated a public financing amendment by a vote, I believe, of 52 to 40. It defeated the Scott-Kennedy amendment at that time, because it proposed Federal financing. That was turned down; and a pure bill—that is, a bill not infected with the public financing feature—went over to the House.

Now, Mr. President, this whole theory has been changed. No longer, apparently, do some Senators want to keep financing all campaigns in the private sector. They want to add public financing. They want

to turn this bill for Federal campaign financing over to the public Treasury. That is their answer to the lessons, if any, of Watergate.

Reform the procedure? Greatly restrict contributions and expenditures? Provide for full disclosure? Is that enough? No. You have to hand the bill to the taxpayer. You have to let the taxpayer pick up the bill. If that is the answer to Watergate, if that is all the ingenuity and resourcefulness the Senate has, to present this multihundred million dollar bill to the taxpayer, we do not have too much originality.

When the Watergate Committee was set up some 15 months ago or so, the resolution provided that the committee would investigate these various happenings and make recommendations to the Senate as to what changes should be made in the election procedure. They are going to come out with a report, either this month or next month, making recommendations. I do not believe anyone has to be a seer or a soothsayer to predict that their recommendations are not going to embody any public financing proposals. Why do I say that? It is not that I am a member of the committee. It is not that I have made inquiry as to what recommendations they are going to make. All one need do is to check the votes of the Senators on the Watergate Committee. By checking the votes closely, or just casually, one will find that five of the seven members do not favor public financing. They believe that there are better answers to our problems, and better solutions, than just presenting a great, big, fat half-billion dollar bill—and by "bill" I mean statement of account—to the taxpayers. They think there are better solutions than that, and I agree with them. They are voting against these public financing provisions, because they know that is not a true reform. If you reform something, you improve it, you change it for the better, and you do not just give up and say, "Let the taxpayer pay the bill."

I note that pending at this time are amendments by the distinguished Senator from North Carolina (Mr. ERVIN) and the distinguished Senator from Tennessee (Mr. BAKER) to knock out title I, the public financing feature, and to substitute in lieu thereof a tax credit provision allowing the taxpayer a credit on his political contribution. It may be asked, Why not just subsidize the election? This would give the taxpayer the right to funnel his own funds to such candidate as he sees fit. The plan embraced in this bill, S. 3044, requires the taxpayer to pay for the campaigns of candidates with whose views and with whose philosophy he is in entire disagreement.

Mr. TOWER. Mr. President, will the Senator yield for a question?

Mr. ALLEN. I am delighted to yield to the Senator from Texas.

Mr. TOWER. The 24th amendment prohibits the imposition of a poll tax or the payment of any other tax as a qualification for voting. I wonder what the Senator might think of perhaps amending the Constitution and applying the user theory here, to the extent that every voter pays a fee and that fee is used to provide the fund for public funding of the campaign. In that way the people who do not choose to vote or participate will not get soaked for the expense of the campaign.

Mr. ALLEN. That is an interesting proposal, but I do not think I would submit such a proposal or be in favor of it.

Mr. TOWER. I doubt that I would either, but it seems to me that would be a fair way, rather than to take money from the general revenues of the United States.

Mr. ALLEN. It may be, but it does not offer too much appeal to me.

Mr. MANSFIELD. Mr. President, will the Senator yield when he completes his thoughts?

Mr. ALLEN. That will take quite a while.

Mr. MANSFIELD. Will the Senator yield now?

Mr. ALLEN. I am delighted to yield to the distinguished majority leader.

Mr. MANSFIELD. Mr. President, I understand the Senator from Alabama does not desire to vote on his amendment tonight.

Mr. ALLEN. That is the request made by the Senator from Alabama; that it be voted on tomorrow.

Mr. MANSFIELD. Would the Senator care to suggest a time?

Mr. ALLEN. I have no suggestion at all; any time the distinguished majority leader would suggest.

Mr. MANSFIELD. How about 12:30 p.m. tomorrow?

Mr. ALLEN. That is all right, or an earlier time.

Mr. MANSFIELD. How about 12 o'clock noon?

Mr. ALLEN. That suits me.

Mr. MANSFIELD. We will come in at 11 a.m. I wonder if the Senator, in view of the informal agreement just made, would consider the possibility of continuing his remarks tomorrow in the free period left, so that the distinguished Senator from Delaware (Mr. ROTH) could offer his amendment this afternoon, on which amendment there is a time limitation of ½ hour.

Mr. ALLEN. I have no objection. I wonder if the distinguished majority leader would incorporate in his request a little time for further discussion when we might possibly have a greater number of Senators present.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MANSFIELD. The Senator from Montana wishes to ask the Chair what Senators have been recognized under special orders for tomorrow, if any.

The PRESIDING OFFICER. There are no special orders for the recognition of Senators tomorrow.

ORDER FOR ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate adjourns tonight, it stand in adjournment until 11 a.m. tomorrow.

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

ORDER FOR PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a brief period tomorrow for the conduct of morning business for not to exceed 15 minutes with a time limitation of 3 minutes attached thereto.

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

ORDER FOR DIVISION OF TIME AND VOTE ON ALLEN AMENDMENT NO. 1059

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the remainder of the time on the Allen amendment be equally divided between the distinguished Senator from Alabama who now has the floor, the author of the amendment (Mr. ALLEN), and the manager of the bill, the distinguished Senator from Nevada (Mr. CANNON).

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

Mr. MANSFIELD. And that the vote on the Allen amendment occur at the hour of 12 noon tomorrow.

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

Mr. MANSFIELD. Mr. President, I express my appreciation to the distinguished Senator from Alabama for the agreement which has been reached.

CLOTURE MOTION

Mr. MANSFIELD. Mr. President, I send to the desk a cloture motion and ask that it be read.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The assistant legislative clerk read the cloture motion, as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the pending bill S. 3044, a bill to amend the Federal Election Campaign Act of 1971 to provide for public financing of primary and general election campaigns for Federal elective office, and to amend certain other provisions of law relating to the financing and conduct of such campaigns.

Mike Mansfield, Warren G. Magnuson, James B. Pearson, Robert Dole, Hugh Scott, Clairborne Pell, Frank Church, Quentin N. Burdick, Marlow W. Cook, William Proxmire, Clifford P. Case, Henry M. Jackson, Daniel K. Inouye, Hubert H. Humphrey, Joseph R. Biden, Jr.,

Ted Stevens, Stuart Symington, Floyd K. Haskell, Birch Bayh, William D. Hathaway, Edmund S. Muskie, Jennings Randolph, Dick Clark, Jacob K. Javits.

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

Mr. MANSFIELD. I yield.

Mr. ALLEN. I thank the distinguished Senator for his remarks made in the first

half of his statement about the Senator from Alabama. I appreciate his kindliness in that regard. I offer no thanks for his offering the cloture motion.

Mr. MANSFIELD. I am sure that the Senator from Alabama was not caught by surprise.

FEDERAL ELECTION CAMPAIGN AMENDMENTS OF 1974

The Senate continued with the consideration of the bill (S. 3044) to amend the Federal Election Campaign Act of 1971 to provide for public financing of primary and general election campaigns for Federal elective office, and to amend certain other provisions of law relating to the financing and conduct of such campaigns.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that it be in order at this time to ask for the yeas and nays on the Allen amendment.

The PRESIDING OFFICER. The amendment is before us.

Mr. MANSFIELD. I ask for the yeas and nays on the Allen amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, again my thanks to the distinguished Senator from Alabama.

Mr. President, I suggest the absence of a quorum pending the arrival of the distinguished Senator from Delaware.

Mr. ALLEN. May I first yield the floor?

Mr. MANSFIELD. Yes.

Mr. ALLEN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair wishes to ask the distinguished Senator from Montana if in his unanimous-consent request he asks that the pending amendment be set aside so that there can be a discussion of the amendment by the Senator from Delaware?

Mr. MANSFIELD. I did not. I appreciate the suggestion of the Chair. I make that suggestion at this time.

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

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

The PRESIDING OFFICER. The pending business is still the amendment of the Senator from Alabama.

Mr. MANSFIELD. Mr. President, I take it upon myself, with the approval of the acting Republican leader, to ask unanimous consent that the Roth amendment be laid before the Senate.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

The amendment is as follows:

TITLE VI—MAILING OF CAMPAIGN MATERIAL

DEFINITIONS

SEC. 601. For the purpose of this title—

(1) "candidate" means any legally qualified candidate for election who (A) meets the qualifications prescribed by the applicable laws to hold the office for which he is a candidate, and (B) is eligible under applicable State law to be voted for by the electorate directly or by means of delegates or electors;

(2) "Federal office" means the office of Senator or Representative;

(3) "Representative" means a Member of the House of Representatives, the Resident Commissioner from the Commonwealth of Puerto Rico, and the Delegates from the District of Columbia, Guam, and the Virgin Islands;

(4) "general election" means any regularly scheduled or special election held for the purpose of electing a candidate to Federal office; and

(5) "State" means each State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

AUTHORIZATION

SEC. 602. (a) Each candidate for election to a Federal office in a general election is authorized to make three mailings of his campaign material, free of postage, to persons registered to vote—

(1) in the case of a candidate for election as Senator, in the State in which he seeks election; and

(2) in the case of a candidate for election as a Representative, in the district in which he seeks election.

(b) Campaign material of such a candidate may be mailed free of postage only if the material—

(1) is mailed not earlier than sixty days preceding the date of the general election in which the candidate seeks election;

(2) bears on the outside in the upper right-hand corner the words "Campaign Material"; and

(3) sent to each registered voter each mailing does not exceed sixteen ounces.

(c) There are authorized to be appropriated to the United States Postal Service an amount equal to the postage that would have been paid on the campaign material mailed in accordance with this section if this section had not been enacted. In determining such amount, the campaign material shall be considered matter mailed by a qualified nonprofit organization under section 4452(b) of title 39, United States Code, as such section existed on August 11, 1970.

LIMITING USE OF FRANKED MAIL

SEC. 603. Section 3210(a)(5)(D) of title 39, United States Code, is amended—

(1) by striking out "or general"; and

(2) by inserting immediately after "runoff)", the following: "and less than one hundred and twenty days immediately before the date of any general election (whether regular, special, or runoff)".

PROHIBITION AGAINST OTHER MAILINGS

SEC. 604. (a) Except as authorized by section 602, no candidate for Federal office shall make a mass mailing of his campaign material less than one hundred and twenty days immediately before the date of a general election (whether regular, special, or runoff) in which he is a candidate.

(b) As used in this section, the term "mass mailing" shall mean mail matter the content of which is substantially identical but shall not apply to mailings—

(1) which are in direct response to inquiries or requests from the persons to whom the matter is mailed; or

(2) of news releases to the communications media.

Mr. TOWER. Mr. President, I suggest the absence of a quorum without the time consumed thereby being charged to either side on the Roth amendment.

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

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

ORDER TO HOLD TEMPORARILY AT THE DESK MESSAGE ON H.R. 12627 AND THE BILL

Mr. MANSFIELD. I understand this unanimous-consent request has been cleared on the Republican side.

Mr. President, I ask unanimous consent that when received from the House, the message on H.R. 12627 and the bill be held temporarily at the desk.

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

QUORUM CALL

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

Mr. TOWER. Mr. President, if the Senator will yield, would he amend the request so as not to charge the time to either the proponents or opponents of the Roth amendment?

Mr. MANSFIELD. I make that request.

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

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

ORDER TO LAY UNFINISHED BUSINESS BEFORE THE SENATE TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on tomorrow the unfinished business be laid before the Senate at the conclusion of the morning hour.

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

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, without the time being taken out of anyone's time.

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. 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.

AUTHORIZATION FOR COMMITTEE ON LABOR AND PUBLIC WELFARE TO FILE REPORT ON S. 3203 UNTIL MIDNIGHT TONIGHT

Mr. JAVITS. Mr. President, I ask unanimous consent that the report by the Committee on Labor and Public Welfare on S. 3203, to amend the National Labor Relations Act, may be filed by midnight tonight.

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

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1974

The Senate continued with the consideration of the bill (S. 3044) to amend the Federal Election Campaign Act of 1971 to provide for public financing of primary and general election campaigns for Federal elective office, and to amend certain other provisions of law relating to the financing and conduct of such campaigns.

Mr. ROTH obtained the floor.

Mr. TOWER. Mr. President, if the Senator will yield, I ask unanimous consent that the time on the Senator's amendment run from the time of the recognition of the Senator from Delaware.

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

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, I call up my amendment No. 1121.

The PRESIDING OFFICER. The amendment is already before the Senate.

Mr. ROTH. Mr. President, I ask unanimous consent that Ray Jacobsen, of my staff, be permitted the privilege of the floor during the consideration and votes on my pending amendment and others.

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

Mr. ROTH. Mr. President, I am today offering the first in a series of amendments which I plan to offer to S. 3044, the Federal Elections Campaign Act Amendments of 1974.

Before proceeding to explain this amendment, however, I am compelled to state my general views concerning campaign reform on which each of these amendments are built.

Without a doubt, there must be a reform of the current methods of conducting and financing political campaigns. These campaigns are too long, they are too expensive, they force a potential candidate to raise large amounts of money to purchase television time, make mass mailings, or travel throughout the Nation, his State, or his district.

The bill now under consideration, S. 3044, corrects several of the abuses associated with improper campaign activities. It limits the amount of money which any candidate can spend on behalf of his campaign. It limits the amount of funds which any particular person can contribute to a candidate's campaign. It requires each candidate to disclose the identity of his contributors and the amounts received by each donor. Moreover, an independent Federal Election Commission will be created by this bill to enforce the reporting and disclosure requirements of the 1971 Election Act and the penalties for violating these provisions have been increased.

Yet, in addition to these salutary provisions, S. 3044 goes one step further by authorizing the use of Federal funds to pay the costs of all future campaigns for Federal office. I have opposed the concept of "public financing" because I believe that it makes a fundamental change in campaign financing which diminishes each citizen's role in the political process.

As an alternative to "public financing," I have introduced legislation to allow each taxpayer to take a 50 percent tax credit for a political contribution of $150 by a single taxpayer or $300 on a joint return.

It has been estimated that public financing would cost $200 million in a Presidential election year while the Treasury Department says my tax credit approach will cost only $152 million. Through a combination of my proposal and the present dollar checkoff, it is my estimate that over $200 million will be available for the financing of all Federal elections in 1976.

I intend to present this proposal to the Senate Finance Committee when the Committee considers each of the tax-related provisions of S. 3044.

Mr. President, it seems to me that the "public financing" provisions of S. 3044, in reality, place more, rather than less, emphasis on the use of money in political campaigns.

In addition, these provisions may tend to separate the candidate from his constituency. For, once a candidate learns that he can tap the Federal Treasury for his campaign funds, he will no longer be encouraged to seek the maximum amount of personal contact with prospective voters.

Instead of carrying his campaign to the people through personal appearances or on television debates, a candidate will be encouraged to allow an elite group of specialists—such as "campaign consultants"—to manage his campaign by "packaging" the candidate through use of the latest Madison Avenue techniques.

In the future, slick, well-rehearsed "spot" announcements will become even more prevalent once "public financing" becomes law.

In order to give each citizen the knowledge which is a prerequisite to an informed exercise of the right to vote, I am offering two amendments to the Federal Election Campaign Act.

One amendment will amend the Communications Act of 1934 to direct the Federal Communications Commission to develop regulations to require television licensees to grant free air time, on an equitable basis, to candidates for Federal office. This will help equalize campaign resources.

The second amendment—and the one which I am today submitting for the Senate's consideration—will permit all candidates for congressional office, whether incumbents or challengers, to mail, at Government expense, three mass mailings of their campaign material to their potential constituents in the 60 days prior to a general election.

In exchange for the authorization to make three mass mailings during the final 60 days of the campaign period, all congressional candidates will be prohibited from making any mass mailings of their campaign literature within the 120 days immediately preceding a general election day. This provision is in accordance with S. 343, the bill presented by Senator BYRD of West Virginia and passed by the Senate last June which would shorten the campaign period to approximately 8 weeks.

Included in my amendment is a change in the laws governing the use of the franking privilege by Members of Congress. At present, no Member of Congress can make a mass mailing to his constituents during the 28 days prior to a general election in which he is a candidate. My amendment lengthens this time period to 120 days in order to place both an incumbent and a challenger on equal terms.

As used in my amendment, the term "mass mailings" includes literature, such as newsletters, which are substantially identical in appearance or content. It excludes mailings which are in response to persons who have written to the candidate during the campaign period. In addition the term does not include news releases sent by the candidate to the members of the press.

Mr. President, by giving each candidate the opportunity to mail, without postage, these mass mailings to potential voters, each candidate will be encouraged to present his or her views to those whom they seek to represent without incurring the large postage costs which are associated with large-scale mailings. By adopting this amendment, I believe the Senate will have made a substantial contribution toward reforming our present methods of campaigning for Federal office. I urge the Senate to adopt this amendment.

Mr. PELL. Mr. President, I recognize the objective of the Senator from Delaware. It is an excellent objective. I recognize also his thinking here, that it would eliminate abuses, while I feel compelled to oppose it. However, I believe the principal cost of three mass mailings of this sort to every registered voter would be substantial and should not be paid for by the Public Treasury. It actually could amount to more than the present 10-cent allowance in a primary or a 15-cent allowance in a general election. We are just checking now with the Post Office for the actual figures as to what it would cost. I think these are expenses that should be properly borne by the candidates and committees. And the way to handle it is to make sure that the frank is not abused. And this we have done by stretching out the present 30-day prohibition to make it 60 days. Those are my reasons for objecting to the Senator's amendment.

For that reason, and recognizing the objective and the merits of the Senator's arguments, I feel compelled to oppose the amendment.

Mr. ROTH. Mr. President, I would like to make two or three observations with respect to my amendment.

As I stated, what I would like to see done is a deemphasis of money in the campaign rather than an emphasis on funds.

Of course, I feel that is the basic thrust and one of the basic criticisms that can be made about public financing and that what we are really saying is

that public funds should continue to be a major factor in the conduct of the campaign of any candidate.

What I am trying to do through the series of amendments I am offering not only with respect to this bill, but also in legislation which I have introduced in the past and will propose in the Finance Committee is to deemphasize money and the use of funds.

I would say to the Senator from Rhode Island that these mass mailings would go third class and they would not require, as they do not on the House side, the cost of addressing. I do not mean that it will not cost some money to the Government, because it will, but it will not involve the great cost that is envisioned.

In any event, it provides in an equitable manner for a fair means toward all candidates, whether they be incumbents or not, to communicate with their voters in such a way as to help deemphasize the use of money and bring back the campaign of the people directly to the candidates themselves.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROTH. 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. ROTH. Mr. President, I ask unanimous consent that my amendment be modified so as to provide for two, rather than three, mass mailings.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the amendment is so modified.

Will the Senator from Delaware send his modification to the desk?

Mr. ROTH. Yes.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time be not charged to anyone.

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 have ascertained what the cost of third-class postage rates would be. The bulk rate is 32 cents a pound. Since this amendment, as modified, would provide for the sending of up to 2 pounds to each registered voter, or 64 cents, which would actually be more than six times the allowance for primaries or four times the allowance for general elections, I would be compelled more strongly than I had believed to oppose the amendment, because of the cost to the Government.

Mr. ROTH. Mr. President, I would point out that those figures are, as I understand them, what the post office would charge. Is that correct?

Mr. PELL. That is what the post office charges; that is correct.

Mr. ROTH. That is not necessarily exactly what the out-of-pocket cost to the Government would be.

Mr. PELL. We have not been able to ascertain that, but knowing Uncle Sam's reputation, I cannot believe that he would charge many times the cost of delivery. Perhaps he makes a little profit.

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

The PRESIDING OFFICER. The Senator from Delaware has 3 minutes plus.

Mr. ROTH. I just want to make one further observation. It seems to me that if we are willing to pay unlimited postage for incumbents, as we are—every Member of this body as well as every Member of the House of Representatives has no limit on the number of mass mailings he is permitted to make—this proposal would be well worth the cost to help the election process as well as to deemphasize the need of money. I agree that while it would involve a certain amount of cost to the Federal Government, it seems to me that if we can justify it for our own use during our time in office, it is justifiable as well during the campaign period.

Mr. COTTON. Mr. President, will the Senator yield for a question?

Mr. ROTH. I am happy to yield to the Senator from New Hampshire.

Mr. COTTON. From my hasty reading of the amendment of the distinguished Senator from Delaware, I take it that it refers to mailings.

Mr. ROTH. That is right.

Mr. COTTON. To three mailings?

Mr. ROTH. That is correct.

Mr. COTTON. I am in sympathy with that, the purpose of the amendment, because I come from a State that depends on mailings, since we have no television that reaches the entire State. However, the postage is now 10 cents, and if I were running for reelection—with the 10-cent postage rate, and depending on direct mail, as I have in every one of my campaigns, I would find some way, through my own organization, to distribute from door to door such literature and campaign material as I wanted to distribute, because I would not want to pay 10 cents postage on even three mailings.

If the Senator really wants to accomplish the purpose and limit all candidates to the same policy, to only three pamphlets or three letters or three appeals, I would find a substitute for mail distribution, because with a 10-cent mailing rate I think you would find in many States, particularly in the smaller States, that even as a matter of just saving dollars and cents, the candidates would be able to devise and find some other way.

I know that the night before election——

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

Mr. ROTH. Mr. President, I ask unanimous consent to proceed for 5 more minutes.

Mr. PASTORE. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

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

The PRESIDING OFFICER. The Senator from Rhode Island has 5 minutes.

Mr. PELL. I yield it to the Senator from Delaware.

Mr. COTTON. As I was saying, I remember that just before an election recently, I think it was my distinguished colleague from New Hampshire (Mr. McINTYRE) who was running that year, I had a very beautiful brochure pushed under the front door of my residence. They were distributed by hand.

That is my inquiry.

Mr. ROTH. Let me answer the Senator quickly, as I wish to yield, if I may, the remaining time to the Senator from New York.

As I mentioned during my statement, what we are trying to do is deemphasize funds. I have a series of amendments. It seems to me that this provision, even though it would cost the Federal Government a certain amount of money, affords all candidates, whether officeholders or not, an opportunity to communicate directly with the voters. I understand there are other methods to communicate, and they still might use those, but I would hope that this means would decrease the demand for other media.

I yield whatever time I have remaining to the Senator from New York.

Mr. BUCKLEY. Mr. President, I thank my friend from Delaware for yielding me this time, and I thank my friend from Rhode Island for yielding the time to my friend from Delaware.

I do believe that this is a very important amendment. It is one of which I am very pleased to be a cosponsor. It goes to the heart of what has been one of my great concerns over this legislation; namely, the fact that incumbents have undeniable advantages, the advantages of incumbency.

I feel that we must recognize that one of the principal sources of the advantage of incumbents is their ability to communicate with their constituents at public expense. This is a necessary right of communication. I have no objection to that. But I believe we should also recognize that it is terribly difficult to draw the line between those communications that are, you might say, in the line of duty as a Senator or Member of the House of Representatives and those communications that undoubtedly begin poaching on the whole campaign process.

So I see in this amendment two elements of reform: first, drawing a dividing line beyond which an incumbent is not allowed to mail, on a basis that gives him an advantage that is not equally applicable to the opponent, so that it seems to me that equity, it seems to me that considerations of trying to give a challenger some of the advantages that accrue to incumbency, it seems to me the kind of convenience of access that the mails apply, which is not necessarily possible especially in the more rural areas to people to volunteer—all of these considerations taken together suggest that the amendment is necessary, that it is an amendment that will spare this body a great deal of criticism, and that it is an amendment that recognizes there are advantages of incumbency that should be neutralized and equalized.

I want to compliment the Senator from Delaware (Mr. ROTH) for offering the amendment. I hope that my colleagues will vote in favor of it.

Mr. PELL. Mr. President, I yield 2 minutes to my distinguished senior colleague, Mr. PASTORE.

The PRESIDING OFFICER (Mr. BIDEN). The Senator from Rhode Island is recognized for 2 minutes.

Mr. PASTORE. Mr. President, if I thought for 1 minute, without trying to impugn the motives of any sponsor of an amendment, that those sponsoring these amendments were amenable to the idea, the philosophy, and the ideology of public financing, I would be more reluctant to do what I intend to do, and that is to move that this amendment be tabled.

Mr. President, what we are doing here is imposing on the Postal Service. The Postal Service is more or less, a private institution today. Here we are, bringing up all these amendments in a debate that is fast becoming a charade to the people of this country, a charade essentially because these amendments are being sponsored by those who will vote against public financing.

Financing is the name of the game insofar as this bill is concerned. So that when the proper time comes, Mr. President, I am going to move that this amendment be placed on the table because I am afraid, with all the pressing problems that confront the people of this country today, here we are in the Senate, with the price of meat going up, with the price of food going up, and we are in this inflationary spiral—why only today I heard from my own Governor who told me that the fuel adjustment will cost the consumers of Rhode Island one-third additionally on their heating bills. But here we are, fussing around whether we will have two mails, or three mails, on a bill that is not going to go anywhere once we pass it in the Senate. I think we can use our time to a more advantageous purpose. After all, if this Congress is against public financing, let us stand up and vote against it: If we are for it, then let us vote for it. But we are beginning to puncture it with holes. As the days go by, it begins to look more like a sieve.

These people who sit up in the galleries and watch us, will look down on this very austere body and to the last breath of their survival, they will say, "What are you doing down there? You are acting like a bunch of schoolboys."

We have been at this thing for 2 weeks now and we are going nowhere—and we are going nowhere pretty fast. I say, if we are for public financing, let us say so. If we are against it, then let us say so. Let us have it done with, regardless of how we decide it—it makes no difference to me. But we get up here and say we should do this, and then we should do that, and then we should do the other thing. We passed a similar bill a short time ago. It is lingering and languishing over in the House of Representatives. It will never see the light of day. Now we come along with this one. It will never see the light of day, either.

I say, we have got the no-fault insurance bill to consider, have we not? I say to my good friend, the distinguished Senator from Washington (Mr. MAGNUSON), that this is a bill which is very important to the people of this country. We have got a lot to do in education. There are many other pressing problems that will come before the Senate.

I say, let us begin to act like legislators and stop kidding ourselves, because the people of this country are not buying this charade for one moment.

Mr. ALLEN. Mr. President, will the Senator from Rhode Island yield?

Mr. PASTORE. I yield.

Mr. ALLEN. Has not the Senator from Rhode Island just made a very fine argument for drawing the bill down and let us proceed to other matters more important?

Mr. PASTORE. I do not want to draw down the big issue, which is, are we for or not for public financing? Let us face it. That is what this bill is intended to do. That is the question.

The PRESIDING OFFICER (Mr. BIDEN). All time has now expired.

Mr. PASTORE. Mr. President, I move to lay the amendment on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Rhode Island (Mr. PASTORE) to lay on the table the amendment of the Senator from Delaware (Mr. ROTH).

Mr. HRUSKA and Mr. PASTORE asked for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Rhode Island (Mr. PASTORE) to lay on the table the amendment of the Senator from Delaware (Mr. ROTH).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD of West Virginia. I announce that the Senator from North Carolina (Mr. ERVIN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Georgia (Mr. TALMADGE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. HUDDLESTON) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from Oregon (Mr. HATFIELD), and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

I also announce that the Senator from Virginia (Mr. WILLIAM L. SCOTT) is absent on official business.

I further announce that the Senator from Vermont (Mr. AIKEN) is absent due to illness in the family.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 55, nays 32, as follows:

[No. 105 Leg.]

YEAS—55

Abourezk	Hathaway	Muskie
Bartlett	Hollings	Nelson
Bayh	Hruska	Nunn
Bennett	Humphrey	Pastore
Bentsen	Inouye	Pearson
Bible	Jackson	Pell
Brooke	Javits	Proxmire
Burdick	Johnston	Randolph
Byrd, Robert C.	Kennedy	Ribicoff
Cannon	Long	Scott, Hugh
Cook	Magnuson	Stafford
Cotton	McClellan	Stevens
Cranston	McGee	Symington
Eagleton	McGovern	Taft
Eastland	McIntyre	Tower
Fong	Metzenbaum	Williams
Goldwater	Mondale	Young
Gurney	Montoya	
Haskell	Moss	

NAYS—32

Allen	Clark	McClure
Baker	Curtis	Metcalf
Beall	Dole	Packwood
Bellmon	Domenici	Percy
Biden	Dominick	Roth
Buckley	Fannin	Schweiker
Byrd, Harry F., Jr.	Griffin	Sparkman
Case	Hansen	Stennis
Chiles	Hart	Stevenson
Church	Helms	Thurmond
	Mansfield	Weicker

NOT VOTING—13

Aiken	Hartke	Scott, William L.
Brock	Hatfield	Talmadge
Ervin	Huddleston	Tunney
Fulbright	Hughes	
Gravel	Mathias	

So Mr. PASTORE's motion to table Mr. ROTH's amendment was agreed to.

CAMPAIGN SPENDING

Mr. PERCY. Mr. President, we now have the opportunity to debate and vote in the Senate on the type of financing of campaigns that we think best serves the interests of this country.

In studying this issue I keep three fundamental objectives in mind: First. Elections should be won and lost on the relative merits of the candidates and their positions, not on the basis of who can raise and spend the most campaign funds;

Second. No contributor should be in a position to extract special treatment from an officeholder; and

Third. Additional safeguards are needed to prevent self-enrichment through the improper use of public office.

I favor realistic, enforceable limits on campaign spending with insurance that credible challengers have a fair chance to obtain campaign funds. In my own case in 1972, committees for my reelection campaign raised and spent a total of $1,700,217, including $298,140 raised and spent prior to April 7, 1972, when the provisions of the Federal Election Campaign Act of 1971 became effective. This sum of money, though $1,000,000 less than a senatorial campaign for reelection also conducted in 1972 in a State of comparable population, still enabled me to far outspend my opponent in the 1972 Illinois Senate race, leaving him at a substantial disadvantage in getting his message across.

The Federal Election Campaign Act Amendments of 1974, S. 3044, currently being debated in the Senate, would limit a Senatorial candidate in Illinois to $756,800 in the primary and $1,135,200 in

the general election in 1974 for a total of $1,892,000. If this expenditure ceiling had been in effect in 1972, I would have been under the allowable spending total by $191,783.

I am aware that campaigns in other States may have been over the new proposed limits as they were more costly per capita due to other variables such as a hotly contested primary, the number of media markets, the viability of the State party organizations, and so forth, so Illinois may not be the best example of the effects that passage of S. 3044 would have in the future. However, I think Illinois is an instructive example.

Therefore, Mr. President, I have come to the conclusion that we need responsible legislation on campaign spending that will make the system fair for all who seek public office and a main concern of ours must be equity for the challenger.

To further elaborate my views on the subject of campaign spending, Mr. President, I ask unanimous consent that a speech I delivered before the Money/Politics Conference in Washington on February 27 be printed in the RECORD at this point.

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

KEYNOTE ADDRESS BY SENATOR CHARLES H. PERCY

February 27, 1974.

I'm not sure that it's fair to ask me to cover the subject "Money—dash—Politics" in the brief time allotted. Alice Roosevelt Longworth, who is sharper than the rest of us, has been talking about money and politics for 90 years, and even she has barely dented the subject. Add gasoline lines, the Redskins and sex to money and politics, and you encompass 90 percent of the conversation in Washington on any given night.

The temptation and consequences of money in politics have been with us for a long time. While Washington's army starved at Valley Forge, Samuel Chase, a signer of the Declaration of Independence and later Chief Justice of the United States, tried to corner the flour market on the basis of inside information. Andrew Jackson's Postmaster General was forced from office for accepting kickbacks in awarding contracts for carrying the mail. President Lincoln had to remove his Secretary of War, Simon Cameron, who had arranged military contracts for companies in which he and his friends had an interest.

Two things, I suspect, have been responsible for transforming the dilemma of money in politics from a nuisance into a catastrophe:

1) Elected officials now often play the decisive role in both our personal and institutional financial affairs. If, for example, government did not have the power to influence milk prices and milk profits, it is doubtful that we would be concerned with the propriety of a political "milk fund" today.

And 2), the costs of gaining public office have reached stratospheric proportions. In 1956, it cost Dwight Eisenhower some $8 million to campaign successfully for re-election to the presidency; in 1972, Richard Nixon spent more than $60 million to do the same thing.

It has become expensive to run for almost any broad-based office, but staggeringly expensive to run for the presidency.

This year, as most of you know, I am exploring the feasibility of a '76 presidential race myself. Our proposed 1974 budget for this limited exploratory effort is $200,000—a puny amount compared with the cost of recent full-scale campaigns, but nonetheless an enormous sum of money—especially for those who have to raise it.

As more and more money oozed its way into the political process, it probably was inevitable that the irresistibly seductive nature of so much cash would one day take its toll. And in 1972, it finally did.

Today, it is not just the President who is paying a dreadful price for the perversion of money and power we call Watergate; we *all* are paying—Republicans, Democrats, big business, politicians at every level—and especially those of us in Congress. The entire country is paying a telling price in national self-esteem.

In a way, unhappily, we all deserve to pay. For much too long, we often turned away from obvious abuses of money in American politics.

When John Kennedy won Illinois' electoral votes in 1960 on the basis of some widely disputed returns from Chicago, much of the country winked at the triumph of good old fashioned machine politics.

In 1972, when burglars connected to the Nixon campaign were apprehended in the offices of the Democratic National Committee, much of the country—including most of the media—dismissed with a shrug the ominous implications. The nation had become so cynical about politics and politicians, in fact, that spying and break-ins were widely assumed to be commonplace facets of campaign strategy.

I, for one, do not believe they are politically commonplace at all, but the corrupting influence of big money in politics unquestionably *is*. If ever we are to reform the rickety apparatus which supposedly regulates the interaction of money and politics, surely this is the moment. In the aftermath of Watergate, public attention and concern at last are focused on the problem; we must act *now*, for if not now, then when?

The trouble is that while the malady is obvious, the sure cure is not. That is one reason I believe this conference is so timely and important.

In the weeks just ahead, Congress will be dealing with highly complex legislative initiatives in this area, some of which would reshape our political landscape. This is particularly true of taxpayer-financed federal election campaigns, which Common Cause and others believe is the only workable alternative to the present system.

I don't know if it is the *only* workable alternative, but some form of public financing seems the most sensible one that any of us have yet proposed if we are to preclude a repeat of 1972.

Public financing, like the other reforms now under consideration, deserve the most thorough possible airing, in floor debate, in the media and right here for the next two days.

Throughout this refining process of discussion and debate, I hope we all can keep in focus at least three fundamental objectives:

#1: Elections should be won and lost on the relative merits of the candidates and their stands, *not* on the basis of who can afford the most elaborate and costly campaign. In my 1972 senatorial race, my campaign committee far outspent that of my opponent. I like to think that I would have won on the basis of my record in any case, but obviously Congressman Pucinski was at a substantial disadvantage in trying to get *his* message across to the voters of Illinois. Not only must we place realistic, *enforceable* limits on campaign spending, but we must see that credible challengers somehow have a fairer chance to obtain sufficient campaign funds.

Objective #2: No financial contributor should be in a position to extract special treatment from an office-holder, which means that we must place *enforceable* ceilings on campaign contributions and ensure that all contributions and expenditures are matters of public record. I am reluctant to place an absolute prohibition on individual contributions, for I believe that widespread citizen participation in politics is a healthy and desirable thing. But Watergate is a harsh reminder of the perils of five- and six-figure political contributions. We ought to get rid of them once and for all and try the more reasonable upper limit of $3000 proposed in the Senate-passed reform bill.

Objective #3: Additional safeguards are needed to prevent self-enrichment through the improper use of public office. In this regard, I regret that there was no time on the conference program for an examination of the entire question of disclosure.

Frankly, I do not like the loss of privacy that goes hand-in-hand with mandatory financial disclosure by candidates and office-holders. As the Hearst case demonstrates, public knowledge of a family's financial status can sometimes directly affect its very safety.

Nonetheless, the public trust has been so frequently and flagrantly abused that I am forced to conclude that some form of significant disclosure—especially by candidates for national office—is in the public interest. Therefore, should I decide to become a full-fledged candidate for the 1976 Republican presidential nomination, I will disclose the value of my assets, now held in a blind trust, and will release full tax data for all the years I have held office, whether the law then requires it or not.

As we grapple with such thorny issues as disclosure and campaign financing, those of us in Congress have a two-sided opportunity. We can pass legislation which will help prevent fast and loose money from further perverting the political process; that's one opportunity. Or—its reverse—we can fuel the contempt we already have earned by perpetuating the toothless guidelines which govern money in politics now.

Many national institutions are on trial today, some literally, some figuratively. So, too, Congress stands at the bar of public opinion as once again we assume responsibility for policing ourselves, a role we have performed with minimal distinction in the past.

Perhaps it has always been the case, but one of the roadblocks to genuine political reform is that those of us who devise the rules of the game are hardly disinterested spectators; one assumes the Redskins would have made it to the Super Bowl this year, if only George Allen had been the referee.

My hope is that in time, we will look beyond our self-interest to the public interest. The country is understandably demoralized. Americans need a clear sign that their elected representatives remain capable of actually *doing something* about a given national problem. If we fail this time, we shall richly deserve the election-day consequences which are almost sure to follow.

Ultimately, of course, even the best legislation cannot by itself stop pay-offs, unreported contributions, peddled ambassadorships, laundered money, and all the other shoddy political rip-offs to which America has become so cynically accustomed. With or without legislation, it is going to remain difficult to clean up American politics in an atmosphere of widespread public callousness. "Everybody does it" is hardly a maxim conducive to reform, much less national distinction.

Everybody does *not* do it—every politician does not flaunt the law or grow rich through public service. That is not our most common lapse within the American political community. Rather, our most pervasive failure, especially these past ten years, is in the realm of *intellectual* integrity, or the lack of it.

Most of us, myself included, are drawn too easily into the subtler deceptions of politics—

the 10-second spot, the groundless charge, the rainbow promise. Forever understating our ambitions, *over*stating our accomplishments, over-*rating* our "solutions", we hardly notice that we have created a nation of disbelievers through this process of indirection. Our political dialogue has become so laden with minideceptions that now they are completely taken for granted. It is as if deception is what is expected of us politicians. Score one for the "everybody-does-it" syndrome.

One result of all this is that something important and quite wonderful has slipped away from us in recent years—not so much innocence as mutual *trust*. We trusted our leaders in America, as indeed we trusted most of our institutions, and each other. Government has long been viewed as foolish, bureaucratic and hopelessly extravagant, but only recently has it become an object of national contempt.

I don't know if we can reverse these trends toward disgust, despair, and disbelief; some would say it's foolhardy to try. But I think we must make a determined effort if these United States are to remain united in any fundamental sense.

Political leaders can help . . . *must* help, really, if we are to regain what John Gardner calls "a sense of ourselves as a people . . . of our own worth and our own values."

A good way to start is by seeking an end to the kind of duplicity and secrecy in government which produced first Vietnam and then Watergate. Much too much of the public's business is stamped "Top Secret", or shrouded in a dubious cloak of national security, or carried on behind closed doors. Why be so secretive about the workings of a government, which, after all, still belongs to and serves the people?

The reforms you will be analyzing at this conference can do much to "declassify" the elective process. But those of us who run for office must do more than merely comply with the letter of the election laws. I think we must take our case to the voters in a much more straightforward way than either we or they are accustomed to. For if we don't level with voters as we seek an office, how can they possibly expect us to level with them once we get there?

Our campaigns ought to address themselves more to the often unspoken realities of government, chief among which is that *everything costs something*—usually money, sometimes freedom, too often human life. Whatever the costs, candidates are reluctant to discuss them. And because citizens have been promised so much—great societies, law 'n' order—at no apparent cost, they are understandably angry and disillusioned when the costs turn out to be staggering and the promises overblown.

Isn't it about time that we eliminated this shadow-dance we perform at election time? It's long past time we faced up to extremely difficult and complicated choices in this country. How can the American people be expected to choose wisely if they are continually uninformed and misinformed by their present and would-be representatives in government?

More critical still, how can political leadership be effective until people find cause again to trust politicians? We in political life must work to regain that trust, for the cynicism which today engulfs American politics makes it terribly difficult to recover our national momentum.

But trust must be earned. And to earn it, our commitment must go well beyond reform of campaign financing. We have got to revamp communications between candidate and voter, government and the governed. Our entire political dialogue in America has to be more open and direct. It is time, quite simply, to trust the people with the truth. Only then will we truly deserve the privilege of holding public office in a free society.

Mr. DOMINICK. Mr. President, I call up my amendment No. 1124 and ask that it be stated.

Mr. MAGNUSON. Mr. President, may we have order?

The PRESIDING OFFICER. There will be order in the Senate. Senators will please be seated. The Senate will be in order so that the Senator can be heard. The Senator has requested that his amendment be called up. Unanimous consent is required since it already has been agreed that the amendment of the Senator from Alabama is pending.

Mr. DOMINICK. Mr. President, I ask unanimous consent that amendment No. 1124 may be called up.

The PRESIDING OFFICER. Is there objection?

Mr. DOMINICK. Mr. President, if anyone wishes to object, I do not mind.

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

Mr. MANSFIELD. Mr. President, will the Senator explain the amendment first?

The PRESIDING OFFICER. The Senate will be in order.

Mr. MANSFIELD. Will the Senator explain the amendment?

Mr. DOMINICK. I am happy to.

Mr. MANSFIELD. It is the intention of the Senate to have no further votes tonight.

Mr. DOMINICK. Mr. President, I would like to have this measure as the pending business. I would be happy when we come back in to take it up. It may be there will not be a vote. There is a possibility the amendment will be accepted. This amendment provides for a simultaneous poll closing throughout the country.

Mr. MANSFIELD. I have no objection, but I would call to the attention of the Senator that the pending business is the Allen amendment. An agreement has been reached to vote on that amendment at 12 o'clock tomorrow.

Mr. DOMINICK. That is fine.

Mr. MANSFIELD. So the Senator's amendment would follow the Allen amendment. I suggest if the Senator's amendment is not accepted, any rollcall vote be put over until tomorrow because I have gone out of my way and told Senators on both sides that there would be no further votes tonight.

Mr. DOMINICK. I am happy to comply with that request. If there is to be a rollcall vote maybe we could put this right after the Allen vote.

Mr. MANSFIELD. That is fine.

Mr. DOMINICK. I could talk about it tonight.

The PRESIDING OFFICER. Without objection, the Senator from Colorado is recognized.

The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

The amendment is as follows:

TITLE V—POLL CLOSING TIME

SEC. 501. SIMULTANEOUS POLL CLOSING TIME.—On every national election day, commencing on the date of the national elections in 1976, the closing time of the polling places in the several States for the election of electors for President and Vice President of the United States and the election of United States Senators and Representatives shall be as follows: 11 postmeridian standard time in the eastern time zone; 10 postmeridian standard time in the central zone; 9 postmeridian standard time in the mountain time zone; 8 postmeridian standard time in the Pacific time zone; 7 postmeridian standard time in the Yukon time zone; 6 postmeridian standard time in the Alaska-Hawaii time zone; and 5 postmeridian standard time in the Bering time zone: *Provided*, That the polling places in each of the States shall be open for at least twelve hours.

Mr. DOMINICK. Mr. President, I shall not take very long because I think this is a relatively simple amendment.

The other day the Senate adopted, and I might say against my vote, the amendment offered by the distinguished Senator from Oklahoma (Mr. BELLMON), which provides that none of the media can release any information on Presidential elections until midnight of the day that the election occurs. Well, it seems to me that there are a lot of difficulties with that measure. First of all, I do not think it is going to be possible to enforce, as the distinguished Senator from Nevada said. Second, I do not think it is constitutional. I think there is really grave doubt as to whether we in the Senate can pass a law stating that no one can do something of that kind.

Therefore, this amendment, which has been accepted before as part of the American Bicentennial deal, was proposed, first, to take the sting out of the Bellmon amendment and, second, because it is advisable in and of itself.

The different time zones have a great effect on elections, as the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Arizona (Mr. GOLDWATER) said the other day; and I shall not mention New Hampshire, but I have; and New York, for instance, can influence votes in other time zones, particularly when predictions are made on a nationwide basis.

It seems to me that the easy way to get out of this situation would be to have simultaneous closings of the polls. This would be difficult unless the people are given enough time to vote, so we have required that the polling places would be open for 12 hours, starting in the eastern zone from 11 until 11, the central zone from 10 to 10, mountain time from 9 to 9, the Pacific time zone from 8 to 8; then we go to the Yukon, Alaska, Hawaii, the Bering Straits, which would be 5 to 5. But I do not think that an awful lot of people will be voting out there anyway. But they do get up earlier than we do in the Eastern zone and they would have plenty of time to vote. So it does not create a problem for anyone. If it does not create a problem, then it would take some of the sting we have as a result of the Bellmon amendment. It is advantageous that we seek a solution to this matter.

Mr. President, I have felt for a long time that predictions made on the basis of computer projections before people go to the polls create a difficult situation for many voters. Many stay home, saying, "It is not worth voting," and others get mad and say, "I am going to vote because I do not like the computer system," and still others simply want to be on the

winning side, if the computers show that that is the way people feel about it.

This provision would be effective in 1976, not in 1974, so we would have plenty of time before the next Presidential election to see if there are any serious difficulties in it, other than the preemption of the right of the States to set their polling times. That is the only defect I see, but if we are going to have major elections it seems to me advisable to close the polls at the same time regardless of whether the States say it is easier for their people to get up at 10 o'clock, or whatever it may be.

I hope my friend, the Senator from Nevada (Mr. CANNON), who I am sure has run into this problem in his State as I have in Colorado, will agree to the amendment.

I remember during the debate on this matter—I think it was last year or early this year—the Senator from Kentucky said he thought this was a far better approach than the Bellmon approach. It would be my hope, therefore, in view of the fact that the Bellmon approach has been accepted, that we can take some of the sting out of it by putting this particular amendment on the bill.

Mr. CANNON. Mr. President, I yield myself 3 minutes.

I think there are a lot of practical problems in this amendment. The Senator has suggested that the polling places would close, for example, in this area at 11 at night and open at 11 in the morning. There are many people who prefer to vote as they go to work, in the morning. This has been traditional throughout the country. Therefore, most of the people, before they go to work, would have the opportunity to vote. If this amendment were adopted, it would mean there would be complete shifts of people working at the polling booths, on the election boards, and so on, or else there would be a whole series of overtime problems, if the polls should open early in the morning and then remain open until 11 in the evening.

I wonder if the Senator has explored what cost might be involved with respect to the various States that would have to make this kind of shift, increasing the number of hours, and going into nighttime hours.

Mr. DOMINICK. No, I can say to the Senator; I have not explored that.

Mr. CANNON. I suppose it would be quite difficult. Basically, the Constitution provided that this would be a matter that the States would determine, although it provides that Congress may make such changes as it deemed advisable, except as to the places of holding elections. However, I think it is quite clear that at least the intent of the Constitution was this was an area in which the States will make a determination.

While I recognize the problem posed by the amendment that was adopted the other day—and I, too, voted against it; I think it was bad legislation; I do not think it should have passed through this body; I do not think it will ever get through conference—I do not know whether we ought to compound one piece of bad legislation by substituting for it another bad piece of legislation, because I am not at all convinced in my own mind that this is the kind of legislation we ought to be adopting to get at the problem that the Senator is very much concerned with.

Mr. DOMINICK. I can say to the Senator that, under the circumstances, I guess I had better get a yea-and-nay vote on it to see how the whole Senate feels about it. I do not think there are enough Senators here to order the yeas and nays on it at the present time, but let me say this to the Senator from Nevada. Let us say that there is a plan with a two-shift arrangement. There is plenty of time for them to go home in the daytime, and if they happen to have the early morning shift, they can vote before they go to work. Under present circumstances, it is perfectly easy for them to do it right after supper. If it goes from 11 to 11, there is more time, generally speaking, than there is otherwise, although most of the States now have a 12-hour polling time. Certainly they do in my State. I believe they have a 12-hour polling time in Nevada.

My guess is that it would not be any more expensive, and it would far more equitable.

If one wants to put it this way, in a horse race, we would like to be there at the finish line. A person is not there at the finish line under present circumstances, because all he is doing now is picking up a television projection. It does not always turn out right, but the Senator from Arizona (Mr. GOLDWATER) has said it did hurt him, and the Senator from Minnesota (Mr. HUMPHREY) said he thought it hurt him in 1968. All I can say to the Senator is that I cannot see how there could be much additional expense, and I think this is a far more equitable way to handle it than any way we have now.

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

Mr. DOMINICK. I yield.

Mr. COOK. I wonder if I may make a suggestion. The Senator knows how I have felt on this for some time.

Mr. DOMINICK. Yes.

Mr. COOK. My chairman and I differed on the Bellmon amendment.

In view of the fact that the Senator from Colorado wishes to have a rollcall, and therefore that would occur after the vote on the Allen amendment, I wonder if the Senator, if he has completed his discussion, would withdraw his amendment now, and we could agree that his amendment could be disposed of after the Allen amendment.

To make a further suggestion, if the Senator would take the language of S. 372, we have already provided in that bill that Election Day would be a holiday. If that provision were in his amendment, along with the time zones, I think it should be a holiday. I think we are probably the only major country in the world that does not have a holiday in general elections. That is why in our history we have never even gone as high as 70-percent participation of the qualified voters, which I think in itself is nothing to brag about.

If the Senator were to combine those two provisions into his amendment, I think it would be more palatable.

Mr. DOMINICK. I thank the Senator from Kentucky for his courtesy. I think the first part of his suggestion would be something I would be happy to comply with, namely, to withdraw the amendment and put it off for a vote after the Allen amendment.

As far as making election day a holiday is concerned, I went into that at some length. There were enormous problems connected with that proposal. One of the problems that everybody cited was that this was a Tuesday. If it were a holiday, immediately there would be a demand for a long weekend, upon which occurrence everybody would take off, some to go South and go fishing, and some to go North and go hunting.

Mr. COOK. There is merit in the Senator's remarks. I do not know why we in the Congress and we who are responsible for the conduct of elections should find a great deal of magic in Tuesday. Again, I think we would have many more people participating in the elections in the United States if the election were held on a Saturday.

Somehow or other, it is very easy to sit here in Congress and decide to shift birthdays and decide to make someone's birthday on a weekend, when that was not his birthday at all, and then we get accolades from the people because of a long weekend. Perhaps the best thing we could do about elections is to have them held on a weekend, so the people could get another long weekend. There is nothing magical about Tuesday. I think we make a mistake when we do that. I think the question ought to be considered on the basis of the fulfillment of our responsibility and seeing to it that the biggest percentage of the American people possible—95, 96, 99.44 percent—who are registered and who are eligible to vote participate in the American electoral process. That is really what we ought to be looking for. If that cannot happen on a Tuesday, then it ought to be our responsibility to find a time when we could get the greatest number of people who have the greatest amount of time to participate in a national election.

Mr. DOMINICK. I can say to the Senator from Kentucky that I wrestled with the problem of changing the whole structure and trying to have an election earlier and the primary earlier and the convening of Congress earlier, so that we do not come into session in January and that we try to comply with the school law. I did all kinds of things in this area. The difficulty I ran into is that part of it requires a constitutional amendment, part of it requires a law, and after 18 months of it I gave up, realizing that I was not getting anywhere.

Mr. COOK. OK. When the Senator from West Virginia, who is present on the floor, discussed an amendment to have all primaries in the United States for Federal elections take place in August, and moved the date for the general election from November to October, unfortunately he and I were still traditionalist, because we stuck with Tuesday. Yet we were perfectly willing to move the primary dates, we were perfectly willing to move the general election dates, but we still stuck to Tuesday. Yet I think the Senator would honestly agree with

me that we could move that date for the election.

Mr. DOMINICK. I agree with the Senator. It has been done for years, that is all.

And I hesitate to change it at this point and make it a holiday and undoubtedly give a lot of people a long weekend when they would not do much about voting.

Mr. COOK. That was merely a suggestion.

Mr. DOMINICK. I would say to the Senator that much as I would like to comply with him, I will comply with him at this time and withdraw my amendment at this time and offer it after the Allen amendment in the morning.

Mr. President, I ask unanimous consent that I may withdraw my amendment and call it up right after the Allen amendment with a one-half hour time limitation, the time to be equally divided in accordance with the original order.

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

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. 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.

FRANK S. HOGAN

Mr. JAVITS. Mr. President, I wish to announce to the Senate the passing of Frank S. Hogan, a man who served for three decades as a district attorney of New York County.

There can be no greater tribute to a man than that he carried out his duties in the service of the law and its equal application to all with a single-minded devotion to the tradition and purity of that law unmatched in his time.

The death of Frank S. Hogan today marks the end of a legendary career which for more than 30 years stood for integrity, competence, and fairness in the administration of justice.

From his earliest days as an assistant to the late Thomas E. Dewey, Mr. Hogan sought to make the Manhattan District Attorney's Office a model for the Nation and he succeeded greatly in this endeavor. The independence or the integrity of his office was never in question. Assistant district attorneys were chosen on a nonpartisan, merit basis. Many alumni of Mr. Hogan's office went on to distinguished careers in law, Government, and business. Examples are: Former Secretary of State William P. Rogers, former judge and Ambassador to the Paris Peace Talks, Lawrence E. Walsh, Judges Stanly Fuld, Charles Breitel, Murray Gurfein, William Herlands, Whitman Knapp, Charles Tillinghast, chairman of the board of TWA, and many State Supreme Court Justices, members of the State legislature and law professors.

Especially in times like this when the integrity of the administration of justice and of the legal profession are constantly an issue before us Frank Hogan's career stands as a model inspiration.

For Mrs. Javits and myself I extend our most profound condolences to Mary Hogan.

DEATH OF PRESIDENT POMPIDOU OF FRANCE

Mr. JAVITS. Mr. President, I feel certain that Senators have heard of the announcement from France that President Pompidou has died. I know that many will join in the expression of sympathy for the people of France, who have lost their Chief of State, which is always a tragic moment in the life of any people.

It is uniquely applicable, because death merges all the cares of life and allows restatement of the tremendous bonds of friendship which exist between the French people and ourselves. This goes back in our history to the most perilous, earliest days, when France, through its great military leaders, helped to win the Revolutionary War and to bring into being American independence. All of our difficulties—and they are many and are serious—become very small when compared with the bonds of friendship and the love of freedom and our comradeship in arms, including comradeship in arms in World War II, in which I had the inestimable privilege, as a military officer, to serve.

I express the hope that in France, as here, the really profound values of freedom and justice, of civilization and culture, which we share with France, may bring us both to a better understanding of our respective positions, and may enable us to work out our immediate problems and continue under our auspices for all mankind.

France is a great nation with a proud history. I knew President Pompidou personally. Nothing could in any way be of more benefit in the effort toward the peace and prosperity of all mankind than to rekindle as a result of President Pompidou's untimely death this new attitude of cooperation and common striving. That, I believe, would be President Pompidou's finest memorial.

Mrs. Javits and I extend our deepest sympathy to Madame Pompidou and the Pompidou family.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 11 a.m. tomorrow.

After the two leaders or their designees have been recognized under the standing order, there will be a period for the transaction of routine morning business for not to exceed 15 minutes, with a 3-minute time limitation on each speech made therein, at the conclusion of which the Senate will resume consideration of the unfinished business, S. 3044. The pending question at that time will be on the adoption of the Allen amendment (No. 1059), on which there is a division of time with a vote to occur on the Allen amendment at 12 noon. The yeas and nays have been ordered thereon.

Upon the disposition of the Allen amendment, the Dominick amendment, amendment No. 1124, will be called up again with a time limitation of 30 minutes thereon after which a vote will occur. And we have been notified that it will be a rollcall vote.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 11 o'clock tomorrow morning.

The motion was agreed to; and at 5:48 p.m. the Senate adjourned until tomorrow, Wednesday, April 3, at 11 o'clock a.m.

NOMINATIONS

Executive nominations received by the Senate, April 2, 1974:

DEPARTMENT OF STATE

Henry E. Catto, Jr., of Texas, Chief of Protocol for the White House, for the rank of Ambassador.

John E. Murphy, of Maryland, to be Deputy Administrator, Agency for International Development, vice Maurice J. Williams.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

James L. Mitchell, of Illinois, to be Under Secretary of Housing and Urban Development, vice Floyd H. Hyde, resigned.

DEPARTMENT OF STATE

Robert Strausz-Hupé, of Pennsylvania, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Sweden.

The following-named persons to be Representatives of the United States of America to the Sixth Special Session of the General Assembly of the United Nations:

John A. Scali, of the District of Columbia.

William E. Schaufele, Jr., of Ohio.

John H. Buchanan, Jr., U.S. Representative from the State of Alabama.

Robert N. C. Nix, U.S. Representative from the State of Pennsylvania.

Clarence Clyde Ferguson, Jr., of New Jersey.

Barbara M. White, of Massachusetts, to be the Alternate Representative of the United States of America to the Sixth Special Session of the General Assembly of the United Nations.

DEPARTMENT OF AGRICULTURE

Richard L. Feltner, of Illinois, to be an Assistant Secretary of Agriculture, vice Carroll G. Brunthaver resigned.

IN THE MARINE CORPS

The folowing-named (Navy Enlisted Scientific Education Program) graduates for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Capoot, Michael
Graves, William C.
Kane, Thomas G.

The following-named (Naval Reserve Officer Training Corps) graduates for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Bausch, Dan O.	Potocki, Mark L.
Keffer, James C.	Thomas, James P.
Moore, Charles	Wade, Joel M.

The following-named temporary disability retired officer for reappointment to the grade of colonel in the Marine Corps, subject to the qualifications therefor as provided by law:

See, Charles M., [redacted], USMC.

The following-named temporary disability retired officer for reappointment to the grade of lieutenant colonel in the Marine Corps, subject to the qualifications therefor as provided by law:

Arceneaux, Ewell J., [redacted], USMC.

The following-named (commissioned warrant officers/warrant officers) for temporary appointment to the grade of first lieutenant in the Marine Corps, for limited duty, subject to the qualifications therefor as provided by law:

Alnutt, Ronald H.
Armstrong, Russell P.
Armstead, Willie A.
Bancroft, Alfred M.
Barton, Charles H., Jr.
Beatty, Richard J.
Bixler, Roy H.
Borowitz, Thomas J.
Braund, Dennis A.
Brewer, Francis W., Jr.
Broughton, William C., Jr.
Caroway, Donald L.
Carr, Francis J.
Chronister, Hershel G.
Cope, Garnet E.
Craig, Hilton, Jr.
Craynon, Charles R.
Cunningham, Frederick M.
Dale, Wayne, R.
Dodd, Howard G.
Ehrler, Richard E.
Ellis, Jerry L.
English, Fred C.
Estrada, Sergion E.
Ferrell, Roy A.
Flihan, Frederick J.
Francis, George M.
Furman, Dallas D.
Goble, Philip E.
Grebas, James A.
Hall, Robert I.
Halloway, Henry D.
Hatfield, Joseph B.
Heinbaugh, Harold S.
Henry, Harold L.
Hester, Franklin R.
Hisle, William J., III
Hoffman, Paul R.
Johnson, Ernest E.
Kaonohi, Alexander K., Jr.
Labarge, Paul J.
Lafreniere, Aurel E.
Lambert, Charles E.
Lane, Donald A.
Long, Paul E., Jr.
Marcucci, John R.
McIntyre, Thomas J.
McRae, James R., Jr.
Morris, James T.
Morris, John V.
Mott, Frank W.
Mullin, Lawrence T.
Muschette, James, Jr.
Odell, Jerry W.
Pallett, Porter G.
Phillips, Robert P.
Richardson, Herbert C., Jr.
Robinson, Lloyd A.
Rodney, Marvin C.
Roman, Ramon, Jr.
Rossano, Paul A.
Scroggins, John D.
Sheldon, Albert W.
Sherman, Roger A.
Shivers, Stephen L.
Smith, Herbert S., Jr.
Songne, Lloyd D.
Showalter, Dan W., Jr.
Simmons, Gary G.
St. Ours, Joseph J. C.
Strawser, Robert L.
Stutler, Robert R.
Sweeney, John M., Jr.
Thomas, James M.
Turner, James A.
Tyler, Marcelo J.
Venegas, David
Webb, Ronald E.
Williams, Gene R., Sr.
Williams, George E.
Williams, Leroy
Wohlfarth, Jerrold A.

The following-named (staff noncommissioned officers) for temporary appointment to the grade of second lieutenant in the Marine Corps, for limited duty, subject to the qualifications therefor as provided by law:

Allen, Myron E.
Anaya, Richard C.
Anderson, Lawrence J.
Aquilina, Albert J.
Arnold, Clifford
Barrett, Charles M.
Barrett, James R.
Barth, Terrence G.
Beard, Fred W.
Bennett, Dellas R.
Bicknel, Philip A.
Bland, David J.
Brunstad, David P.
Budd, Ricky G.
Butler, Mathew A.
Cassell, Daniel C.
Chambers, Ronald R.
Chapman, William D.
Chastain, Wendell H.
Coco, Joseph D.
Connolly, Joel R.
Cork, James E.
Coyne, James J., Jr.
Cunningham, Wilbur L.
Daigger, Roger W.
Detrich, Homer D.
Dorsch, Albert G., Jr.
Dreher, Stephen M.
Duprez, Donald A.
Duran, Jerome M.
Esrey, John J.
Evans, Ronald E.
Fitzmaurice, Kermit E.
Gardner, Kerry D.
Gehrlein, Richard C.
Gelinas, Paul A.
Gibbs, Leon O.
Gipson, Melvin O.
Hacker, Robert E., Jr.
Haycock, Douglas M.
Haynes, Robert L.
Hearlson, Phillip R.
Hogans, Halie C.
Horrobin, William P.
Hughes, Leon D.
Johnson, Raymond K.
Keyes, Jerome
Keyes, John O.
Kimbler, Eugene
Koran, John G., Jr.
Kossick, Charles W.
Larson, Albert L.
Leath, Clay D.
Linder, Thomas L.
Lindley, Eugene W.
Lohmeier, Donald L.
Longworth, Stanley W.
Manaea, Frank S.
McCarty, James D.
McClain, Edward T.
McTier, John H.
Moranha, John P., Jr.
Nelson, Edward A.
Nickerson, George W., III
Orem, Wilbert E., Jr.
Osburn, James N.
Perales, Edward Y.
Pereira, Ronald V.
Perry, Richard A.
Pippin, Jerreld D.
Pomalesortiz, Jonas
Quinones-Tavarez, Pedro J.
Raedel, Gerald G.
Ralston, Lee F.
Rivers, William D.
Roamer, Richard H.
Roddy, Clarence J.
Rose, Charles W., Jr.
Roos, George D.
Schrader, Herbert M., Jr.
Simpson, Chester L.
Skelding, John T.
Smith, Gilbert M.
Smith, Robert L.
Stanton, Carl D.
Stewart, Ronald A.
Strickland, Gobel N.
Stride, Robert D.
Sullivan, Jerry W.
Swinson, Coral L.
Taylor, Floyd E.
Taylor, Lewis R.
Teel, Charles L., Jr.
Tench, Winfield J., Jr.
Thomas, Gerald M.
Thomas, Richard H., Jr.
Tokarz, Edward R.
Tonkens, Charles T.
Turley, Jerry W.
Turner, Andrew C.
Van Meter, Larry O.
Ward, Andrew L.
Weber, Allen R.
Wheaton, Ralph L.
White, Fred E.

The following-named U.S. Military Academy graduates for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Borje, Donald J.
Fenton, George P.
Kinnaman, James M.
Marsh, William T.
Miller, John H., Jr.
Thielke, Frederick L.

HOUSE OF REPRESENTATIVES—*Tuesday, April 2, 1974*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

See that none render evil for evil unto any man, but ever follow that which is good, both among yourselves and to all men.—I Thessalonians 5: 15.

O God, our Father, humbly and reverently we lift our hearts unto Thee praying that Thy grace may cleanse us, Thy power may strengthen us, Thy love may purify us, and Thy wisdom may make us wise. Set us free from the bonds that separate us from each other and draw us together as a people united in spirit and in truth determined to keep freedom, justice, and cooperation growing in our world.

Grant unto us those deep and abiding convictions which make our Nation great in goodness, wise in wisdom, steady in spirit, honest in heart, and fruitful in the faith of our Founding Fathers. May noble virtues live nobly in us as we give them hands and feet in this day.

In the spirit of Him who is the Way, the Truth, and the Life, we pray. 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 PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Marks, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and a joint resolution of the House of the following titles:

On March 16, 1974:

H.R. 8245. An act to amend Reorganization Plan Numbered 2 of 1973, and for other purposes; and

H.J. Res. 905. Joint resolution extending the filing date of the 1974 Joint Economic Committee report.

On March 22, 1974:

H.R. 5450. An act to amend the Marine Protection, Research, and Sanctuaries Act of 1972, in order to implement the provisions of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, and for other purposes; and

H.R. 6119. An act for the relief of Arturo Robles.

On March 28, 1974:

H.R. 13025. An act to increase the period during which benefits may be paid under title XVI of the Social Security Act on the basis of presumptive disability to certain individuals who received aid, on the basis of disability, for December 1973, under a State plan approved under title XIV or XVI of that act, and for other purposes.

On March 29, 1974:

H.R. 2533. An act for the relief of Raphael Johnson.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

MRS. ROSE THOMAS

The Clerk called the bill (H.R. 2535) for the relief of Mrs. Rose Thomas.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

COL. JOHN H. SHERMAN

The Clerk called the bill (H.R. 2633) for the relief of Col. John H. Sherman.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

ESTATE OF THE LATE RICHARD BURTON, SFC, U.S. ARMY (RETIRED)

The Clerk called the bill (H.R. 3533) for the relief of Richard Burton, SFC, U.S. Army (retired).

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.